



2025:DHC:5723



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IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV

+ **CS(OS) 230/2025, I.A. 9252/2025, I.A. 9253/2025 and I.A. 11703/2025**

Between: -

M/S MASIHI SAHITYA SANSTHA

REGISTERED SOCIETY UNDER THE SOCIETIES REGISTRATION ACT

HAVING ITS REGISTERED OFFICE AT

70 JANPATH, FIRST FLOOR, NEW DELHI -110001,

THROUGH ITS GENERAL MANAGER AND AUTHORIZED REPRESENTATIVE MR. SUNIL KUMAR

....PLAINTIFF

(Through: Mr. Sanjay Dewan, Sr. Advocate with Mr. M. Qayamuddin, Ms. Kashish Jain and Ms. U. Fatima, Advocates.)

AND

1. MR. NIKHIL SEN

(CLAIMED TRUSTEE OF VIDYAWATI KHANNA TRUST)

A4, ZAVER MEHAL 66 MARINE DRIVE, MYMBAI 400026

AND ALSO HAVING ADDRESS AT

73 JOR BAGH NEW DELHI

AND ALSO

HAVING ADDRESS AT

S-101, PANCHSHEEL PARK, NEW DELHI-110017

**AND ALSO**

HAVING ADDRESS AT
70 JANPATH, NEW DELHI-110001

2. MR. VIKRAM KHANNA, CLAIMED TRUSTEE VIDYAWATI KHANNA TRUST

S/O LATE SHRI RAMESH CHANDRA KHANNA,
73 JOR BAGH, NEW DELHI-110003

AND ALSO

HAVING ADDRESS AT
S-101, PANCHSHEEL PARK, NEW DELHI-110017

3. SMT. USHA PURI, CLAIMED TRUSTEE VIDYAWATI KHANNA TRUST

(D/O G.C. KHANNA & VIDYAWATI KHANNA
HAVING ADDRESS AT ZAVER MAHAL A4, FIRST FLOOR, 66
MARINE DRIVE
MUMBAI- 400020.

**4. M/S ABSTERGE REAL ESTATE PVT. LTD. REGISTERED
OFFICE AT PLOT NO. 152,
BASEMENT, TRANSPORT CENTRE, ROHTAK ROAD, PUNJABI
BAGH, NEW
DELHI-110026**

AND ALSO

HAVING ADDRESS AT
70 JANPATH, NEW DELHI-110001 (BACK SIDE)
THROUGH ITS DIRECTOR SH. JAI DEEP BHANDARI

....DEFENDANTS

*(Through: Mr. Suresh Chaudhary, Mr. Gagan Kumar Singhal and
Ms.Prerna, Advocates for D-1.*



Mr. Rajesh Yadav, Sr. Advocate with Mr. Akshat Chandra, Mr. Aditya Chandra, Mr. Utkarsh Bhanu and Mr. Vikas Sharma, Advocates for D-4.)

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Reserved on: 09.07.2025

Pronounced on: 16.07.2025

JUDGMENT

I.A. 9252/2025 (By Plaintiff - Under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC)

1. The plaintiff, *vide* the instant application has made the following prayers:-

“(a) Pass an ex-parte ad interim-injunction restraining the Defendants from dispossessing the Plaintiff from the suit property being the entire first floor 70 Janpath, New Delhi-110001 in view of the pendency of the declaration of above sale deed dated 21.03.2018 registered vide Registration No. 3270, Book No. 1, Volume No. 6659 at pages No. 137 to 150 on 16.3.2018 with the Sub Registrar VII, New Delhi and above order dated 24.12.2024 in false and fabricated eviction petition RC ARC 14/23, which was allowed by the Hon’ble Addl. Rent Controller New Delhi District, Delhi as a nullity and not binding on the Plaintiff and Plaintiffs possession of the suit property as tenant under Defendant No 1 subsists and continues to be valid and in accordance with law; and

(b) Restrain the Defendant from creating any third-party interest of any kind whatsoever qua the suit property being the entire first floor 70 Janpath, New Delhi-110001 during the pendency of the present case.”

2. Mr. Sanjay Dewan, learned Senior Counsel appearing on behalf of the plaintiff has made the following broad submissions:-

I. The plaintiff is in occupation of a portion of the property bearing no. 70 Janpath, New Delhi, amounting to approximately 3000 sq. ft., first floor out of its total area of 7249 sq. ft. (*hereinafter referred to as the suit property*) as a tenant from 1956. Delineating



the history of the suit property, he submitted that one late Mr. Rai Bahadur Gyan Chand Khanna had become perpetual lessee of the suit property on 02.07.1938. He submitted that a trust named Vidyawati Khanna Trust (*hereinafter referred to as the Trust*) was created by late Mr. Rai Bahadur Gyan Chand Khanna *vide* Deed of Indenture dated 11.04.1949 (*hereinafter referred to as the Trust Deed*), and the suit property came to be part of the said Trust.

- II. That the suit property was transferred to defendant No.4 fraudulently by defendant No. 1, Mr. Nikhil Sen, allegedly being a trustee, purportedly acting on behalf of the Trust *vide* Sale Deed dated 15.03.2018 (*hereinafter referred to as the Sale Deed*).
- III. Referring to Clause 13 of the Trust Deed as substituted *vide* the Deed of Variation dated 08.10.1956, learned Senior Counsel submitted that the Trust Deed and the subsequent documents have clearly defined the scope of the powers of the trustees with respect to the properties of the Trust, and a perusal of the said provisions would indicate that the properties, in no circumstance, can be alienated for purposes other than as provided under the Trust Deed. For the sake of clarity, the substituted Clause 13 in the Trust Deed is reproduced hereunder:-

“13. The trustee may, at any time at her discretion sell the said land hereditaments and the premises or any part or parts thereof and invest the sale proceeds in her hands in any of the securities and investments authorised by the Indian Trusts Act or in the purchase of immovable property in Delhi, Bombay or elsewhere of any tenure including leasehold or in shares of joint stock companies incorporated in India and may at the discretion of the trustees or trustee from time to time vary or transpose such securities or investments into or for others of the same or of like



nature and such investments shall be subject to the trusts hereby created or declared.”

