



2025:DHC:3625



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

*Date of Decision: 30.04.2025*

+ **C.R.P. 379/2023 and CM APPL. 18846/2025**

BABY

....Petitioner

Through: Mr. Kuldeep Rana, Advocate.

versus

OFFICE OF DEPUTY DIRECTOR DELHI URBAN SHELTER  
IMPROVEMENT BOARD

....Respondent

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**TARA VITASTA GANJU, J.: (Oral)**

1. The present petition has been filed under Section 115 read with Section 151 of the Code of Civil Procedure (CPC), challenging the order dated 08.09.2022 passed by the learned Civil Judge – 03, Central Tis Hazari Courts, Delhi [hereinafter referred to as “Impugned Order”]. By the Impugned Order, the Application under Order XII Rule 6 CPC, filed by the Petitioner (Plaintiff before the learned Trial Court) has been dismissed.

2. Notice in this Petition was issued by a Coordinate Bench of this Court on 18.12.2023. None appears for the Respondent. There was no appearance on behalf of the Respondent on the last two dates of hearing as well. Accordingly, and in view of the fact that the Petition is pending for some time now, this Court deems it apposite to hear and decide the matter.

3. Learned Counsel for the Petitioner has made two submissions. Firstly, relying on the paragraph 2 of the amended Written Statement it is



submitted that there is an admission by the Respondent in the Written Statement which has not been considered by the learned Trial Court. Secondly, it is contended that there is a hand written document available in the file of the Respondent, which evidences his case. Thus, a judgment on admission should be pronounced.

4. The Respondent has filed a Counter Affidavit before the Court. In the Counter Affidavit, it is stated that the learned Trial Court rejected the Application since there were no admissions which could be relied upon and that the Petitioner had sought for a "judgment by inference". The Respondent also relies upon a judgment of a Division Bench of this Court in *Raj Kumar Chawla v. Lucas Indian Services*<sup>1</sup>.

5. So far as the admission by the Respondent in the amended Written Statement is concerned, reliance is placed by the Petitioner on paragraph 2 of the amended Written Statement. The said paragraph sets out that a document showing the name of the Respondent as allottee is part of the record with the Respondent. However, it is also stated that the document is unauthenticated and unsigned letter. It is apposite to extract paragraph 2 of the amended written statement in this regard, which is set out below:

*"2. That the plaintiff has not approached this Hon'ble Court with clean hands and concealed material facts. The plaintiff has not filed any document related to allotment of the suit property in her favour. It is submitted that although as per subsequent file/ record, the name of the plaintiff has been shown as allottee but the same is unauthentic as the allotment letter lying in the file is unsigned. Moreover, as per practice/procedure, after allotment of any plot, the allotment letter duly signed by competent officer the same if delivered in the office of the concerned Executive Engineer. Thereafter the possession of the plot is handed over to the allottee by the concerned JE/AE. In this case allotment letter was not issued to the*

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<sup>1</sup> 2006 (89) DRJ 560(DB)



**plaintiff and as per report from EE C-1, the suit land was not handed over to the plaintiff by the concerned official i.e. JE/AE. Hence the allotment of the suit property in favour of the plaintiff cannot be admitted and she is a trespassers on suit land/plot bearing No. G-180, Phase-II, Sector-3, Pappan kalan, Dwarka, New Delhi. The possession of the plaintiff is therefore not legal and she is liable to be evicted.** It is submitted that as per copy of internal Branch reference placed in the concerned file it appears that a file related to the suit property was sent to Anti Corruption Branch. However, details of the FIR and date etc. are not available. Despite best efforts to locate the file in ACB and sending many letters in this regard, the same could not be located. Due to lapse of considerable time, it is not possible for defendant to examine and find the reasons of non-allotment of suit property. Moreover, the scheme/policy of the Govt. of allotment of plots to JJ dwellers has already been discontinued since the year 2007. The plaintiff, therefore, has no legal right on the suit property.”

[Emphasis supplied]

6. A perusal of paragraph 2 also sets out that after an allotment of a plot, a duly signed letter of a competent officer is delivered to the office of the Executive Engineer and only, thereafter, is a plot handed over to the concerned person. It is further stated in the amended Written Statement that the allotment letter was not issued to the Petitioner, since the suit land was not handed over to the Petitioner by the concerned official/JE. It is further contended by the Respondent that this policy of allotment has been discontinued by the Government and that the Petitioner is a trespasser before this Court.

7. So far as concerns the second contention of the Petitioner that there is a document on record that states that the file concerning to the suit land has gone to the Anti-Corruption Branch. This document it is stated has not been made available in the Trial Court.

8. Be that as it may, this document would not be sufficient for grant of a judgment on admission as is set out under Order XII Rule 6 CPC. Learned



Trial Court examined the documents and gave a finding that the Court has power to pass a judgment on admission, when the admissions are unequivocal and unambiguous.

8.1 The learned Trial Court has also found that the Respondent/Defendant has raised certain defences. However, these can only be examined after evidence is lead in the matter and thus, the learned Trial Court has rejected the application under Order XII Rule 6 CPC as filed by the Petitioner/ plaintiff.

