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

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Judgment Reserved on: 29.01.2026

Judgment delivered on: 24.03.2026

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RFA(COMM) 678/2025 CM APPL. 76289/2025

JAI NATH YADAV & ANR.

.....Appellants

versus

SOMNATH YADAV @ SHOBH NATH YADAV & ANR

.....Respondent

Advocates who appeared in this case

For the Appellants : Mr. Pankaj Srivastav, Adv.

For the Respondent : Mr. Raghunath Dubey, Adv

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****JUDGMENT****MANMEET PRITAM SINGH ARORA, J**

1. The present regular first appeal is directed against the judgment dated 13.10.2025 [‘impugned judgment’] passed by the District Judge (Commercial Court)-01, West, Tis Hazari Courts, Delhi [‘the Trial Court’], in a suit instituted by the Respondent [‘the Plaintiff’ therein] seeking recovery of possession, arrears of rent, mesne profits, etc., against the



Appellants [‘the Defendants’ therein].

2. The factual matrix as set out in the appeal is as follows: -

2.1. The suit before the Trial Court was filed by the Respondent in its capacity as the owner and the landlord of property bearing no. R.A.-28, Gali No. 11/12, Chetan Basti, Industrial Area, Anand Parbat, Delhi- 110005 [‘the property’], built up to the first floor.

2.2. It was asserted in the suit that in December 2013, Appellant No. 1 approached the Respondent with a request to take the ground floor of the property on rent for the purpose of running a factory [‘the suit property’]. Consequently, the ground floor of the suit property, comprising a hall, was let out to Appellant No. 1 for a period of eleven [11] months at Rs. 23,000/- per month [exclusive of water and electricity charges]. The Respondent asserted that at the request of Appellant No.1 on account of financial hardship, the monthly rent was lowered to Rs. 21,000/- per month for the period of 15.10.2016 to 14.09.2017. The last extension was made on 25.10.2016 for the said period of eleven [11] months. It was stated that the tenancy was extended from time to time through rent agreements, two [2] of which, dated 25.02.2015 [Ex. PW-1/3] and 25.10.2016 [Ex. PW-1/4] were relied upon.

2.3. It was stated by the Respondent that thereafter, no further agreements were executed inter se parties, and the tenancy continued on a month-to-month basis.

2.4. It was stated that the Appellants defaulted in payment of rent, failed to vacate the premises and started asserting wrongful claims of ownership rights in the suit property. In these facts, a legal notice dated 15.02.2019 [Ex. PW-1/7] was issued, terminating the tenancy, demanding arrears of



rent, and calling upon the Appellants to vacate the suit property within a period of fifteen [15] days.

2.5. The legal notice was duly replied to on 02.03.2019 [Ex. PW-1/10] wherein the Appellants admitted the landlord-tenant relationship inter se parties; however, they disputed that any rent was due or that they were liable to hand over possession of the suit property.

2.6. It was stated that the Appellants have initiated false and perverse legal proceedings against the Respondent, to continue in possession; therefore, the Respondent filed the suit for recovery of possession, arrears of rent, mesne profits, etc.

3. The Appellants filed their written statement wherein they admitted the relationship of landlord and tenant inter se parties. They, however, disputed the veracity of the rent agreements dated 25.02.2015 [Ex. PW-1/3] and 25.10.2016 [Ex. PW-1/4] relied upon by the Respondent, instead, they propounded a rent agreement dated 07.04.2015.

3.1. In addition, the Appellants also relied upon the documents: a Bayana receipt dated 19.06.2018 [Ex. PW-1/DX-1]; a loan agreement dated 21.12.2015 [Ex. PW-1/DX-2]; a security agreement dated 28.12.2015 [Ex. PW-1/DX-3]; and an ancillary receipt [Ex. PW-1/DX-4].