- IV. Learned Senior Counsel drew the attention of the Court to the provision in the aforesaid clause of the Trust Deed to the effect that any investment out of funds received from the Trust shall be subject to the Trust. He thus, emphasised the limited scope of alienation of the Trust property.
- V. Learned Senior Counsel contended that the Sale Deed is illegal and improper, inasmuch as defendant No. 1 was not authorized to execute the same.
- VI. Learned Senior Counsel pointed out that the Sale Deed records that *vide* a letter dated 06.02.2018, defendant No. 1 was authorized by the trustees to execute the Sale Deed dated 19.03.2018. However, according to him, there is no such validly executed authorisation. It is also contended that the purported authorisation letter placed on record is false and fabricated.
- VII. According to learned Senior Counsel, a careful perusal of the Sale Deed would indicate that part of the advance consideration for the suit property had been received on 18.02.2016 and subsequently on 26.02.2016. Therefore, he submits without prejudice to his other contentions, even if there was any authority, the same was conferred on Mr. Nikhil Sen only on 06.02.2018, indicating that the aforesaid sale was not *bona fide*.
- VIII. It was further submitted that the aforesaid conclusion is supported by the fact that details of the person or entity who received the aforesaid consideration are not specified in the Sale Deed.



Furthermore, the details regarding the purpose for which the consideration was utilized by the Trust were also not disclosed.

- IX. He also pointed out that although the purported Deed of Appointment dated 29.04.2016, whereby Mr. Nikhil Sen was appointed as a trustee of the Trust, has been placed on record, the said document is forged and fabricated.
- X. It was further urged that the signatures of Mrs. Mohini Tandon, one of the trustees, appearing in the authorisation letter dated 15.05.2015, are also forged and fabricated. In support thereof, learned Senior Counsel compared the aforementioned signatures of Mrs. Mohini Tandon with those appearing in two other documents, namely, the authority letter dated 06.02.2018, *vide* which Mr. Nikhil Sen was purportedly authorized to sign all documents relating to the sale, conversion, etc., of the suit property, and the Deed of Appointment dated 15.05.2015.
- XI. He further contended that in terms of the provisions of Section 50(4) of the Delhi Rent Control Act, 1958 (*hereinafter referred to as the DRC Act*), Civil Courts possess jurisdiction to adjudicate questions of title with respect to tenanted properties. However, it was pointed out that the plaintiff had filed an application on 03.06.2023, seeking leave to defend in an eviction petition instituted by defendant No. 4, the subsequent purchaser, before the Rent Controller, which was rejected *vide* order dated 24.12.2024.
- XII. Thereafter, the plaintiff preferred a revision petition bearing RC.REV No. 83/2025 challenging the aforesaid order, which remains pending consideration before this Court. It was submitted



that notwithstanding the pendency of the challenge to the said order, and in view of the likelihood of dispossession from the suit premises in execution of the order of the Rent Controller, the instant civil suit was filed on 02.04.2025.

- XIII. Learned Senior Counsel for the plaintiff has placed reliance on the Supreme Court judgment in *M.V. Ramasubbaier and Others v. Manicka Narasimhachari and Others*¹ to contend that, where a sale of trust property is challenged, it is incumbent upon the Court to examine whether the trustee who alienated the property acted reasonably and in good faith, or whether a breach of trust was committed.
- XIV. Further reliance was placed on another decision of the Supreme Court in *Subhash Chandra v. Mohammad Sharif and Others*² to urge that the claims of an alleged subsequent purchaser regarding the derivation of good title from the original landlord may be duly considered by the Court in such challenges. Additionally, drawing upon the decisions of this Court in *Nagender Kumar v. Malik Tejram Anand*³ and *Niranjan Lal Vohra v. Ram Lal Mahajan*⁴, it was contended that if the authorisation letter authorising defendant No.1 to execute the sale deed is itself false and fabricated, the resultant sale deed stands rendered null and void.
- XV. Learned Senior Counsel concluded his submissions, stating that pending proper adjudication of the aforementioned issues, the

¹ 1979 (2) SCC 65

² 1990 AIR 636

³ 29 1986 DLT 167

⁴ 1983 (1) RLR



possession of the suit property must be protected, and in case the plaintiff is dispossessed as a tenant, it would result in irreparable loss that cannot be remedied monetarily. It was further urged that, in light of the facts presented, a *prima facie* case has been established, and the balance of convenience lies in favour of granting the injunction sought, given that the plaintiff has been in occupation of the suit property since 1956.

3. Mr. Rajesh Yadav, learned Senior Counsel appearing on behalf of defendant No.4, and Mr. Suresh Chaudhary, learned counsel for defendant No.1, respectively, opposed the prayers made by the plaintiff.

4. Mr. Rajesh Yadav, learned Senior Counsel, made the following broad submissions:-

- I. Drawing the attention of the Court to the prayers made in the civil suit and the instant application, learned Senior Counsel submitted that granting the relief sought in the present application tantamounts to decreeing the civil suit itself, and that the Court cannot grant interim relief which effectively disposes of the main suit. He further submitted that the order passed by the Rent Controller is already under challenge in separate proceedings, namely RC.REV. 83/2025, wherein the plaintiff had sought interim injunction against dispossession by defendant No. 4, but despite approximately nine hearings, no such relief has been granted. Additionally, he referred to various orders passed by this Court in the said revision petition on 07.09.2025, 11.03.2025, 09.04.2025, 30.04.2025, and 07.05.2025, to



indicate that despite the numerous hearings undertaken, the plaintiff has not been granted any interim relief therein.

