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

% **Date of Decision: 02.09.2025**

+ RFA 910/2019 & CM APPL. 45258/2019, CM APPL. 36284/2023

GOVIND RAM

.....Appellant

Through: Mr. M.R. Chanchal, Adv. along with
appellant in person.

versus

DELHI PINJRAPOLE SOCIETY (REGD)

.....Respondent

Through: Mr. Gaurav Barathi and Mr. Harsh
Gupta, Advs.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. (ORAL):

1. The present appeal has been filed challenging the judgment and decree dated 04th July, 2019 passed by Additional District Judge ("ADJ")-07, Central District, Tis Hazari Courts, Delhi in *Suit No. 59/2019 (Unique Case ID NO. 617235/2016)*, titled as "*Delhi Pinjrapole Society (Regd.) Versus Govind Ram*".
2. The respondent herein, i.e., plaintiff in the suit, is a registered society, registered under the Societies Registration Act, 1860. As per the case put forth by the respondent as plaintiff in the plaint, the premises bearing no. 9271, *Gaushala, Kishan Ganj, Delhi-110006*, is owned by the respondent. Since the appellant herein, i.e., defendant in the suit, had illegally occupied one room in the premises in question, a suit for possession, permanent injunction, damages/mesne profit was filed by the respondent.
3. By way of the impugned judgment and decree dated 4th July, 2019,



the suit was decreed in favour of the respondent herein. A decree of possession was passed in favour of the respondent, thereby, directing the appellant herein to handover the vacant, peaceful and physical possession of the room on ground floor of the subject premises. The appellant was granted three months' time to vacate the suit property. Further, a decree of recovery of damages/mesne profits was also passed in favour of the respondent and against the appellant for unlawful and unauthorized use and occupation of the suit property @ Rs. 2000/- per month from filing of the suit till recovery of the possession of the suit property.

4. Thus, the present appeal has been filed by the appellant, i.e., defendant in the suit, challenging the impugned judgment and decree dated 04th July, 2019.

5. Learned counsel appearing for the appellant has relied upon the written submissions filed on behalf of appellant, and states that appeal be decided on that basis.

6. Learned counsel appearing for the respondent has drawn the attention of this Court to the evidence before the Trial Court as well as the findings of the Trial Court, to submit that the appellant was a trespasser, having no right, title or interest over the property in question.

7. This Court notes the submission on behalf of the respondent that the appellant was a tenant with respect to some portions in the suit property, *qua* which eviction order against the appellant has already become final. With respect to the subject matter of the present proceedings, it is the case of the respondent that the one room, which is subject matter of the present proceedings, was allowed to be occupied by the appellant temporarily for storing his goods, since the appellant was already a tenant with respect to



other portions. The said room was being used by the respondent for storing fodder for the cattle and was allowed to be used by the appellant for only a short period of time. Subsequently, when the respondent asked the appellant to vacate the said room, the appellant refused to do so, on account of which, suit for possession was filed by the respondent herein.

8. Before the Trial Court, the appellant put forward a case that he was the owner of the premises in question. However, during the course of his cross examination, the appellant herein admitted to his tenancy in different portions of the suit property. The deposition of appellant in his cross-examination, is reproduced as under:

“CS No. 17235/16

Delhi Pinjra Pole Society (Regd.) Vs. Govind Ram

05.07.2018

Statement of DW-1 Sh. Govind Ram S/o Sh. Banwari Lal, aged about 61 years, R/o 9271, Gaushala Kishan Ganj, Double Phatak, Kishan Ganj, Delhi.

On SA

I tender my evidence by way of affidavit which is Ex. DW1/A bearing my signature at point A and B. I rely upon the documents which are Ex. DW-1/1 to DW-1/7.

XXXXXX by Sh. Pankaj Singhal, Ld. Counsel for the plaintiff.

I am illiterate. I do not know English Language. The contents of the affidavit filed by Ex. DW-1/A are not known to me and the same are known to my counsel. The contents of the same are not aware to me and the contents of the same are aware to my counsel. As I have trust upon my counsel, I signed the same.

I have two (sic) tenancies in my name in property no. 9271, Gaushahal, Kishan Ganj, Delhi and two separate tenancy are in the name of my wife Smt. Suman Lata in property no. 9271, Gaushahal, Kishan Ganj, Delhi. The number of the said tenancies is of 9271. It is wrong to suggest that a separate number is also given in the said four tenancies of property no. 9271, Gaushahal, Kishan Ganj, Delhi. It is wrong to suggest that the two tenancies in my name is having number of 9271-J and 9271-S in property no. 9271, Gaushahal, Kishan Ganj, Delhi. It is correct that the two tenancies in the name of wife are



having number 9271-A and 9271-Jha in property no. 9271, Gaushahal, Kishan Ganj, Delhi.