On the basis of the aforesaid documents, the Appellants contended that the parties had entered into an agreement to sell [‘ATS’] with respect to the suit property for a sum of Rs. 35,50,000/-, and the aforesaid documents prove that an amount of Rs. 32,00,000/- has already been paid and acknowledged by the Respondent towards the said agreement for sale.

3.2. The Appellants contended that an amount of Rs. 8,00,000/- was paid through bank transfers, and the balance amount of Rs. 24,00,000/- was paid



through cash. The table setting out the said payments is as follows:

S.NO.	DATE OF TRANSACTION	MODE OF PAYMENT/ REASON	AMOUNT PAID (INR)
1.	21.12.2015	Loan Agreement	4,00,000/-
2.	28.12.2015	Security Agreement	7,00,000/-
3.	22.02.2016	Cash	1,00,000/-
4.	09.03.2016	Cash	1,00,000/-
5.	22.07.2016	Cash	3,00,000/-
6.	29.07.2016	Cash	50,000/-
7.	13.01.2017	Cash	50,000/-
8.	21.01.2017	Cash	1,00,000/-
9.	02.02.2017	Cash	1,00,000/-
10.	20.04.2017	Cash	2,00,000/-
11.	04.05.2017	Cash	1,00,000/-
12.	16.09.2017	Cash	2,00,000/-
13.	From 2015 to 2019	Bank Transfer	8,00,000/-
Total			32,00,000/-

4. The aforesaid documents [referred to in paragraph 3.2], relied upon by the Appellants, were specifically disputed by the Respondent as forged. Also, the Respondent denied the receipt of any payments in cash and admitted only the receipt of Rs. 8,00,000/- through bank transfer.

5. Upon completing the pleadings, the Trial Court framed issues on 01.06.2022. However, issue no. 3 was re-framed on 13.09.2024. The issues



finally framed, read as follows:

- “1. Whether plaintiff is entitled for possession of the suit premises from defendant as alleged? OPP
2. Whether plaintiff is entitled for damages @ 3,000/- per day on account of occupation charges from defendant as alleged? OPP
3. Whether the rent agreement dated 07.04.2015 qua the suit property was executed between the defendant no. 2 and the plaintiff? If so, its effect? OPD
4. Whether the plaintiff had no locus standi to file the present suit? OPD
5. Whether the plaintiff has concealed material facts? OPD
6. Whether there is no cause of action in favour of plaintiff? OPD
7. Whether the suit is not properly valued for the purpose of court fees? OPD
8. Relief.”

6. During evidence, Respondent’s son/Mr. Sanjay Yadav, who was his duly authorised power of attorney and had personal knowledge of the transaction, appeared as PW-1 and appeared to prove the case of the Respondent vis-à-vis the relationship of landlord and the tenant, termination of tenancy, arrears of rent, etc.

7. So also, Appellant No. 1 examined himself as DW-1, and Appellant No. 2 examined himself as DW-2.

DW-3 and DW-4 were examined as the marginal witnesses to the ‘disputed documents’, i.e., Ex. PW-1/DX-1, Ex. PW-1/DX-2, Ex. PW-1/DX-3 and Ex. PW-1/DX-4, relied upon by the Appellants.

8. The Trial Court vide the impugned judgment has concluded that the relationship of landlord and tenant inter se parties stands proved by the unambiguous and unqualified submission made by the Appellants in the written statement, as well as in the reply dated 02.03.2019 [Ex. PW-1/10] to



the Respondent's legal notice dated 15.02.2019 [Ex. PW-1/7].

9. The Trial Court held that the Appellants' plea in resisting the eviction on the ground that it is a prospective purchaser, who is occupying the suit property in part performance under Section 53A of the Transfer of Property Act, 1882 ['the TPA'] is not maintainable in view of the fact that the alleged ATS, purportedly evidenced by the disputed Bayana receipt dated 19.06.2018, is not registered.

This finding was returned notwithstanding the fact that the existence of the ATS itself could not be proved by the Appellants to the satisfaction of the Trial Court.

