



2026:DHC:9209



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

Reserved on: 29th September 2026.

Pronounced on: 15th October 2026.

Uploaded on: 16th October 2026.

CNR No. DLHC010492872023

+ **C.R.P. 363/2023**

CHARANJEET GULATI AND ANR

.....Petitioners

Through: Mr. Rajesh Yadav, Sr. Advocate
with Mr. Vaibhav Sethi,
Advocate.

versus

INDER KUMAR GULATI

.....Respondent

Through: Mr. S.K. Sharma, Advocate with
Mr. Tejas Yadav, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

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ANISH DAYAL, J.

1. This revision petition has been filed assailing order dated 05th July 2023 passed by the ADJ, North-West District, Rohini Courts [*‘Trial Court’*] in Civil Suit being *CS (DJ) No. 66/2020* titled as “*Charanjeet Gulati v. Inder Kumar Gulati*”, by which application filed under Order XII Rule 6 of the Code of Civil Procedure, 1908 (*‘CPC’*) by petitioners (*original plaintiffs*) was rejected.

2. Petitioners filed the suit under Sections 37 and 39 of the Specific Relief Act, 1963 (*‘SRA’*) seeking permanent and mandatory injunction against respondent (*original defendant*) in relation to property bearing



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No. 187, Sainik Vihar, First Floor, Pitampura, New Delhi-110034 ('*said property*') along with mesne profits, damages and other consequential property.

3. Petitioner no.1 and respondent are brothers. Petitioner no.2 is the wife of petitioner no.1.

4. The said property was purchased from *Jatinder Kumar, Anju Chawla* and *Ashok Kumar* through a registered General Power of Attorney dated 24th April 2000, registered in the name of petitioner no.2, Agreement to Sell and Purchase, receipt of payment and registered Will of the same date. Petitioners remained in physical possession of the property from the year 2000 to 2001.

5. Parents of petitioner no.1 and respondent, *Sh. Gobind Ram Gulati* and *Smt. Lajwanti Gulati*, advised petitioner no.1 to temporarily shift to the second floor and permit respondent and his family to occupy the first floor, as respondent had undergone heart surgery and would find it difficult to climb two floors. Accordingly, petitioner no. 1 permitted respondent and his family to occupy the suit property as gratuitous licensees. *Sh. Gobind Ram Gulati* passed away on 21st February 2002. Thereafter, at the instance of their mother, *Smt. Lajwanti Gulati*, and upon respondent's request, petitioner no. 1 permitted respondent to continue occupying the premises.

6. *Smt. Lajwanti Gulati* passed away on 27th April 2014. After about three months thereafter, petitioner no. 1 requested respondent to vacate the suit property. Respondent, however, sought further time on the ground that his daughter's wedding was scheduled for 26th October 2015.



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7. Even after the wedding, respondent failed to vacate the premises and sought a further period of six months, until April 2016. Upon respondent's continued refusal to vacate, a legal notice dated 14th March 2019 was issued, calling upon him to hand over peaceful possession of the suit property by 30th April 2019. However, the said notice was not replied to.

8. A reminder legal notice dated 06th June 2019 was sent to vacate the said property by 30th June 2019. However, it is alleged that the said notice was neither replied to nor did he hand over the physical possession of the property. Accordingly, the said suit was filed seeking permanent and mandatory injunction directing respondent to vacate the possession of the premises in favour of petitioner no. 1, along with mesne profits, damages, costs of the suit and litigation expenses.

Submissions on behalf of parties

9. *Mr. Rajesh Yadav*, Senior Counsel for petitioner, stated that respondent had admitted the documents relating to the suit property. In his written statement, respondent had stated that, pursuant to a family arrangement and in accordance with the wishes of his late father, *Sh. Gobind Ram Gulati*, the property at *Sainik Vihar* had been purchased with the ground floor being in the names of *Rajesh Gulati* and his wife, the first floor in the names of *Charanjeet Gulati* and his wife, and the second floor in the names of *Kishan Gulati* and his wife.

10. It was also admitted that the property had been purchased from the proceeds of the sale of property bearing No. *WZ-1091, Rani Bagh, Shakur Basti, Delhi*. Respondent had further admitted that he had



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purchased flat No. F-106, *Rashmi Apartments, Pitampura, Delhi*, from his own funds in 1995 and had shifted there with his wife and children.

