



2026:DHC:501



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

% *Judgment Reserved on: 27th November, 2025*
Judgment pronounced on: 21st January, 2026

+ **CS(OS) 626/2023 with I.A. 19811/2023, I.A. 20465/2025,
I.A. 20695/2025 & I.A. 26438/2025**

MANMOHAN KUMARPlaintiff
Through: Mr. Arun Dhiman, Advocate.

versus

NEELAM KHURANA & ORS.Defendants
Through: Mr. Gaurav Kumar and Mr. Pulkit,
Advocates for D-3.
Ms. Sangeeta Bharti, Standing
Counsel (DJB) with Ms. Anju Shree
Nair, Advocate.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

**I.A. 19811/2023 (under Order XXXIX Rule 1 & 2 of the CPC) & I.A.
20465/2025 (under Order XXXIX Rule 4 of the CPC)**

1. By way of the present judgment, I shall dispose of I.A. 19811/2023 filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (hereinafter '**CPC**') on behalf of the plaintiff and I.A. 20465/2025 filed under Order XXXIX Rule 4 of the CPC on behalf of the defendant no.3.
2. The present suit has been filed *inter alia* seeking the following reliefs:



- a. declaration that the sale deed dated 19th September 1986 and other sale documents executed by the defendants no.1 to 4 are void, and
- b. permanent and mandatory injunction against the defendants no.1 to 4 from acting upon the aforesaid sale deed and other documents.

CASE SETUP IN THE PLAINT

3. Brief facts stated in the plaint, which are relevant for deciding the present applications, are as follows:

3.1. The plaintiff's father, Late Shri Madan Gopal Madhok, was the registered owner of the property bearing no. J-6/50, Rajouri Garden, New Delhi admeasuring 160 square yards (hereinafter '*suit property*') through sale deed dated 21st August 1964.

3.2. The plaintiff is the only son of his parents and was staying at the suit property with his parents.

3.3. The plaintiff's father died intestate on 14th July 1981. Subsequently, in April 1983, one Mr. Chander Mohan Nayyar moved to the first floor of the suit property as a tenant.

3.4. In January 1986, the plaintiff and his wife were compelled to leave the suit property and move to a rented accommodation at F-62, Arya Samaj Road, Uttam Nagar, New Delhi as the aforesaid tenant caused differences between the plaintiff's mother and his wife.

3.5. The plaintiff's mother passed away in March 1987. Being the only legal heir of his deceased parents, the plaintiff got the possession of the suit property.

3.6. In November 1987, the aforesaid tenant, Mr. Chander Mohan Nayyar, also passed away.



3.7. The plaintiff thereafter locked the suit property as the same was in poor condition and the plaintiff was not in a financial condition to repair the same. However, he used to visit the suit property at regular intervals.

3.8. In January 2021, during the COVID-19 pandemic, the plaintiff decided to sell the suit property due to financial crunch. However, he came to know about the sale deed dated 19th September 1986 *qua* the suit property executed by the plaintiff's mother, Late Smt. Radha Rani, in favour of Late Mr. Chander Mohan Nayyar (hereinafter '*impugned sale deed*') when he filed an application for obtaining certified copy of the ownership documents of the suit property.

3.9. The suit property has been in possession of the plaintiff since his mother's demise. In March 2021, when the plaintiff visited the suit property, he noticed an electricity meter outside the suit property which, as informed by the defendant no.8, was installed in the name of the defendant no.1.

3.10. The water connection at the suit property continues to be in the name of the plaintiff's father.

3.11. The plaintiff, on 28th July 2022, again visited the suit property and observed renovation work being carried out in the suit property by certain trespassers. Upon enquiry, the defendant no.2 informed the plaintiff that a third-party had sold a portion of the suit property to his wife, the defendant no.1.

3.12. The plaintiff registered a police complaint against the defendants no.1 and 2 on 30th July 2022. Thereafter, there was no interference by the defendants no.1 and 2 in the suit property and the renovation work was discontinued.



3.13. The plaintiff also instituted a suit against the defendants no.1, 5, 6, 8 and 9 before this Court in August 2022. Even during the pendency of the said suit, the defendants no.1 and 2 continued with their unlawful acts.

3.14. The aforesaid suit was withdrawn, with the liberty to institute a fresh suit, due to certain omissions as well as further developments.

3.15. On 23rd July 2023, the plaintiff observed further demolition work being carried out in the suit property. He also met the defendant no.4 at the suit property who stated that the suit property was purchased from the defendant no.1 in the name of the defendant no.3.