It is correct that plaintiff has filed four petition under DRC Act, two of which are against me and two are against my wife. It is correct that written statement was filed in the said four petitions by myself as well as on behalf of my wife. The contents of said written statement are read over by my counsel. The counsel is same as of me and my wife. It is correct that in the said petitions my tenancy has been shown in respect of 9271-J however it is incorrect to suggest that in another petition my tenancy has also been shown in respect of property no. 9271-S, Gaushahal, Kishan Ganj, Delhi. It is correct that we have not denied the property numbers mentioned in the said WS filed by me as of 9271-J and 9271-S.

I can understand site plan however today I have not brought my spectacles therefore I cannot respond to the site plan.

I have not filed any documents in the court record to show that my father Banwari Lai has been residing in the suit property since 1920. I had filed documents and court record to show that my father was residing in the suit property and had died in 1978 in the suit property. After seeing the file witness has stated that I have not filed any document about the death of my father having taken place in the suit property. It is correct that there was one tenancy in the name of my mother Smt. Meva Devi in property no. 9271. It is wrong to suggest that tenancy in the name of mother Smt. Meva Devi was 9271-S, Vol. It was for 9271. My mother had died in the year 2002, I do not know when the said tenancy was started in the name of my mother as it may be known to her, I am not aware of the fact that the tenancy in the name of mother Meva Devi was 40-45 years old tenancy. It is correct that after the death of my mother only I became the tenant in the said tenanted property. It is correct that my mother was resided in the said tenanted premises till her death.

xxx xxx xxx

Plaintiff society is running Gaushala in complex. I do not know how many tenants are there under the plaintiff society in the complex. We are paying rent of the two tenancy portion of my name and two tenancy portion of my wife to plaintiff society. Other than the plaintiff, nobody has claimed rent from in respect of the tenanted portion. It is wrong to suggest that I had trespassed and occupied the suit premises in May 2007. It is wrong to suggest that I have no legal right of any nature to occupied the suit premises in any manner. It is wrong to suggest that prior to May 2007 the suit property was in possession of the plaintiff society. It is wrong to suggest that prior to



(sic) May 2007 I was not having any right title or interest in any manner in the suit property. It is wrong to suggest that the allegation made in the written statement or my affidavit are wrong and denied with respect to the possession of the suit property since 1920 through Sh. Banwari Lal my father. I am not aware of the fact but was the rate of rent of the suit property if the same was let out to any person at the time of filing of the suit. It is wrong to suggest that if the suit property was let out at the time of filing of the suit the same was let out @4000/- p.m which is market rate of rent of the suit property It is wrong to suggest that I am liable to pay Rs. 4000/- as damages for use and occupation charges to the plaintiff society from 01.12.2015. It is wrong to suggest that documents filed by on the record have been filed to take benefit of the tenancy portion of my mother late Smt. Meva Devi as I was residing with her. It is wrong to suggest that plaintiffs is owner of the suit property.

xxx xxx xxx”

(Emphasis Supplied)

9. Perusal of the aforesaid cross examination of appellant clearly shows that the appellant admitted to his tenancy in the premises in question. Therefore, the plea of ownership as put forward by the appellant was rightly rejected by the Trial Court. The relevant portions of the judgment dated 4th July, 2019 passed by the Trial Court, are reproduced as under:

“xxx xxx xxx

One fails to understand, the defendant, who has himself admitted that the defendant, his wife and earlier mother, to be the tenants in certain portions of the property No. 9271 then, how come he can suddenly become the owner of the suit property, which is part and parcel of the property bearing No.9271. The Plaintiff has been admittedly the landlord/owner of the said portions and the defendant has failed to bring anything on the record to show that he or his predecessor-in-interest has any semblance of right in the suit property. The documents, which are filed by the defendant, are of no help to the defendant and the defendant cannot take shelter under the said documents, as admittedly the defendant is the tenant in certain portions of Property No.9271. Considered from any view point, it does not lie into the mouth of the defendant to challenge the ownership of the Plaintiff after his categorical admission regarding tenancy under the Plaintiff in respect of certain portions.

When the defendant has not disputed the location of the suit



property in the site plan Ex.RPW-1/1 and when defendant himself has not placed on record any site plan to show the correct position and when further, the defendant did not deny the factum of tenancy in respect of certain portion under the plaintiff and when further, the defendant failed to enlist the mistakes in the site plan so as to make it dis-believable then, the site plan can be relied upon. The nature of construction where the suit property as well as the tenanted property of the defendant is situated within the complex from where plaintiff is running its gaushala, it can hardly be disbelieved that plaintiff has better right than the defendant. The Defendant has not disputed that plaintiff is paying house tax in respect of property number 9271. The defendant has also not disputed that the entire property bearing no. 9271 is mutated in the records of MCD in the name of the plaintiff. It is correct that mutation in the records of Municipal Corporation itself is not sufficient to prove the ownership of the property but when the said fact is placed in juxtaposition to the person, who claims to be in possession of property-since 1920 without paying a single rupee as house tax then, certainly such state gives advantage to the person who has been paying house tax. Further, the defendant did not come forward to clarify how his father occupied the suit property. Nothing has been explained by the defendant. The defendant has not explained as to who was in possession of the same and it was a permissive occupation then also, the defendant has remained silent. Apart from this, defendant has set up claim of adverse possession against the plaintiff in respect of the suit property but the claim of adverse possession includes within itself admission of ownership of the plaintiff because plea of adverse possession can be set up only against true owner.