10. The Trial Court held that in view of the due service of the legal notice dated 15.02.2019 [Ex. PW-1/7] by the Respondent on the Appellants, the termination of the tenancy stood proved and, therefore, the continued possession of the Appellants w.e.f. 01.03.2019 was unauthorised.

11. The Trial Court on the basis of the admissions made by the Appellants in their oral testimony, assessed the mesne profits at Rs. 8,000/- per month w.e.f. 03.03.2019 and permitted 15% annual enhancement every year till the actual realisation, along with interest at 9% per annum till realisation.

12. On these findings, the Trial Court accordingly passed a decree for eviction, arrears of rent for the period April 2015 to February 2019 quantified at Rs. 2,80,000/- and mesne profits from March 2019 till October 2025 quantified at Rs. 9,69,888/- along with interest at 9%. Further, the Trial Court also directed that Appellants will be entitled to adjust the payment of Rs. 8,00,000/- made through bank transfer against the decree for arrears of rent and mesne profits.

13. It is a settled law that in a suit filed by the landlord for recovery of



possession, the Court is liable to determine the existence of the following three [3] jurisdictional facts before directing eviction: -

- a. The existence of the relationship of landlord and tenant.
- b. The rate of rent should be more than Rs. 3,500/- per month.
- c. The tenancy should have been terminated.

14. The Appellants have been unable to show any error in the finding of the Trial Court with respect to the existence of the relationship of landlord and tenant between the parties. The Trial Court relied upon the contents of the Appellants' reply dated 02.03.2019 [Ex. PW-1/10] and the pleadings in the written statement admitting the existence of the said relationship. The Trial Court has returned detailed findings on this aspect in its judgment while deliberating under issue no. 1 and the Appellants have been unable to show any error in this finding.

15. In this appeal, during arguments, even before us the Appellants have not disputed the relationship of landlord and the tenant. In our considered opinion the Trial Court has correctly relied upon the admissions made in the written statement and the reply dated 02.03.2019 [Ex. PW-1/10] to the legal notice [Ex. PW-1/7] to conclude that the relationship of landlord and the tenants stand proved between the parties. The assertion of the Respondent that the Appellants were inducted as a tenant in the suit property thus stood proved. The amount of rent at Rs. 8,000/- per month also was admitted by the Appellants themselves. So also, the termination of the tenancy stood proved by the legal notice dated 15.02.2019 [Ex. PW-1/7]. Thus, the three [3] jurisdictional facts stood proved.

16. Learned counsel for the Appellants during arguments in this appeal, submitted that the Appellants *are willing to vacate* the suit premises, subject



to the Respondent being directed to return the amount of Rs. 32,00,000/- paid to him between 2015 and 2019. This was the fundamental submission made before us.

It would be pertinent to note that even in their written statement, the Appellants *offered to vacate* the suit premises [referred to as tenanted property in the written statement] if the Respondent returned the amount of Rs. 32,00,000/- advanced by the Appellants. The relevant paragraph of the written statement reads as follows:

“If Plaintiff will pay sum of Rs. 32 lacs with interest to Defendant No. 2 then Defendant No. 1 will vacate the tenanted property and if the Plaintiff want to sold the said property, then Defendant No. 1 is ready and willing to pay the balance sale consideration as per the market value. Therefore, the Defendant No. 1 is not liable to pay any rent to the Plaintiff.”

[Emphasis supplied]

17. In this regard, we find that the Trial Court has returned a finding that the Appellants could only prove the payment of Rs. 8,00,000/- to Respondent through bank transfer and were unable to substantiate the payments of Rs. 24,00,000/- in cash to the Respondent out of the alleged payment of Rs. 32,00,000/-.

Further, the Trial Court at paragraph ‘77’ of the impugned judgment has already granted an adjustment of the sum of Rs. 8,00,000/- in favour of the Appellants against the arrears and mesne profits assessed in the impugned judgment.