3.16. The plaintiff thereafter filed a further complaint dated 26th July 2023 to the Commissioner of Police, the Deputy Commissioner of Police and the defendant no.9 as well as a complaint dated 31st July 2023 to the Deputy Commissioner of MCD.

3.17. Despite the aforesaid complaints, no action was taken by the police officials against the defendants no.1 to 4.

3.18. The plaintiff also initiated criminal proceedings under Sections 156(3) and 200 of the Code of Criminal Procedure, 1973 against the defendants before Tis Hazari Court, New Delhi (Case no. Ct. Cases/1008/2023) and the same is pending.

3.19. Later, the plaintiff, through some source, came to know that an application has been filed by one Mr. Amar at the office of the defendant no.7 for temporary disconnection of water supply at the suit property pursuant to which the plaintiff filed a complaint dated 11th August 2023 before the Vice-Chairman of the defendant no.7. The plaintiff apprehends that the aforesaid acts are being done by the defendants.



3.20. The plaintiff again visited the suit property on 3rd September 2023 and found that a major portion of the suit property has been unlawfully demolished under the instructions of the defendants no.1 to 4. The plaintiff, on 4th September 2023, sent a written complaint to the defendant no.9. However, the concerned authorities failed to pay any heed to the plaintiff's requests and complaints.

4. Hence, the present suit was filed on 6th October 2023.

RELEVANT PROCEEDINGS IN THE SUIT

5. Notice in I.A. 19811/2023 under Order XXXIX Rules 1 and 2 of the CPC was issued to the defendants.

6. On 7th November 2023, *status quo qua* title and possession of the suit property was directed to be maintained by the parties. However, it was clarified that the parties were not precluded from raising any construction on the suit property which, if done, shall be subject to the outcome of the present suit.

7. The defendant no.3 moved an application under Order XXXIX Rule 4 of the CPC seeking vacation of the aforesaid *ex-parte status quo* granted by this Court. Notice in the said application was issued to the plaintiff on 21st August 2025.

8. *Vide* order dated 16th September 2025, Smt. Jaswinder Kaur was impleaded as a defendant no.10 in the present suit.

9. Pleadings *qua* the plaintiff and the defendants no.3 and 4 are complete in both the aforesaid applications.

10. Submissions were heard on behalf of the parties on 16th September 2025, 15th October 2025 and 27th November 2025, when the judgment was reserved.



SUBMISSIONS ON BEHALF OF THE PLAINTIFF

11. Mr. Arun Dhiman, counsel appearing on behalf of the plaintiff, has made the following submissions:

11.1. The suit property has been in possession of the plaintiff and the defendants are trying to dispossess the plaintiff from the suit property by demolishing the same.

11.2. Since the plaintiff's father died intestate, the plaintiff's mother did not become the absolute owner of the suit property and the plaintiff also had 50% share in the suit property. The impugned sale deed was executed by the plaintiff's mother without his consent. Thus, the impugned sale deed was not a legal transfer of ownership of the suit property and all transfer deeds *qua* the suit property executed pursuant thereto are also invalid.

11.3. The documents relied upon by the defendant no.3, including the impugned sale deed, the alleged Will dated 10th January 1981 executed by the plaintiff's father in favour of the plaintiff's mother and the subsequent title transfer deeds are forged and fabricated.

11.4. The aforesaid Will is unregistered and therefore cannot be relied upon. Further, it falsely states that the plaintiff's parents were childless. The aforesaid Will has only been attested by one witness and hence is not valid.

11.5. The defendants no.1 to 4, in connivance with the other defendants, have maliciously tried to create unlawful rights in the suit property.

11.6. The ownership right in an immovable property is a substantive right and cannot be substituted or neutralized by a mere indemnity bond.

SUBMISSIONS ON BEHALF OF THE DEFENDANT NO.3

12. Mr. Gaurav Kumar, counsel appearing on behalf of the defendant no.3, has made the following submissions:



12.1. *Status quo* was directed to be maintained by the parties on the basis of the false averment made by the plaintiff that he continues to be the owner in possession of the suit property.

12.2. The plaintiff's father had left behind a Will dated 10th January 1981 in favour of the plaintiff's mother. This fact has been concealed by the plaintiff in obtaining the *status quo* order.

12.3. On the strength of the said Will, *vide* the impugned sale deed, the plaintiff's mother sold the suit property to Mr. Chander Mohan Nayyar for a lawful consideration of Rs. 2,00,000/-. Thereafter, the rights in the suit property were transferred a number of times and presently the suit property jointly belongs to the defendant no.3 and the newly impleaded defendant no.10, Smt. Jaswinder Kaur.