xxx xxx xxx”

(Emphasis Supplied)

10. On the aspect of quantum of damages, the learned Trial Court has held as follows:

“xxx xxx xxx

ISSUE No.5

5. Whether the plaintiff is entitled for damages, if so, at what rate and for what period? OPP

Onus to prove this issue is upon the plaintiff. The plaintiff has claimed damages @Rs.4,000/- per month stating that same is the



prevalent rent in the area in respect of the suit property. PW-1 deposed on the same lines in his examination-in-chief but PW-1 has not been cross-examined on this aspect. The defendant in cross-examination denied the suggestion that suit property could fetch Rs.4,000/- per month as rent. The plaintiff has not examined any independent witness in this regard nor has given any basis of arriving at such figure nor did it give details of the nearby property fetching such rent including the name of tenant and land-lord. However, keeping in mind the fact that now-a-days, jhuggis, within the city of Delhi, costs Rs.2,000/- to Rs.3,000/- per month and keeping in mind the fact that award of damages necessarily and inevitably involves certain amount of guess work because even similar portion almost at similar location will give different amount of rent depending upon number of other market factors. Hence, in these circumstances, interest of justice would be served if plaintiff is awarded damages @Rs.2,000/- per month towards mesne profits. Accordingly, issue No.5 is also decided in favour of the Plaintiff and against the defendant in the aforesaid terms.

xxx xxx xxx”

(Emphasis Supplied)

11. Perusal of the judgment passed by the Trial Court makes it evident that the same is elaborate, well reasoned, well founded and a sound judgment. This Court finds no error in the findings given by the Trial Court. The quantum of damages/mesne profit awarded by the Trial Court is also considered reasonable and justifiable. Nothing has been brought before this Court to the contrary.

12. This Court also notes that as regards the other portions of the premises occupied by the appellant, the respondent had filed an eviction suit against the appellant, being E-445/17/13 (New No. 77676/16), titled as “The Delhi Pinjra Pole Society (Regd.) Versus Govind Ram Sharma”. The said eviction suit filed by the respondent against the appellant was allowed *vide* judgment dated 11th March, 2019 passed by the Additional Rent Controller-02, Central/Tis Hazari Courts, Delhi. Appeal against the said judgment, being



RCT/ARCT No. 55/2019, titled as “*Govind Ram Versus Delhi Pinjrapole Society (Regd.)*”, was dismissed by the Principal District and Sessions Judge (HQs.), Rent Control Tribunal, Central, Tis Hazari Courts, Delhi, *vide* judgment dated 21st October, 2021. Subsequently, petition being *CM (M) 1022/2021*, titled as “*Govind Ram Versus The Delhi Pinjra Pole Society Regd.*”, was dismissed by this Court *vide* order dated 16th November, 2021, wherein, the appellant herein was directed to handover vacant and peaceful possession of the subject premises.

13. Thus, the illegal and unauthorized occupation of the appellant was duly established before the Trial Court. Accordingly, this Court finds no error in the judgment passed by the Trial Court.

14. During the course of hearing, the appellant, who is present in person before the Court, along with his counsel, submits that he may be granted fifteen days’ time to vacate the premises. However, this Court finds no justification in granting any further time to the appellant, considering the pendency of the present appeal. Accordingly, it is directed that the appellant shall vacate the premises forthwith and handover vacant and physical possession of the premises to the respondent herein.

15. This Court notes that *vide* order dated 16th October, 2019, it had been directed as follows:

“xxx xxx xxx

Subject to the appellant depositing 50% of the decretal amount with the Registrar General of this Court within four weeks from today, there shall be a stay on the execution proceedings till the next date of hearing. The amount so deposited be kept in an interest bearing FDR, initially for a period of one year with its automatic renewals whereof.

xxx xxx xxx”

(Emphasis Supplied)



16. Thus, this Court is informed that pursuant to the aforesaid order dated 16th October, 2019, the appellant herein deposited a sum of Rs. 43,000/-, towards 50% of the decretal amount. Accordingly, it is directed that the aforesaid amount along with accrued interest, shall be released in favour of the respondent herein.

17. As regards the other sums which are payable by the appellant, the respondent is at liberty to recover the said amounts from the appellant.

18. The stay granted *vide* order dated 16th October, 2019 along with any other interim order is hereby vacated. The respondent is at liberty to proceed in accordance with law.

19. The details of the appellant, i.e., Mr. Govind Ram, as given to this Court during the course of hearing, are as follows:

Mr. Govind Ram,
Resident of T-59, DCM School Road,
Karol Bagh, New Delhi-110005
M: 9716114380
Email: darveshbhardwaj@gmail.com

20. In view of the detailed discussion hereinabove, the present appeal, along with the pending applications, is dismissed.

MINI PUSHKARNA, J

SEPTEMBER 2, 2025/KR