11. To this extent, *Mr. Rajesh Yadav*, Senior Counsel, contended that there was a clear admission on the part of respondent that the first floor was owned by petitioners.

12. As regards the ownership of the property, being in the name of petitioners, even the counsel for respondent did not have any dispute.

13. In *paragraph (v)* of the written statement, respondent asserted that petitioner no. 1 and his family had shifted to the first floor, *Rajesh Gulati* and his family had shifted to the ground floor along with their parents, and respondent had continued to reside in his flat at *Rashmi Apartments*. It is further submitted that *Kishan Gulati* refused to shift to the second floor since he was a heart patient and could not climb stairs for his portion of the second floor and, therefore, never shifted.

14. According to respondent, an oral family settlement was arrived that too in the presence of their father, *Sh. Gobind Ram Gulati*, and provided that *Rajesh Gulati* and his family would continue to reside with their parents on the ground floor, with the sale deed, whenever executed, being in favour of *Rajesh Gulati* and his wife. Respondent would become the owner of the entire first floor and shift there, with the sale deed executed in his favour. *Kishan Gulati* and his family would shift to the flat at *Rashmi Apartments, Delhi*, and respondent would execute the necessary transfer documents in his favour. Petitioner no. 1, having opted for the second-floor terrace rights instead of the first floor, would own the second floor.



15. Respondent further contended in his written statement that the alleged family settlement had been partly acted upon and that the title to the respective portions was to be perfected in favour of the persons occupying them. Following the death of *Sh. Gobind Ram Gulati*, efforts were made to resolve the disputes between the family members through *K.L. Gulati*, brother of *Sh. Gobind Ram Gulati*.

16. *Mr. S.K. Sharma*, counsel for respondent, relied upon a letter of assurance dated 10th April 2019, signed by all four brothers, recording their mutual decision to resolve the property disputes and authorising *K.L. Gulati*, *Subhash Mehta*, *Madan Khurana* and *Raju Chachda* to take a decision, which the parties undertook to abide by. He also relied upon an undated communication which, according to him, formed part of a larger settlement and indicated that the *Sainik Vihar* property had been accounted for in 2000, when *Kishan Gulati* acquired *Rashmi Apartments*.

17. *Mr. Rajesh Yadav*, Senior Counsel, raised two objections to these two communications. **First**, as far as the letter of assurance was concerned, it does not take away from the fact that the said property is owned by petitioner. **Secondly**, as regards the undated letter purportedly signed by petitioner, there is a mention of MCD Election in 2017, which would mean that the letter was executed after 2017 and had merely stated that the *Sainik Vihar* property had been accounted for in 2000 at best. Therefore, he states that the same, in any event, did not give any crystallised rights in favour of respondent.

18. *Mr. S.K. Sharma*, counsel for the respondent contended that the respondent had possessory rights over the property by virtue of an oral



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family settlement arrived at in 2001. Therefore, the suit cannot be decreed in favour of the petitioner, particularly since the respondent disputed the claim regarding possession and there was no unequivocal admission to the contrary.

19. *Mr. Rajesh Yadav*, Senior Counsel, also drew attention of the Court to the electricity bills for the first floor/said property issued in the name of *Simmi Gulati*, petitioner no.2.

20. He further rejoined by stating that the alleged oral settlement, even if presumed to be genuine, dated back to 2001, whereas ownership of the property had already passed to the petitioner in 2000, a fact that had been unequivocally admitted.

21. He further pointed out that the property tax receipts relating to the first floor had also been issued in the name of *Simmi Gulati*, petitioner no.2. The said document had been filed by the respondent himself through an application for bringing on record additional evidence.

22. It was further pointed out that, in 2022, respondent filed a suit, being **CS(OS) 600/2022**, before this Court seeking declaration that he is the owner of the subject property and sought specific performance of the alleged oral family settlement dated 15th April 2001, thereby admitting that no title exists in favour of respondent.

23. It was further alleged by *Mr. Yadav*, Senior Counsel, that *Kishan Gulati* and *Anju Gulati*, in their written statement in the said suit, had also apparently denied the existence of the alleged oral family settlement.