12.4. The impugned sale deed is not only registered but the plaintiff's mother had also complied with all other legal formalities and obtained income tax clearance from the Income Tax Officer about 7 months prior to the execution of the impugned sale deed.

12.5. The plaintiff has falsely alleged about not being aware of the alleged illegal possession of the suit property for about 38 years and in 2021 *mala fide*ly started filing false and frivolous police complaints.

12.6. On the date of execution of the impugned sale deed, the plaintiff was still residing in the suit property and had shifted to the Uttam Nagar address only thereafter. Thus, he was aware of the impugned sale deed since its execution.

12.7. The plaintiff is not in possession of the suit property since the execution of the impugned sale deed.



12.8. The defendant no.3 purchased the suit property after conducting due diligence and have paid required stamp duty for the same. The plaintiff has filed the present suit only to extort money from the defendant no.3.

12.9. The defendant no.3 has already invested crores of rupees on purchase and construction of the suit property.

12.10. The defendant no.3 wants to sell a portion of the suit property to pay off her debts and is thus being prejudiced by the *status quo* order passed by this Court.

12.11. The present suit is not maintainable as the same is time barred and the plaintiff has failed to pay the requisite court fees.

12.12. Without prejudice, the defendant no.3 is willing to submit an indemnity bond with this Court so that she may be permitted to sell the constructed floors of the suit property to third-parties.

ANALYSIS AND FINDINGS

13. I have heard counsel for the parties and perused the material on record.

14. It is an admitted position that the original owner of the suit property was the plaintiff's father, Late Shri Madan Gopal Madhok, who expired on 14th July 1981.

15. It is the plaintiff's case that upon the demise of his father, the suit property came to the share of the plaintiff and his mother, Late Smt. Radha Rani, being the only Class I legal heirs of the deceased. The plaintiff's mother expired in March 1987 and hence the plaintiff became the sole owner of the suit property. It is stated that the plaintiff has been in possession of the suit property since then even though he did not reside there.



16. The defendants claim their title on the basis of the impugned sale deed dated 19th September 1986 executed by the plaintiff's mother, Late Smt. Radha Rani, in favour of Late Shri Chander Mohan Nayyar.

17. It is the case of the defendant no.3 that Late Smt. Radha Rani acquired title in the suit property by virtue of a Will executed by the plaintiff's father on 10th January 1981 (hereinafter '*Will*') bequeathing the suit property in her favour. A copy of the Will has been placed on record.

18. In the Will, it has been stated that the testator (plaintiff's father) did not have any children out of his wedlock with Late Smt. Radha Rani. This cannot be true as it is an admitted position that the plaintiff was borne out of the wedlock of Shri Madan Gopal Madhok and Smt. Radha Rani. Therefore, on a *prima facie* view, the Will appears to have been executed under suspicious circumstances.

19. A perusal of the Will shows that apart from being unregistered, the said Will only bears the signature of one attesting witness. In terms of Section 63 of the Indian Succession Act, 1925, there is a mandatory requirement that a will has to be attested by at least two attesting witnesses.

20. Therefore, on a *prima facie* view, the Will does not appear to be a genuine and valid document. Thus, the plaintiff's mother cannot be said to have become the sole and absolute owner of the suit property in terms of the said Will and could not have executed the impugned sale deed in respect of the entire suit property in favour of Late Shri Chander Mohan Nayyar. Hence, in my *prima facie* view, the impugned sale deed is invalid and cannot be a basis for further sale transactions in respect of the suit property.



21. Pertinently, the Will also does not find a mention in the impugned sale deed executed by Late Smt. Radha Rani in favour of Late Shri Chander Mohan Nayyar.

22. All the subsequent transactions in respect of the suit property are based on the Will executed by the plaintiff's father in favour of the plaintiff's mother. Once a doubt has been created on the genuineness and validity of the Will, all the subsequent sale/ purchase documents *qua* the suit property would also be *prima facie* invalid.

23. It is the plaintiff's case that Shri Chander Mohan Nayyar passed away in November 1987. On the other hand, it is the contention of the defendant no.3 that Shri Chander Mohan Nayyar went missing in September 1993 in Dehradun and a police complaint in this regard was registered with the police authorities in Dehradun on 29th September 1993 by his uncle Shri Inderjit and on 6th October 1993 by his brother Shri Jag Mohan Nayyar. It is also the case of the defendant no.3 that Shri Chander Mohan Nayyar had executed a General Power of Attorney (hereinafter '**GPA**') dated 5th October 1992 in respect of first floor and above of the suit property in favour of one Smt. Swarn Kaur.

