$~71

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010512712026**

\+ CM(M) 2334/2026, CM APPL. 73687/2026 & CM APPL. 73688/2026

ASMAT JAHAN .....Petitioner

Through: Mr. Mahboob Inayati and Mr. Shoaib Khan, Advs.

versus

S.K. BALLAN & ORS. .....Respondents

Through: Mr. Parwez Akhtar, Mr. Mohd. Aatif, Mr. Mohd. Osama, Mr. Harsh Kumar Singh and Mr. Inamul Hussain, Advs. for R-1&2.
Dr. Amit George and Mr. Dushyant Kishan Kaul, Advs.
Mr. Kunal Rawat, Ms. Vanshika Varshney, Mr. Ashwani Singh and Mr. Mukesh Rawat, Advs. for R-3/MCD.
Ms. Chitra Singh, GP for R-3&4.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% 27.10.2026

1. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 29.07.2026 passed by the learned Principal district and Sessions Judge, South-East, Saket Courts, New Delhi ('Trial Court'), in T.P.C. No. 43/2026, titled *"Asmat Jahan Vs. S.K.*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 29/10/2026 at 11:36:27

Ballan & Ors.”, whereby petitioner’s application under Section 24 of the Code of Civil Procedure, 1908 (‘CPC’) for transfer of second suit, CS SCJ 746/2024, from the court of learned SCJ, South- East, Saket Court to the Court where the first suit CS DJ 860/2021, is pending before learned District Judge, South-East, Saket Courts, was dismissed.

2. Succinctly put, the brief facts of the case are that both suits concern the property bearing No. O-62, Second Floor, Batla House, Jamia Nagar, New Delhi-110025 (‘subject property’), and involves the same parties. The first suit seeks damages and mandatory injunction for removal of construction material and malba allegedly left on the terrace, while second suit seeks permanent and mandatory injunctions in relation to further unauthorized construction on the subject property and removal of a terrace gate.

3. The petitioner sough transfer on the grounds that both suits are pending between the same parties and concern the same property. The learned Principal District & Sessions Judge dismissed the application, observing as follows:

> “The first suit was filed way back in 2021 and the second suit was filed in 2024. Two different suits are based on two different cause of action which arose in two different years. Due to that reason, both the suits cannot be clubbed. Hence, the transfer petition is dismissed.”

4. The petitioner has now approached this Court with the following prayer:

> “a) Pass an order setting aside the order dated 29.07.2026 in T.P.C 43/2026 passed by the Ld. Principal District and Sessions Judge, South East, Saket Courts, New Delhi.
>
> b) Allow the present application and transfer the Suit Bearing No. CS SCJ/746/2024 titled as Asmat Jahan vs S.K. Ballan & Ors alongwith

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 29/10/2026 at 11:36:27

Application bearing No. MISC SCJ/104/2024 to the Hon'ble Court of Sh. Pranjal Aneja, Ld. DJ-04 South East Saket Court where Suit bearing No. CS DJ/860/2021 is already pending."

5. Mr. Mahboob Inayati, learned counsel for the petitioner contends that both suits ought to be tried by the same Court to avoid conflicting findings, facilitate comprehensive adjudication of the connected disputes and ensure judicial economy. He places reliance upon a judgment passed on 13.07.2015 by this Court in Transfer Petition No. 10/2015, titled *"Md. Swalehin & Ors. v. Sultana Begum & Ors."*.

6. He further submits that the suits concern the same property and involve common parties, witnesses and connected facts. He contends that consolidation would reduce the inconvenience to the parties and witnesses, save judicial time and cause no prejudice to either side.

7. The petitioner, therefore, submits that transfer of the second suit to the Court where the first suit is pending is necessary in the interest of justice.

8. Mr. Mohd. Osama, learned counsel for the respondents opposes the request of the petitioner.

9. Heard.

10. This Court has considered the submissions advanced on behalf of the parties and perused the record of both suits. The first suit concerns the alleged damage to the subject property on account of construction material and malba left on the terrace, whereas the second suit relates to subsequent construction on the same property and the reliefs sought in respect thereof. Although the suits arise from separate causes of action, both concern the same property and involve the same parties.

11. In these circumstances, having both suits tries by the same Court

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 29/10/2026 at 11:36:27

would facilitate an effective adjudication of the disputes and avoid any possibility of conflicting findings on issues arising from the common factual background. The fact that the suits were instituted in different years does not, by itself, preclude their being tried by the same Court. The question is whether their transfer would facilitate the proper adjudication of the disputes and serve the interest of justice.

12. During the course of hearing, learned counsel for the respondents has agreed to the limited prayer made in the petition and stated that he has no objection to the second suit being transferred to the Court where the first suit is pending, so that both suits may be taken up together. In view of the aforesaid statement, no occasion arises to examine the issue any further.

13. Accordingly, the impugned order dated 29.07.2026 is set aside. The suit bearing CS SCJ No. 746/2024, titled *"Asmat Jahan Vs. S.K. Ballan & Ors."*, pending before the learned SCJ, South-East, Saket Courts, New Delhi, is withdrawn from the said Court and transferred to the Court of the learned District Judge, South-East, Saket Courts, New Delhi, where CS DJ No. 860/2021, titled *"Asmat Jahan Vs. S.K. Ballan & Anr."*, is pending. The learned Court shall take up both suits together and proceed with them in accordance with law.

14. The petition, along with pending application(s), if any, stands disposed of.

AJAY DIGPAUL, J

OCTOBER 27, 2026/*AS/dd*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 29/10/2026 at 11:36:27