Analysis

24. In light of these facts, the impugned order is to be assessed, since this is a revision petition and the Court has to look at material irregularities. It is well settled that the Court in a revisional jurisdiction cannot re-appreciate the evidence. It is only to interfere if the findings are perverse, or there has been a non-appreciation or non-consideration of the material evidence on record. The Court has to, therefore, examine whether there is irregular exercise or non-exercise of jurisdiction and that assessment is not directed against the conclusion of law or fact unless they go to the root of the issue of jurisdiction. These aspects have been categorically settled in various decisions, *inter alia*, in ***Prabhat Kumar Mahapatra v. Madhavika Datta Biswas*** (2007) 14 SCC 719.

25. It is evident from the plaint and the written statement that the plaintiffs' assertion of ownership and possession of the premises, based on a set of documents executed in 2000, is clear and categorical. The written statement does not deny the same. On the contrary, there is an unequivocal admission that the first floor of the property was purchased by the petitioners.

26. Further, documents such as electricity bills and property tax receipts indicate that the premises are owned by the petitioners. The written statement also admits that the subject property stands mutated in the name of petitioner no. 2. The respondent has not filed any document establishing a legal right, title, or interest in the subject property.

27. The primary defence raised by respondent/defendant is on the oral family settlement of 15th April 2001, which, even if assumed to have



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been arrived at, is after the ownership was already acquired by petitioners.

28. At best, even if the oral family settlement is accepted at face value, it may confer some form of possessory rights upon the defendant, though there is a stark absence of documentary or other corroborative evidence establishing the terms of the alleged settlement. Also, the existence of the oral family settlement itself appears to be disputed, a separate suit, being **CS(OS) 600/2022**, filed before this Court approximately 21 years after the alleged settlement. Moreover, no stay order has been passed in the said suit.

29. In the opinion of this Court, the impugned order reflects an irregular exercise of jurisdiction. While exercising its jurisdiction under Order XII Rule 6 of CPC, the Trial Court ignored the clear and unequivocal admission made by the defendant regarding ownership of the property.

30. The Trial Court incorrectly recorded that the defendant had specifically claimed ownership of the suit property by virtue of an oral family settlement dated 15th April 2001. The Trial Court failed to consider the significance of the separate suit for declaration, in which the respondent himself seeks specific performance of the alleged oral family settlement. In that suit, the respondent has asserted that, under the settlement, the respective parties were placed in possession of their shares, but the requisite documents effecting the transfer of those shares had yet to be executed, following which disputes arose between the parties.



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31. Therefore, at the present moment it cannot be asserted by defendant that they have any right or title to the first floor of the property except an inchoate right purportedly arising out of an alleged oral family settlement which is yet to receive legal fructification. In fact, the suit **CS(OS) 600/2022** seeks a direction to petitioners herein to execute the sale deed, in respect of the first floor of the property, in favour of the respondent. At best, therefore, respondent is merely in possession, and if so, they are clearly at the behest of the petitioners, who have ownership rights to the property as admitted.

32. Respondent received two legal notices in this regard in 2019; however, he failed to respond to either of them. Moreover, the respondent is asserting existence of an oral family settlement allegedly arrived at 18 years prior. In these circumstances, the defence raised, if any, appears to be specious, sham and moonshine. In this regard, the reference to various decisions relied upon by petitioner may be relevant:

- I. In **Urmila Sharma v. Jai Bhagwan** 2021 SCC OnLine Del 4552, a Coordinate Bench of this Court, while deciding an application under Order XII Rule 6 of CPC seeking a decree for possession, considered the contention that the contesting defendants had raised a sham defence based on an alleged oral agreement entered into prior to the father's death, under which the plaintiff had purportedly relinquished rights in the father's estate. The Court held that the defence of oral relinquishment could not be accepted in view of the settled law, relying upon the decisions of this Court in **Sushila v. Vijay Kumar Bhardwaj** 2014 SCC OnLine Del 1948, and the Madras High Court in **Prema Suryanarayanan v. S.**



Venkataramanan, (2018) 2 CTC 715. The Court referred to these decisions, particularly **Vijay Kumar Bhardwaj** (*supra*), which observed as follows:

“13. The defence of alleged oral family settlement and oral relinquishment of shares taken by the defendant No. 1 is totally in contradiction of his earlier admission in the abovementioned civil suit. The defendant No. 1 cannot be permitted to take a false defence as an afterthought just to prolong the present suit and to delay the grant of legitimate rights of the plaintiffs. The alleged plea of the family settlement of the defendant No. 1 is false as the defendant No. 1 has not given any details or date of any alleged family settlement. Moreover, there cannot be any oral relinquishment of the share in an immoveable property as it requires compulsory registration.”