24. On the basis of the said registered GPA, Smt. Swarn Kaur executed a registered sale deed in favour of the defendant no.4 on 10th October 1997 in respect of first floor and above, *i.e.*, roof rights.

25. It is the plaintiff's case that even the GPA executed by Shri Chander Mohan Nayyar is forged and fabricated. Pertinently, the defendant no.4 made no reference to the said GPA in the suit for specific performance of Agreement to Sell dated 28th June 2008 filed by him. The defendants also failed to



disclose the address of the Registrar, where the aforesaid GPA was purportedly executed.

26. On 28th June 2008, an Agreement to Sell and Purchase was entered into between legal heirs of Late Shri Chander Mohan Nayyar collectively in favour of the defendant no.4 in respect of ground floor of the suit property.

27. One of the legal heirs of Shri Chander Mohan Nayyar, Shri Jag Mohan Nayyar, executed a sale deed dated 21st February 2009 in favour of the defendant no.1 in respect of his 1/4th undivided share in the ground floor of the suit property.

28. Accordingly, the defendant no.4 filed a suit for specific performance and other reliefs before this Court, which was subsequently transferred to the District Court. The aforesaid suit was settled between the parties and in terms of the settlement, the remaining legal heirs of Late Shri Chander Mohan Nayyar sold their undivided 3/4th share in the ground floor of the suit property to one Smt. Jaswinder Kaur/ defendant no.10 *vide* registered sale deed dated 22nd June 2023. The defendant no.1 disposed of her 1/4th undivided share in the ground floor of the suit property in favour of the defendant no.3 *vide* registered sale deed dated 22nd June 2023. The defendant no.4, *vide* a sale deed dated 18th October 2023, transferred his right in the first floor of the suit property (along with roof rights) in favour of the defendant no.3. Hence it is the case of the defendant no.3 that the entire suit property is currently owned by the defendants no.3 and 10.

29. It is contended on behalf of the defendant no.3 that the plaintiff was always aware of the impugned sale deed executed by his mother in favour of Late Shri Chander Mohan Nayyar. Hence, the present suit, where the



defendant is seeking a declaration that the impugned sale deed is null and void, is hopelessly time-barred.

30. On behalf of the plaintiff, it is contended that only in January 2021, when the plaintiff wanted to sell the suit property and applied for obtaining a certified copy of the ownership documents of the suit property, he came to know about the impugned sale deed. Thereafter, the plaintiff registered several complaints with the police and initiated criminal proceedings against the defendants.

31. Nothing has been placed on record on behalf of the defendants to show that the plaintiff was aware of the impugned sale deed before January 2021. This aspect can only be established in trial.

32. It is further contended on behalf of the defendant no.3 that the plaintiff has never been in possession of the suit property since 1987 and therefore, the present suit is bad since the plaintiff has failed to pay the requisite court fees. However, it is the plaintiff's case that plaintiff has been in possession of the suit property since the demise of his mother in 1987. Since the suit property being an old structure was in a dilapidated condition and the plaintiff was not in a good financial condition to renovate and maintain the suit property, he locked the suit property and started residing with his wife and children at Uttam Nagar, Delhi. However, the keys of the house were always with the plaintiff and he used to visit the suit property at regular intervals.

33. To be noted, the water connection in the suit property still stands in the name of the plaintiff's late father.

34. Once again, the question whether plaintiff was in possession of the suit property or not would have to be established in trial.



35. In view of the discussion above, at a *prima facie* stage, the plaintiff has been able to establish his title, interest and possession of the suit property. Irreparable loss and injury would be caused to the plaintiff if further title and interest is created in the suit property.

36. Counsel for the defendant no.3 submits that the defendant no.3 is willing to submit an indemnity bond with this Court and she may be permitted to sell the constructed floors of the suit property to third-parties. However, once third-party rights are created in the suit property, the plaintiff cannot be compensated for his substantive right in the suit property and any indemnity bond would be of no avail.

37. Therefore, in my *prima facie* view, *status quo* with regard to title and possession of the suit property has to be maintained till the final adjudication of the suit.

38. Accordingly, the *status quo* order dated 7th November, 2023, which was further extended by orders dated 8th January 2024 and 10th April 2024, is confirmed till the final adjudication of the present case.

39. Consequently, I.A. 19811/2023 and I.A. 20465/2025 stand disposed of.
CS(OS) 626/2023

40. List before the Roster Bench on 13th March 2026.

**AMIT BANSAL
(JUDGE)**

JANUARY 21, 2026

Aanchal