9. Order XII Rule 6 of the CPC confers discretionary power to the Court to pass a judgment on the admissions of a party without waiting for a determination of all issues between the parties. It is settled law that these powers are discretionary and cannot be claimed as a right. It is apposite to set out the judgment of the Supreme Court in the case of *Karan Kapoor v. Madhuri Kumar*<sup>2</sup> in this regard. The relevant extract of the *Karan Kapoor* case is set out below:

**“23. Order 12 Rule 6 confers discretionary power to a court who “may” at any stage of the suit or suits on the application of any party or in its own motion and without waiting for determination of any other question between the parties makes such order or gives such judgment as it may think fit having regard to such admission.**

**24. Thus, legislative intent is clear by using the word “may” and “as it may think fit” to the nature of admission. The said power is discretionary which should be only exercised when specific, clear and categorical admission of facts and documents are on record, otherwise the court can refuse to invoke the power of Order 12 Rule 6. The said provision has been brought with intent that if admission of facts raised by one side is admitted by the other, and the court is satisfied to the nature of admission, then the parties are not compelled for full-fledged trial and the judgment and order can be directed without taking any evidence. Therefore, to save the time and money of the court and respective parties, the said provision has been brought in the**

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<sup>2</sup> (2022) 10 SCC 496



statute. As per above discussion, it is clear that to pass a judgment on admission, the court if thinks fit may pass an order at any stage of the suit. In case the judgment is pronounced by the court a decree be drawn accordingly and parties to the case is not required to go for trial.”

[Emphasis Supplied]

10. In the case of *Hari Steel & General Industries Ltd. v. Daljit Singh*<sup>3</sup>, the Supreme Court has held that that the discretion conferred under Order XII Rule 6 CPC is to be exercised judiciously, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant. It was further held that where the defendants have raised objections, which go to the root of the case, it would not be appropriate to exercise discretion under Order XII Rule 6 CPC. The relevant extract of the *Hari Steel* case is reproduced below:

“25. In the judgment in *Himani Alloys Ltd. v. Tata Steel Ltd.* [*Himani Alloys Ltd. v. Tata Steel Ltd.*, (2011) 15 SCC 273 : (2014) 2 SCC (Civ) 376], nature and scope of Order 12 Rule 6 has been considered by this Court. In the aforesaid judgment this Court has held that the discretion conferred under Order 12 Rule 6 CPC is to be exercised judiciously, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant. Para 11 of the judgment read as under : (SCC pp. 276-77)

“11. It is true that a judgment can be given on an “admission” contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. **The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear “admission” which can be acted upon.** (See also *Uttam Singh Duggal & Co. Ltd. v. United Bank of India* [*Uttam Singh Duggal & Co. Ltd. v. United Bank of India*, (2000) 7 SCC 120] , *Karam Kapahi v. Lal Chand Public Charitable*

<sup>3</sup> (2019) 20 SCC 425



*Trust [Karam Kapahi v. Lal Chand Public Charitable Trust, (2010) 4 SCC 753 : (2010) 2 SCC (Civ) 262] and Jeevan Diesels & Electricals Ltd. v. Jasbir Singh Chadha [Jeevan Diesels & Electricals Ltd. v. Jasbir Singh Chadha, (2010) 6 SCC 601 : (2010) 2 SCC (Civ) 745] .) There is no such admission in this case.”*

26. *In the judgment in S.M. Asif v. Virender Kumar Bajaj [S.M. Asif v. Virender Kumar Bajaj, (2015) 9 SCC 287 : (2015) 4 SCC (Civ) 589] , this Court has held **that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a right. It is further held in the aforesaid case that where the defendants have raised objections, which go to the root of the case, it would not be appropriate to exercise discretion under Order 12 Rule 6 CPC.** Para 8 of the judgment read as under : (SCC p. 291)*

*“8. The words in Order 12 Rule 6 CPC “may” and “make such order ...” show that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right. Judgment on admission is not a matter of right and rather is a matter of discretion of the court. **Where the defendants have raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order 12 Rule 6 CPC. The said rule is an enabling provision which confers discretion on the court in delivering a quick judgment on admission and** to the extent of the claim admitted by one of the parties of his opponent's claim.”*

[Emphasis Supplied]

11. As stated above, an examination by the Court has shown that there is no clear and unambiguous admission by the Respondent so as to allow a judgment on admissions in the matter. In addition, since the objections raised by the Respondent go to the root of the matter, it would not be appropriate to pass a judgment to exercise the discretion under Order XII Rule 6 of the CPC in terms of the settled law.

12. The revisionary jurisdiction of this Court is limited. The Court is not required to examine the factual aspect of the matter, the Court only has power to see if the learned Trial Court has failed to exercise jurisdiction vested in it or has exercised jurisdiction which is not vested or has acted with illegal or material irregularity.



12.1 The Supreme Court in the case of *Ambadas Khanduji Shinde v. Ashok Sadashiv Mamurkar*<sup>4</sup>; clarified that revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of CPC, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. It has been held as follows:

*“14. Apart from the factual aspect, order lacks merit on the ground of jurisdiction. The High Court cannot interfere with the concurrent factual findings while exercising jurisdiction under Section 115 of the Civil Procedure Code. **It is settled law that revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of the Civil Procedure Code, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. In the facts on hand, the courts below have passed reasoned orders well within the jurisdiction conferred upon them. We arrive at the conclusion that the High Court committed error in interfering with the judgment and decree of the trial court.**”*

[Emphasis Supplied]

13. The examination by this Court shows that the Impugned Order does not suffer from any irregularity which would merit interference by this Court.

14. The petition is accordingly dismissed. All pending applications stands closed. The date already fixed i.e., 19.05.2025 stands cancelled.

15. It is, however, made clear that the order passed today will not preclude the Petitioner from raising all contentions and defences before the learned Trial Court. The rights and contentions of both the parties are left open in this behalf.

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<sup>4</sup> (2017) 14 SCC 132



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16. The parties will act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**APRIL 30, 2025/***PB/ha*

*Click here to check corrigendum, if any*