- II. He submitted that the instant suit is expressly barred under Section 50(1) of the DRC Act, rendering it not maintainable. He further contended that any challenge to the order of the Rent Controller must be pursued exclusively through Section 25B(8) of the DRC Act, and since the plaintiff has already invoked this provision, maintaining the present civil suit constitutes an impermissible parallel proceeding. Additionally, learned Senior Counsel asserted that the challenge to the Sale Deed is belated, as they were aware of the sale through a letter dated 25.04.2018, sent by the purported trustees, in the name of the Trust, to the tenants, informing them of the sale to defendant No. 4, and through a reply dated to a legal notice dated 12.10.2018 issued by defendant No. 4 to the plaintiff, wherein the plaintiff acknowledged the sale by defendant No. 1. Despite this knowledge, the suit was only instituted on 02.04.2025, failing to challenge the Sale Deed at the earliest opportunity.
- III. According to him, under the provisions of Articles 58 and 59 of the Limitation Act, 1963 (*hereinafter referred to as "the Limitation Act"*), a strict limitation period of three years is prescribed for initiating legal proceedings to challenge a sale deed. He submitted that this three-year period had already elapsed prior to the filing of the civil suit on 02.04.2025.
- IV. Elaborating further, learned senior counsel submitted that Article 58



of the Limitation Act pertains to suits instituted for the purpose of obtaining a declaration, with the limitation period commencing from the date on which the right to sue first accrues, and that, Article 59 governs suits filed to cancel or set aside an instrument, such as a sale deed, on grounds including fraud or misrepresentation, with the limitation period beginning when the plaintiff becomes aware of the facts justifying such cancellation or setting aside of the document.

- V. According to learned Senior Counsel, under the facts of the instant case, the limitation period began prior to 02.04.2022. Consequently, by the time the civil suit was instituted on 02.04.2025, the claim was no longer tenable, as it was barred by the provisions of the Limitation Act.
- VI. He further submitted that, in terms of Section 41 of the Specific Relief Act, 1963, the injunction sought in the present proceedings is barred by law. He contended that, in the absence of the Trust being arrayed as a party, the Court cannot examine allegations regarding whether the sale consideration was utilized for the benefit of the Trust or otherwise. Additionally, it was urged that allegations concerning the veracity of the purported signatures of Mrs. Mohini Tandon cannot be adjudicated in the absence of the Trust as a party.
- VII. Furthermore, he submitted that defendant No.1 was lawfully inducted as a trustee *vide* a resolution dated 15.05.2015 and, on the same date, was duly authorized to sign and execute all documents pertaining to the property in question. Consequently, the payment of any



consideration prior to the execution of the Sale Deed, i.e., on 26.02.2016 and 18.02.2016, cannot, by itself, cast doubt on the legal authority of defendant No.1 to execute the Sale Deed in question.

VIII. To substantiate his submissions, Mr. Rajesh Yadav placed reliance on the Supreme Court decisions in *Prem Singh v. Birbal*⁵ and *Md. Noorul Hoda v. Bibi Raifunnisa and Others*⁶ to contend that the limitation period for seeking a declaration that a sale deed is illegal and void commences from the date of knowledge of the alleged fraud, and that such cases are governed by Article 59 of the Limitation Act, 1963. He further relied on the decision in *Anuradha Sharma v. North Delhi Municipal Corporation and Anr*⁷ to support his submission that, should the plaintiff succeed, he would be entitled to seek repossession of the suit premises, thereby negating any claim of irreparable injury. Additionally, he argued that the plaintiff has failed to establish that the sale deed in question was executed on account of fraud or misrepresentation. Consequently, he contended that granting interim relief to allow the plaintiff to continue possession of the suit property would be impermissible in law and tantamount to restraining the execution of a validly passed eviction order.

IX. Learned Senior Counsel further placed reliance on the decision in *Vipin Wadhwa v. M/s Prashant Enterprises*⁸ to contend that once the statutory period of limitation has lapsed, the cause of action is

⁵ (2006) 5 SCC 353

⁶ (1996) 7 SCC 767

⁷ 2017 SCC OnLine Del 9104

⁸ 2025 DHC 5229



extinguished in the eyes of law and the same cannot be resuscitated. Furthermore, he highlighted that the principle of acknowledgement of debt in that case, which extends the limitation period, applies only during the continuation of the prescribed period and ceases to have effect once the period has expired.

5. Mr. Chaudhary, learned counsel for defendant No. 1, adopted the submissions advanced by Mr. Yadav and contended that the plaintiff is not entitled to any interim relief.

6. In his rejoinder submissions, Mr. Sanjay Dewan, learned Senior Counsel drew the attention of the Court to paragraph 23 of the plaint, wherein it was averred that the limitation period for the present suit first arose on 24.12.2024, being the date of the order of the Rent Controller in the eviction proceedings instituted by defendant No. 4, and on various subsequent dates thereafter. He submitted that neither defendant No. 1 nor defendant No. 4 has specifically denied the averments made in paragraph 23 of the plaint in their respective written statements. To substantiate this contention, he extensively referred to the averments contained in paragraph 23 and subsequent paragraphs of the plaint, as well as the corresponding responses of the defendants in their written statements.

7. Further, Mr. Dewan submitted that the non-impleadment of the Trust as a party constitutes a curable defect, and the plaintiff undertakes to take appropriate steps to implead the Trust as a defendant. He also placed reliance on the Supreme Court decision in *State of Maharashtra v. Pravin*



Jethalal Kamdar (Dead) by LRs⁹ to contend that, for the recovery of possession of trust property, the limitation period is 12 years, as prescribed under Article 92 of the Limitation Act. Accordingly, he urged that the present suit is not time-barred and that the plaintiff has established the three essential ingredients for the grant of an injunction, namely, a *prima facie* case, balance of convenience, and irreparable injury. He, therefore, prayed that the injunction sought be granted pending the adjudication of the suit.

8. In rebuttal to the rejoinder submissions, Mr. Rajesh Yadav, learned Senior Counsel, contended that the decision relied upon by the plaintiff in ***Pravin Jethalal Kamdar (Dead) by LRs*** is inapplicable to the facts of the instant case. He submitted that Article 92 of the Limitation Act pertains to suits “*to recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred by the trustee for valuable consideration,*” and the same does not apply to the plaintiff, who is merely a tenant of the Trust and not a beneficiary or party entitled to invoke the said provision.