18. The Appellants in this appeal essentially seek to contend that the Trial Court has erred in not granting them the credit of Rs. 24,00,000/- paid over and above the amount of Rs. 8,00,000/- through bank transfer.

19. We however find that the Trial Court at paragraphs ‘46’ and ‘47’ of the impugned judgment has, by a reasoned finding, held that the alleged



payment of Rs. 24,00,000/- has not been proved. Paragraphs 46 and 47 read as follows:

“46. Even DW-1 and DW-2, despite detailing alleged payments totaling Rs. 32 lakhs (including loans and earnest money), utterly failed to substantiate these with documents filed on record; they produced no income tax returns, passbooks, or detailed bank statements or any other written document linking transactions to the claimed sale, relying instead on vague oral assertions and the very documents confronted (and denied) by PW-1. Cross-examination of DW-1 dated 20-12-2023 is relevant here and is reproduced as under,

".....Q: When you last paid the rental to the plaintiff?

Ans. The plaintiff had taken a security amount of Rs. 7 lakhs from me and it was agreed in writing that I will not have to pay any rental or interest and hence no separate rental was paid to the plaintiff....."

Further, in the cross-examination of DW-2 dated 23-09-2023, he conceded key admissions reinforcing tenancy:

"..... It is correct that I had entered into the suit premises as a tenant in April, 2015. It is wrong to suggest that I am residing in the suit premises since 2014. I had paid rent @ Rs.8000/- per month for the first time when I had entered as tenant in the suit premises. Water and electricity charges were to be paid separately. I had paid rent @ Rs.8000/- per month till December, 2015. It is correct that thereafter I have not paid the rent. (Vol. We had entered into a security agreement of Rs.7 lacs with plaintiff and as per the same Rs.7 lacs was paid and it was agreed that we would neither pay any rent nor would get any interest on the said amount). It is correct that we have not filed any proof relating to payment of rent as claimed by me. I am an income tax payee. I have not shown the amount of Rs.7 lacs in my income tax return. I have disclosed all my banks account with the income tax authority. It is correct that there is not entry in any of bank account to show withdrawal of Rs.7 lacs on 28.12.2015. I have never issued notice or letter to the plaintiff to return my 7lakh." "Bayana Receipt was not executed on stamp paper. I had written the same and plaintiff Somnath had signed the same. It is correct that I have not shown the amount of Bayana receipt in my income tax record. I can show the amount paid to the plaintiff in pursuance to Bayana receipt Ex.PW-1/DX-4 from my bank account. (Vol. About Rs.8 lacs has been transferred to plaintiff through bank. Other payments were made in cash after



withdrawal from my bank account). The details of the amounts as explained by me have not been mentioned in the Bayana Receipt Ex. PW-1/DX-4 or in the written statement or my evidence affidavit....."

Hence, it is absolutely clear from the cross-examination of defendants' witnesses that apart from proving payment of Rs. 8 Lakhs through bank transfer on different dates, the defendants have failed to substantiate the other payments as claimed of Rs. 24 Lakhs towards bayana qua agreement to sale of suit property. Defendants have also admitted having not shown the aforesaid amount of bayana receipt in their income tax record. Furthermore the defendants have also not declared the source of aforesaid funds or any other corroborative documents to support their contention of payment of bayana to the plaintiff. Collectively, the cross-examination of defendants' witnesses exposes the defendants' case as evidentially hollow as there is no proof of payments via records, contradictory witness attestations, and admissions reverting to tenancy status.

47. The documents PW-1/DX-1: bayana receipt dated 19.06.2018; PW-1/DX-2: loan agreement dated 21.12.2015; PW-1/DX-3: security agreement dated 28.12.2015; PW-1/DX-4: ancillary receipt were neither formally proved through independent corroboration nor purported signatures of the plaintiff thereupon, have been proved by any handwriting expert despite mutual forgery pleas. Consequently, the Defendants' evidence not only failed to elevate their status beyond admitted tenancy as reaffirmed in Ex. PW-1/10."

