$~08.

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

\+ CS(OS) 546/2015

ASHOK KUMAR SHARMA ..... Plaintiff

Through : Ms.Sunita Harish, Adv. along with plaintiff.

versus

ARUN KUMAR SHARMA & OTHER ..... Defendants

Through : Mr.Arun K. Sharma, Adv. for defendant no.1.
Mr.Kshitij Sharda, Adv. for defendant no.3.
Mr.Rajiv B. Samaiyar, Adv. for defendant no.4.
Mr.Sushil K. Sharma, Adv. for defendant no.5.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

O R D E R

% 21.10.2016

I.A. 4082/2015 (O XXXIX R 1 & 2 CPC) & 14717/2015 (O 39 R 4, by D-4) .

On 27.2.2015, this court had passed the following order:

*"**I.A. 4082/2015 in CS(OS) 546/2015***

Issue notice to the defendants by registered post and dasti, returnable for 09th April, 2015 before the Joint Registrar.

It is pertinent to mention that the present suit has been filed for partition by the plaintiff against his sister and five brothers with regard to property bearing No. B-33, Inderpuri, New Delhi, of which the father of the parties was the exclusive owner.

Learned counsel for plaintiff states that according to father's Will dated 25th May, 1983, defendants No.5 and 6 were excluded and the other children were to get 1/5th share each. She, however, states that the probate case bearing No.278/1995 filed by defendant No.1 was dismissed on a technicality as there was no second attesting witness to the Will and

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 25/10/2026 at 02:17:06

even in appeal the order of dismissal was upheld.

Learned counsel for plaintiff further states that defendant No.5 had subsequently unconditionally withdrawn the civil suit being No.2284/2007 in which he had claimed 1/7th share in the suit property.

Learned counsel for plaintiff states that while plaintiff is in use and occupation of entire ground floor, defendant No.3 is in use and occupation of entire first floor.

She states that though the plaintiff is ready and willing for partition, yet defendant No.3 is refusing to partition the suit property.

Keeping in view the aforesaid, this Court is of the view that prima facie case is made out in favour of the plaintiff and the balance of convenience is also in his favour. Further, irreparable harm or injury would be caused to the plaintiff if the interim injunction order as prayed for is not granted.

Consequently, till further orders, parties are directed to maintain status quo with regard to title and possession of the suit property.

Let the provision of Order 39 Rule 3 CPC be complied within a period of one week.

Counsel for defendant no.4 seeks modification of the order to the extent that he may be allowed to visit the suit property.

Learned counsel for the plaintiff submits that the plaintiff has no objection if defendant no.4 visits the suit property bearing no.B-33, Inderpuri, New Delhi, and meet the brothers peacefully.

Accordingly, as agreed, defendant no.4 is permitted to visit the suit property bearing no.B-33, Inderpuri, New Delhi. Defendant no.4 will not cause any nuisance.

With the above modification, the interim order dated 27.2.2015 and the order passed today modifying the order dated 27.2.2015 stand confirmed till the disposal of the suit, subject to variation at the instance of either of the parties.

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 25/10/2026 at 02:17:06

I.A. 4082/2016 and I.A. 14717/2015 stand disposed of.

I.A. NOS.142/2016 (By Pl.) & 1808/2016 (Both under Order XXII Rule 4)

Both these applications already stand disposed of vide order dated 18.10.2016. Registry is directed not to show the number of decided applications in the Cause List.

CS(OS) 546/2015

At joint request, adjourned to 24.11.2016 at 4.00 p.m., when parties are directed to remain present in Court.

G.S.SISTANI, J

OCTOBER 21, 2016
msr

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 25/10/2026 at 02:17:06