9. I have heard learned counsel appearing on behalf of the parties and also have perused the record.

10. The facts of the case disclose that the plaintiff-society was inducted as a tenant in the suit premises in the year 1956. One Mr. Rai Bahadur Gyan Chand Khanna, having acquired the said property as a perpetual lessee *vide* a lease deed dated 02.07.1938, created the Trust through the Trust Deed for the benefit of his wife, Mrs. Vidyawati Khanna, their sons, daughters,

⁹ AIR 2000 SC 1099



sisters, and, subsequent to his demise, their further siblings, all designated as beneficiaries. The Trust income was to be distributed amongst the beneficiaries in specified proportions, with the suit property designated to be held in perpetuity for the benefit of the trustees and beneficiaries. By a Deed of Variation dated 08.10.1956, the original Trust Deed was modified, substituting Clause 13 to provide that the Trust would operate in perpetuity, vesting the sole discretion to sell the Trust property in the surviving trustee, Mrs. Vidyawati Khanna. While further modifications to the Deed of Variation appear to have been made, such aspects, at this stage, may not bear significant relevance to the present proceedings.

11. The case of the plaintiff is that defendant No. 4, in collusion with the other defendants, executed a Sale Deed dated 15.03.2018, which is *void ab initio*, as the Trust was established to operate in perpetuity, and the trustees, in breach of their fiduciary duties, could not convert the Trust property into private property or appropriate its proceeds, rendering such alienation fraudulent, null, and illegal. It is, further, the case of the plaintiff, who has been in possession of the suit property as a tenant, that permanent injunction is sought to restrain the defendants from evicting the plaintiff based on the said illegal Sale Deed.

12. Additionally, it is averred that, relying on this fraudulent and fabricated Sale Deed, defendant No. 4 filed an eviction petition bearing No. 14/2023, concealing the existence of the Deed of Variation dated 08.10.1956, which was erroneously allowed by the Additional Rent Controller, New Delhi, *vide* order dated 24.12.2024. The said order is



presently under challenge in RC.REV.83/2025, though no stay has been granted by the concerned Court.

13. The submissions of defendant No. 4, as detailed in the preceding paragraphs, include the contention that the instant civil suit is not maintainable, being barred by limitation. In adjudicating an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (*hereinafter referred to, as the CPC*), the Court must be satisfied that the three essential ingredients for granting temporary injunction, namely, a *prima facie* case, balance of convenience in favour of the applicant, and the likelihood of irreparable injury, are established in favour of the applicant.

14. In view of the aforesaid, the Court deals with the aforesaid aspects as under:-

(i) **Prima-facie case:-**

15. The question of limitation, as raised by the defendants, is fundamental to the maintainability of the instant suit and lies at the core of the present dispute. They have challenged both the suit and the instant application on the ground that they are barred by limitation. Consequently, this issue pivots the determination as to whether the plaintiff has established a *prima facie* case sufficient to warrant the granting of injunction.

16. In the plaint, the plaintiff has averred that the cause of action first arose on 24.12.2024, being the date of the eviction order passed by the Rent Controller. It is further stated that subsequent to this order, the plaintiff undertook steps to obtain relevant documents, through which it acquired knowledge of the alleged illegality in the impugned transaction. For clarity,



the relevant excerpts from paragraphs 23 and 24 of the plaint are reproduced below:-

“23. That the cause of action for filing the present suit has arisen on 24.12.2024 as the Defendants are threatening to evict the Plaintiff from the suit premises on the basis of false and fabricated said sale deed dated 15.03.2018 registered vide Registration No. 3270, Book No. 1, Volume No. 6659 at pages No. 137 to 150 on 16.3.2018 with the Sub Registrar VII, New Delhi and on the basis of fraudulent sale deed above fraudulently obtained order/ judgement/ decree dated 24.12.2024 by concealment of trust deed and variation deed in false and fabricated of eviction petition RC ARC 14/23, titled as Absterge Real Estate Pvt Limited -Vs- Masihi Sahitya Sanstha, which was allowed by the Hon'ble Addl. Rent Controller New Delhi District, Delhi and the cause of action is continuing cause of action as threat of eviction continues from day to day . The cause of Action further arose in January when the plaintiff has come to know about the contents of the settlement and variation deed in January 2025. It further arose on 08.3.2025 when the Hon'ble High Court of Delhi orally declined to hear and decide the question of title in revision petition under revisional jurisdiction of the DELHI RENT CONTROL ACT in view of section 50(4) of the DELHI RENT CONTROL ACT as only the civil court can decide the question of title and voidability or validity of the sale deed dated 15.03.2018 and not the rent controller or the high court in exercise of its revisional jurisdiction , hence present suit.

24. That the present suit is within limitation as there is no period of limitation to avoid a void ab initio document and void ab -initio order based on void ab initio document as a plea about its invalidity can be raised .in any proceedings and it is not necessary to claim any declaration about its invalidity.”

17. To address the issue of limitation, Mr. Dewan, learned Senior Counsel, contended that the limitation period for the instant suit is governed by Article 92 of the Limitation Act, which pertains to suits for the recovery of possession of trust property. However, the Court, upon a perusal of the said provision, is of the opinion that the aforementioned article is inapplicable to the facts of the instant case, as the relief sought in the present suit is for the



protection of the plaintiff's subsisting possession of the suit property, rather than its recovery. The plaintiff, being currently in possession, has instituted the instant suit and application to safeguard that possession. Consequently, Article 92 of the Limitation Act has no bearing on the present proceedings. Instead, the limitation period for a civil suit seeking a declaration that an instrument is invalid, or for its cancellation, falls within the ambit of Articles 58 and 59 of the Limitation Act. A plain reading of these provisions confirms that Article 59 governs suits for the cancellation of an instrument, which aligns with the relief sought by the plaintiff in this case, while Article 58 applies to suits for declarations, not otherwise provided for under the Limitation Act.