20. In the considered opinion of this Court as well, the Appellants have been unable to show any error in the said findings of the Trial Court with respect to lack of proof of the alleged document and receipts of cash [enlisted in paragraph 3.2 of this judgment and referred to at paragraph 47 of the impugned judgment].

The Appellants have urged that they should have been permitted by the Trial Court to lead expert evidence to prove the disputed documents. However, we find that no such request for leading expert evidence was raised before the Trial Court at the appropriate stage, and since it was raised at a belated stage, the said application was dismissed by the Trial Court, which order was also challenged by the Appellants and has been upheld by



the High Court in CM (M) 3979/2024. The said order has attained finality. Thus, on this ground as well Appellants have been unable to show any error in the findings of the Trial Court for not permitting leading of expert evidence at a belated stage.

21. In these facts, when the alleged payment of amount of Rs. 24,00,000/- in cash to the Respondent as claimed by the Appellants could not be proved to the satisfaction of the Court, no infirmity can be found in the impugned judgment for not directing the adjustment of the said amount against arrears of rent and mesne profits.

22. In this suit, there was no counterclaim filed by the Appellants either for seeking the refund of the amounts of Rs. 32,00,000/- paid by it under the disputed agreements or for specific performance of the alleged ATS. In fact, the Trial Court need not have even adjudicated on such a defence, considering that there was no counterclaim filed by the Appellants.

23. Nevertheless, the Trial Court, in order to do complete justice between the parties, proceeded to examine the defence raised by the Appellants. Upon such examination, and in the absence of any cogent evidence in support of the alleged payments, the Trial Court rightly declined to grant any benefit to the Appellants for the claim of Rs. 24,00,000/-.

24. The Trial Court relied upon the judgment of the Supreme Court in **Suraj Lamp & Industries (P) Ltd. (Through Director) v. State of Haryana & Anr.**¹ and held that the disputed agreements relied upon by the Appellants, in any event, cannot form the basis of the transfer of title in favour of Appellants, which is a correct finding in law. The disputed agreements admittedly do not satisfy the test of Section 54 of TPA. So also,

¹ (2012) 1 SCC 656



the reliance placed by the Trial Court on the judgment of a Coordinate Bench of this Court in **Jagdambey Builders Pvt Ltd. v. JS. Vohra**² to hold that the intended purchaser cannot invoke Section 53A of the TPA unless the ATS is a registered document, in view of the amendment made to the Act post 2001, is also correct. Considering that the alleged ATS was never registered and the Appellants *admit* that the alleged ATS is not registered, the law laid down in **Jagdambey Builders** (supra) following Section 53A of the TPA squarely applies to the facts of the present case.

In our considered opinion, the stand of the Appellants in seeking refund of the alleged amount of Rs. 24,00,000/- paid in cash, shows election of abandonment of the claim for specific performance of the alleged ATS and for this reason as well Appellants have no basis to continue to resist handing over possession of the suit property.

25. Thus, the three [3] jurisdictional facts for passing the decree of eviction in a case of landlord-tenant stood proved in the facts of this case and the Trial Court correctly passed the decree of eviction. The Appellants have not disputed the computation of the arrears and mesne profits. Even otherwise, this Court finds that the Trial Court has awarded mesne profits at the lowest rate of Rs. 8,000/- by relying upon the admissions in the testimony of DW-2 and, therefore, the said assessment of mesne profits also does not require any interference. The grant of enhancement at 15% per year as well as interest at 9% per annum is also reasonable that this is a commercial property and used for commercial purpose by the Appellants. In these facts, there is no error in the order of the Trial Court in the appreciation of the evidence which was before it. We, therefore, find no

² 2016 SCC OnLine Del 765



ground made out for interference in this appeal.

26. The appeal is dismissed. No costs. Pending applications [if any] are disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 24, 2026/msh/aa