18. This interpretation is reinforced by the Supreme Court's ruling in *Jamila Begum v. Shami Mohd.*¹⁰, where the Court dismissed a suit seeking a declaration that a transfer deed was void and its cancellation as time-barred, holding that under Articles 58 and 59 of the Limitation Act, a suit for declaration must be instituted within three years from the accrual of the right to sue, and a suit for cancellation of an instrument must be filed within three years from the date the plaintiff became aware of the facts warranting such relief. The relevant portion of the said decision reads as under:-

“Suit barred by limitation

36. As discussed, the suit was filed for declaration that the mortgage deed dated 21-11-1967 as well as sale deed dated 21-12-1970 executed by Wali Mohd. were not executed by him out of his free will and are void. In Para (14) of the plaint, it is averred that the cause of action of the suit arose on 21-11-1967 and 21-12-1970. Under Articles 58 and

¹⁰ (2019) 2 SCC 727



59 of the Schedule to the Limitation Act, 1963 in a suit filed for any declaration is to be filed within three years when the right to sue accrues. Under Article 59 of the Limitation Act, suit filed to cancel or set aside the instrument or decree, the suit has to be filed within three years from the date when the facts entitling the plaintiff to set aside or cancel the instrument or decree became first known to him. Plaintiff Shami Mohd. has admitted in his evidence that he got knowledge about the execution of the sale deed dated 21-12-1970 on the third day of death of his father on 17-5-1971. The suit must have been filed within three years of the date of knowledge or the date of the sale deed but the suit was filed on 12-7-1978. In the case in hand, the suit filed challenging the validity of the mortgage deed dated 21-11-1967 and sale deed dated 21-12-1970 is beyond the period of limitation of three years as prescribed under Articles 58 and 59 of the Schedule to the Limitation Act and barred by limitation."

19. Applying this principle, the Court must ascertain whether the plaintiff's claim, filed on 02.04.2025, falls within the prescribed three-year period from the date of knowledge of the alleged fraud or fabrication concerning the Sale Deed.

20. In the present case, it remains undisputed that the plaintiff had knowledge of the execution of the Sale Deed as early as 12.08.2018. Even prior to this date, the vendor had issued a letter dated 25.04.2018, intimating the plaintiff of the impugned sale to defendant No. 4, the receipt of which has not been denied by the plaintiff. Furthermore, on 12.11.2018, the plaintiff responded to a legal notice issued by defendant No. 4, thereby acknowledging the factum of the sale, and even disputing defendant No. 4's title over the suit property. Consequently, the knowledge of the plaintiff with respect to the Sale Deed can be reasonably traced back to 2018.

21. Given that the plaintiff was aware of the impugned sale of the suit property in 2018, it has failed, at this interlocutory stage, to satisfy the Court



that it lacked knowledge of the facts giving rise to the cause of action for the instant suit at that time. It is reasonable to presume that a tenant, such as the plaintiff, would have undertaken necessary due diligence concerning its tenancy in the suit property upon being informed of the sale, especially in light of the plaintiff's aforementioned reply to defendant No. 4's legal notice. The inaction of the plaintiff in this regard undermines their claim of delayed knowledge of the cause of action.

22. Moreover, the plaintiff cannot claim ignorance of the provisions of Section 50(4) of the DRC Act, which precludes challenges to the title of a landlord over tenanted property before the Rent Controller. Given this statutory bar, the plaintiff could have instituted a civil suit to challenge the title or the validity of the Sale Deed as soon as the eviction proceedings commenced before the Rent Controller. The failure to do so promptly further weakens the position of the plaintiff at this stage.

23. The Court also takes note of various orders passed by the Revisional Court in RC.REV. 83/2025. On 07.03.2025, arguments were heard, and the Revisional Court passed the following order:-

“RC.REV. 83/2025 & CM APPL. 13998/2025 [Stay]

3. The present Petition has been filed on behalf of the Petitioner/tenant impugning the order dated 24.12.2024 [hereinafter referred to as “Impugned Order” passed by the learned ACJ/CCJ/ARC, New Delhi District, Patiala House Courts, New Delhi. By the Impugned Order, the leave to defend Application filed by the Petitioner/tenant has been dismissed and the order granting recovery of possession has been passed by the learned Trial Court with respect to premises i.e., commercial flat/floor on front portion of first floor (facing Janpath), constructed at Plot No. 33, Block No. 134, also known as 70, First Floor, Janpath, New Delhi-110001[hereinafter referred to as “subject premises”].

4. The challenge in the present Petition as raised by the Petitioner/tenant



is to the aspect of landlord-tenant relationship or ownership of the subject premises. It is the case of the Petitioner/tenant that the Respondent/landlord has not derived title in a manner as is set out under the Indian Trusts Act, 1882 [hereinafter referred to as the "Act"].

5. Learned Senior Counsel for the Respondent/landlord, who appears on advance service, submits that the subject property was purchased in accordance with law under the provisions of Section 37 of the Act and no permission as is suggested by the Petitioner/tenant was required in law.

5.1 Learned Senior Counsel for the Respondent/landlord further submits that on the aspect of bonafide need, there was no challenge set out by the Petitioner/tenant before the learned Trial Court in his leave to defend Application.

6. The issue raised before this Court was also raised by the Petitioner/tenant before the learned Trial Court. The learned Trial Court examined this contention of the Petitioner/tenant and found that the Respondent/landlord had purchased the subject premises from the erstwhile owner which is a trust by virtue of a registered sale deed dated 15.03.2018. The learned Trial Court also relied upon the fact that the Petitioner/tenant has admitted to being a tenant in the subject premises and given its finding in this behalf.

7. On the aspect of bonafide need and availability of alternate suitable accommodation, the learned Trial Court has given a finding that no documents in support of available alternate accommodations has been made available.

8. After some arguments, learned Senior Counsel for the Petitioner requests for some time to take instructions in the matter.

9. At his request, list on 11.03.2025 in the Supplementary list.

10. The parties shall remain present on the next date of hearing through their authorized representatives.

11. The parties shall act based on the digitally signed copy of the order."

24. Thereafter, on 11.03.2025, the matter got adjourned, and the Court made the following observations:-

"1. Learned Counsel for the Petitioner requests for an adjournment. This request is opposed by learned Senior Counsel for the Respondent.

2. Learned Counsel for the Respondent submits that on the last date of hearing, after hearing arguments in the matter, the Court was inclined to



dismiss the Petition. However, at the request of learned Counsel for the Petitioner, an adjournment was sought for additional time to vacate the premises.

2.1 Once again, an adjournment is sought on behalf of the learned Counsel for the Petitioner.

3. The parties are present in Court.

4. The date given today was given at the instance of the learned Counsel for the Petitioner. Accordingly, the adjournment is granted subject to payment of costs in the sum of Rs. 10,000/- payable directly to "Bar Council of Delhi-Indigent and Disabled Lawyers Account". Proof of costs shall be filed before the next date of hearing.

5. In the meantime, the parties shall file their short note of contentions not exceeding two pages each, in the matter at least one week before the next date of hearing, along with the compilation of judgments, if any, they wish to rely upon. All judgments sought to be relied upon shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.

6. Registry is directed to place on record the digital copy of the Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court.

7. In the interest of justice, list on 03.04.2025 in the Supplementary list.

8. It is also made clear that no further adjournment will be granted to the Petitioner.

9. The parties shall remain present in Court on the next date of hearing."

25. Subsequently, the plaintiff appears to have filed an application in RC.REV.83/2025, and the matter was heard on 09.04.2025, 30.04.2025, and thereafter on 07.07.2025. The relevant orders passed on these dates are extracted below for reference:-

"09.04.2025

CM APPL. 19395/2025 [Modification]

1. This Application has been filed inter alia seeking the following prayers:

"It is therefore prayed that in the interest of justice and keeping the facts and circumstances of the matter in view the order dated 11.03.2025 to be modified to the effect that para 2 be kindly



expunged from the order dated 11.03.2025 and amended order be directed to be reloaded accordingly.”

2. At the outset, learned Senior Counsel for the Respondent submits that on 07.03.2025 after the hearing, the Petitioner had sought time to take instructions in the matter and the Court had directed that the parties remain present on next date of hearing. However, on the next date of hearing, the parties did appear but once again an adjournment was sought by the Petitioner.

2.1 Learned Senior Counsel for the Respondent submits that in view thereof the adjournment was granted subject to payment of costs. Learned Senior Counsel for the Respondent further submits that the Application was filed belatedly and once the roster was changed.

3. Learned Senior Counsel for the Respondent further submits that the Application as filed is contemptuous. He seeks to rely upon Paragraph 2 of the Application which is extracted below:

“2. That the when the matter was listed on 11.003.2025 [sic: 11.03.2025] the instructing counsel was not present as he was not available in Delhi and the petitioner sought adjournment through PROXY COUNSEL DESPITE THE FACT THAT THE ADJOURNMENT Slip was circulated in advance to the Ld. counsel for the respondent so as to Sr. counsel be informed in advance but AS NO OBJECTION REQUEST WAS DECLINED BY THE COUNSEL for the reasons known to the respondent and in the absence of the instructing counsel certain non-factual statement got recorded by the counsel for the respondent as under:

“Learned Counsel for the Respondent submits that on the last date of hearing, after hearing arguments in the matter, the Court was inclined to dismiss the Petition. However, at the request of learned Counsel for the Petitioner, an adjournment was sought for additional time to vacate the premises.”

whereas no such event had taken place on that day. Neither the senior counsel nor the instructing counsel nor the AR of the petitioner had submitted that an adjournment was sought for additional time or any time to vacate the premises and these words have been got/ recorded falsely with an attempt to misled or prejudice the Hon’ble court. Even this Hon’ble court did not used the words that the Hon’ble court is dismissing the petition whereas the Hon’ble court proposed and suggested that the Hon’ble court may consider granting liberty to file suit to



challenge the title of the buyer respondent who according to the petitioner is claiming the title on the basis of void abinitio sale deed which had been got registered by playing fraud and contrary to the provisions of Indian trust act applicable to private trust and the respondent is not having a valid title and the impugned sale deed has been got executed inter alia without seeking permission of the district judge concerned was submission was though opposed by the ld. Senior counsel of the respondent citing the provision of section 37 of the Indian Trust Act and at this stage the hobble [sic: hon'ble] court was of an opinion that the issue of validity of title can not be gone into revision by this court and suggested the grant of liberty for filing the separate suit challenging the validity of title or transfer and at this stage adjournment was sought to for seeking instruction from the client which is a body corporate and works under collective wisdom instead of individual wisdom. Hence this application for recalling and modification of the order thereby removing or expunging the submission as recorded in para 2 of the order as the same is false submission contrary to the submissions & events in the Hon'ble court."

[Emphasis supplied]

4. Learned Senior Counsel for the Petitioner submits that admittedly intemperate language has been used in the Application for which he renders an unconditional apology on behalf of the Petitioner.

4.1 Learned Senior Counsel for the Petitioner, on instructions, further submits that the instructing counsel was not available in Delhi when the matter was listed on 11.03.2025, and thus, an adjournment was sought. It is submitted that since an adjournment request was declined in the absence of the instructing counsel, certain non-factual statements got recorded by the learned Senior Counsel for the Respondent.

4.2 Learned Senior Counsel for the Petitioner further submits that in fact what transpired was that the instructions were to be taken to challenge the title of the Respondent by way of a separate suit.

5. Quite clearly and given the fact that even as per the Petitioner, the liberty was being sought to file a fresh petition would mean that the Petitioners intended to withdraw the present Revision Petition with that liberty.

6. After some arguments, learned Senior Counsel for the Petitioner, on instructions, seeks and is granted liberty to withdraw the present Application.

7. The Application is dismissed as withdrawn.

RC.REV. 83/2025

8. List before the Roster bench on 30.04.2025 subject to the orders of



Hon'ble the Chief Justice."

"30.04.2025

The court has briefly heard Mr. C. Mohan Rao, learned senior counsel appearing on behalf of the petitioner as well as Mr. Rajesh Yadav, learned senior counsel appearing for the respondent.

Mr. Rao's primary ground of challenge to the impugned eviction order dated 24.12.2024 is that the sale deed executed by the previous lessor in favour of the respondent is invalid in light of the provisions of the Indian Trusts Act, 1882; and that the petitioner has never attorned to the respondent.

*On the other hand, Mr. Yadav argues, that in view of section 109 of the Transfer of Property Act 1882 it has been clearly laid-down that upon transfer of the property, the transferee acquires all the rights of the transferor and it is not necessary that a lessee must attorn to the transferee. In this behalf, learned senior counsel has drawn the court's attention to the decision of the Supreme Court in *Ambica Prasad vs. Mohd. Alam & Anr.**

*Furthermore, it transpires that the present petitioner has already fixed a suit bearing CS(OS) No. 230/2025 titled *M/s. Masihi Sahitya Sanstha vs. Mr. Nikhil Sen (Claimed Trustee of Vidyawati Khanna Trust) & Ors.* challenging the aforementioned sale deed, which suit is pending before a Co-ordinate Bench of this court. Mr. Yadav accordingly submits, that until the petitioner succeeds in challenging the sale deed by way of the civil suit, the sale deed must be taken to be valid; and therefore, the impugned eviction order does not suffer from any error within the scope of section 25-B(8) of the Delhi Rent Control Act, 1958 ('DRC Act').*

In view of what has been transpired during the course of today's hearing, Mr. Rao seeks time to take instructions as to which of the 02 proceedings namely the present revision petition or the said civil suit, the petitioner would wish to pursue.

For the above limited purpose, re-notify on 07th May 2025 in the 'Supplementary List'."

"07.07.2025.

RC.REV. 83/2025

10. *The court is informed that the petitioner has moved an application before the learned Rent Controller for setting-aside the eviction order, on the ground that the order has been obtained 'fraudulently'. That application is pending consideration before the learned Rent Controller.*

11. *To allay the apprehension expressed on behalf of the petitioner, it is clarified that the said application would be considered and decided by the learned Rent Controller without being influenced by any observation made in*



the present proceedings.

12. Mr. Rajesh Yadav, learned senior counsel appearing for the respondent submits, that all their rights and contentions in relation to the application pending before the learned Rent Controller, be also kept open.

13. Accordingly, it is further clarified that the respondent shall also be entitled to raise all their rights and contentions before the learned Rent Controller.

14. Re-notify on 01st September 2025, the date already fixed”

26. A perusal of the crucial dates involved would indicate that the instant civil suit was instituted on 02.04.2025, at a time when the initial hearing in the revision petition (RC.REV. 83/2025) had already taken place, and no interim protection had been granted by the Revisional Court. Nothing precluded the plaintiff from obtaining copies of the relevant documents to verify the genuineness of the Sale Deed dated 15.03.2018 as soon as it was informed of its execution, particularly in light of the letter of the vendor dated 25.04.2018 and the reply of the plaintiff to the legal notice dated 12.11.2018. However, according to the plaintiff, such documents were applied for only in the year 2025, indicating a significant delay in taking steps to ascertain the validity of the transaction.

27. This Court, being a Civil Court, possesses the jurisdiction to determine the validity of the title of defendant No. 4. Any delay on the part of the plaintiff in approaching the Court must be accorded due weight when adjudicating an application under Order XXXIX Rules 1 and 2 of the CPC, especially when the suit is opposed on the ground of being barred by limitation.

28. This Court is of the considered opinion that, prima facie, the plaintiff appears to have approached this Court belatedly. In ***Rashmi Saluja v.***



Religare Enterprises Ltd¹¹, this Court examined the impact of delay by a plaintiff in instituting a suit on an application for temporary injunction and held that such delay constitutes a significant factor in adjudicating applications under Order XXXIX Rules 1 and 2 of the CPC. The relevant paragraph from the said judgment is extracted below for reference:-

“42. For the sake of argument, assuming that the contentions advanced by the plaintiff are correct and that the entire process of subjecting her to retirement by rotation is de hors the statutory scheme of the Companies Act, the plaintiff, being fully aware of such an alleged irregularity, ought to have pursued the appropriate legal recourse at the earliest possible opportunity. At the very least, the final opportunity for the plaintiff to challenge the applicability of Section 152 of the Companies Act would have been prior to the AGM dated 28.05.2020. Even with respect to the impugned Proposed Resolution to be placed before the 40th AGM, the notification for the same was issued on 15.01.2025. However, the instant suit and the accompanying application were filed only on 28.01.2025, nearly thirteen days after the plaintiff admittedly became aware of the resolution. When the matter was first placed before the Court on 29.01.2025, the Court, in the interest of procedural expedition, issued summons in the suit and scheduled the instant application for consideration. Furthermore, the AGM is not a mere discretionary exercise undertaken at the behest of the company but a statutory obligation, deriving its existence, powers, and duties from the Companies Act. Given its inherent significance, any judicial interference with such a statutory exercise carries far-reaching and unforeseen repercussions. The plaintiff, if genuinely aggrieved by the notice dated 15.01.2025, ought to have acted with due diligence and expedition rather than waiting until the eve of the AGM scheduled on 07.02.2025 before approaching this Court. Thus, at this belated stage, any interference by this Court would result in unnecessary inconvenience to all parties concerned. It is trite law that any party applying for an injunction should approach the Court as early as possible and any laches would render the application fatal. Moreover, the Court can refuse its discretion to a person who has been sleeping over his rights. [Reference can be made to the decisions in the cases of Associated Cement Companies v. State of Rajasthan¹⁷; Baldeo Das Bajoria v. Governor of the United Provinces¹⁸; Adiram Sarma v. Deokinandan Agarwalla¹⁹].”

¹¹ 2025 SCC OnLine Del 692



29. In light of the foregoing, the Court finds that the plaintiff has failed to establish a *prima facie* case, particularly as the issue of limitation, being a vehemently contested matter involving mixed questions of law and fact, remains unresolved at this interlocutory stage. The plaintiff has not satisfactorily demonstrated to the Court that the instant suit, filed on 02.04.2025, falls within the limitation period prescribed under Articles 58 and 59 of the Limitation Act, especially given its admitted knowledge of the Sale Deed as early as 12.08.2018, reinforced by the vendor's letter dated 25.04.2018 and the plaintiff's response to the legal notice dated 12.11.2018. Even if the question of limitation were to tilt in the plaintiff's favour, the significant *prima facie* delay in approaching this Court constitutes a substantial factor weighing against the grant of interim relief.

30. The law on granting of temporary injunction requires the applicant to establish all the three ingredients, being a *prima facie* case, irreparable injury, and balance of convenience lies in his favour. In the absence of even one of the aforesaid ingredients, the Court cannot grant the injunction sought. This proposition finds support in various judgments of the Supreme Court, including in ***Hazrat Surat Shah Urdu Education Society v. Abdul Saheb***.¹²

31. Having concluded that the plaintiff has not established a *prima facie* case, the existence of the other two necessary ingredients has not been adjudicated by the Court.

32. Consequently, for the reasons aforesaid, the instant application under

¹² JT 1988 (4) SC 232



Order XXXIX Rules 1 and 2 of the CPC stands dismissed.

I.A. 11703/2025 (By Defendant No. 4 – For Rejection of Plaint under Order VII Rule 11 & For judgment on admission under Order XII Rule 6 r/w Section 151 of CPC)

33. The instant application has been preferred by defendant No. 4, seeking the following relief:-

“To reject the plaint as filed by the plaintiff being under Order 7 Rule 11 (a) & (d) r/w Order 12 Rule 6 CPC in view of the admitted facts and circumstances as pleaded by the plaintiff itself.

Costs be also awarded in favor of the applicant/defendant No. 4 and against the plaintiff for filing the false and frivolous suit.”

34. A perusal of the instant application reveals that defendant No. 4 has primarily premised its opposition to the plaint on the ground of limitation, relying on the purported acknowledgement of the plaintiff regarding the sale in the year 2018, as evidenced by the reply of the plaintiff dated 12.11.2018 to the legal notice issued by defendant No. 4. Their contention is that the present suit ought to have been filed, latest by 2021, when the limitation period ended as per Article 58 and 59 of the Limitation Act.

35. Rejection of a plaint under Order VII Rule 11 of the CPC, 1908, can be ordered if the Court is satisfied that on a plain reading of the plaint and perusal of the documents adduced along with it, the suit appears to be barred by law. A perusal of the plaint and the plaint documents does not reveal that the instant suit is barred by limitation. Defendant No. 4 herein, has sought rejection of the plaint on the ground that the plaintiff had knowledge about the cause of action for the present suit in 2018, based on certain documents that do not form a part of the plaint or the plaint documents.



36. Further, the question of limitation is a mixed question of law and facts in the present case, and requires evidence to be led by both sides in order to be adjudicated.

37. The law governing Order VII Rule 11 of the CPC is well-settled, as elucidated in decisions of this Court, such as in **Naveen Kumar v. Meenakshi Goel**¹³, wherein it was held that limitation, being a mixed question of law and fact, cannot warrant rejection of the plaint without recording evidence. It is trite law that a plaint cannot be rejected if the issue of limitation is not apparent from the averments in the plaint alone. Although the contents of the plaint may indicate a date of knowledge regarding the execution of the Sale Deed, they do not unequivocally establish when the plaintiff became aware of the alleged fraud underlying the transaction. Accordingly, this contested issue cannot be adjudicated at the threshold stage and must be resolved upon trial after leading evidence.

38. With respect to the aspect of Order XII Rule 6 of the CPC invoked in this application, the same rationale applicable to Order VII Rule 11 extends here, to the effect that an admission regarding knowledge of the execution of the Sale Deed does not *ipso facto* translate to knowledge of its fraudulent nature; such a determination necessitates examination of evidence to be led by the parties, which cannot be undertaken at this preliminary stage. This position is supported by the decisions in **India Tourism Development Corporation Ltd. v. Chander Pal Sood & Son**¹⁴, where this Court held that the power under Order XII Rule 6 is discretionary and should be exercised

¹³ 2021 SCC OnLine Del 1956

¹⁴ 2000 SCC OnLine Del 43



only when admissions are clear, unambiguous, and unequivocal, and in *Rajiv Ghosh v. Satya Naryan Jaiswal*¹⁵, wherein the Supreme Court reiterated that judgments on admission must be based on specific, categorical, and intentional admissions, and the provision is enabling rather than mandatory, allowing the court to insist on proof where necessary. Thus, in the absence of unambiguous admissions warranting a judgment at this juncture, the application under Order XII Rule 6 of the CPC cannot succeed.

39. In view of the aforesaid, the instant application stands dismissed.

40. In view of the foregoing discussion, the application for interim injunction under Order XXXIX Rules 1 and 2 of the CPC, as well as the application under Order VII Rule 11 read with Order XII Rule 6 of the CPC for rejection of the plaint and judgment on admission, stand dismissed.

CS(OS) 230/2025 and I.A. 9253/2025 (under Order XI Rule 12 r/w Section 151 of CPC)

41. By way of caveat, this Court deems it appropriate to observe that the findings recorded in the present order are based solely on a *prima facie* appreciation of the material on record and are, in no manner, conclusive or binding determinations on the merits of the case, which can only be adjudicated upon trial.

42. Accordingly, the observations made herein shall not be construed as an expression of opinion on the final merits and shall have no bearing on the trial or the ultimate outcome of the suit.

¹⁵ 2025 INSC 467



2025:DHC:5723



43. Let the matter be listed before the concerned Joint Registrar for completion of further necessary steps in accordance with extant rules on 15.09.2025, the date already fixed.

44. Thereafter, the date of listing before the Court shall be given by the concerned Joint Registrar.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

JULY 16, 2025

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