(emphasis added)

II. The Court in **Urmila** (*supra*), then noted as under:

“12. This defence is clearly sham and is of no consequence; it is ambiguous and self-contradictory. On the one hand, the Contesting Defendants deny the share of the Plaintiff and Defendant No. 6 and contend that they have relinquished their share, on the other hand it is averred that there has been an oral partition, and thereafter she received her share. This plea of oral partition is an acknowledgment of pre-existing rights of the Plaintiff and Defendant No. 6 in the suit properties and further the defence is vague and has to be rejected at the threshold. The written statement does not set out necessary facts and circumstances of the alleged ‘oral partition’. The suit properties continue to be in the name of the deceased father. There are no documents



enclosed alongwith the written statement that could indicate the properties were partitioned and this was recorded in any public records. In *Vineeta Sharma v. Rakesh Sharma*⁵, the Supreme Court was seized of the question surrounding conflicting interpretations of Section 6(5) of the HAS dealing with rights of a daughter in a coparcenary property. In the context of Section 6(5), the Court made certain observations regarding a plea of 'oral partition' and observed as follows:

"127.....The provisions of Section 6(5) are required to be interpreted to cast a heavy burden of proof upon proponent of oral partition before it is accepted such as separate occupation of portions, appropriation of the income, and consequent entry in the revenue records and invariably to be supported by other contemporaneous public documents admissible in evidence, may be accepted most reluctantly while exercising all safeguards.

.....When such a defence is taken, the Court has to be very extremely careful in accepting the same, and only if very cogent, impeccable, and contemporaneous documentary evidence in shape of public documents in support are available, such a plea may be entertained, not otherwise. We reiterate that the plea of an oral partition or memorandum of partition, unregistered one can be manufactured at any point in time, without any contemporaneous public document needs rejection at all costs."

(emphasis supplied)

13. In Sandeep Kohli v. Vinod Kohli, a coordinate Bench of this Court, while dealing with an Order 12 Rule 6 application in a partition suit, made certain observations as to how 'oral partitions'



are to be dealt with. These observations may be germane to the present discussion:

“22. Though undoubtedly a plea of oral partition is required to be put to trial but when it is pitted against documents executed on oath and on solemn affirmation by the person taking the said plea of co-ownership, in my view to still put such plea to trial would amount to the Court allowing its process to be abused by the person taking such a plea and assisting him to abuse the process of the Court and the implicit delays in trial to reap unfair advantage to himself and to the prejudice of the other party. Not only has the counsel for the defendant No. 1 failed to state as to what the defendant No. 1, even if given an opportunity to lead evidence can prove to renege out of the situation but I am also unable to fathom any get away for the defendant No. 1, even if granted such an opportunity.

23. Though undoubtedly there is no admission of the defendant No. 1 in his written statement filed in this suit of co-ownership and rather the defendant No. 1 in the written statement in this suit has pleaded a prior oral partition but Courts have in *Uttam Singh Duggal & Co. Ltd. v. United Bank of India* (2000) 7 SCC 120, *Vivek Narayan Pal v. Sumitra Pal* 2010 SCC OnLine Del 433, *C.N. Ramappa Gowda v. C.C. Chandregowda* (2012) 5 SCC 265 and *Maj. (Retd.) Sukesh Behl v. Koninklijke Phillips Electronics* 2014 SCC OnLine Del 2313 invoked the provisions of Order XII Rule 6 CPC to negate such improbable pleas which have no chance of succeeding on the face of the admitted material on record and which pleas are taken merely to lengthen



litigation and to use the said time to coerce the plaintiff into settling for less than his due.
24. Not only Order XII Rule 6 CPC but Order XV CPC also requires and empowers the Court to put a suit to trial only if a material proposition of fact or law is submitted by one party and denied by the other. The plea of the defendant No. 1 of oral partition of the property, though if proved can certainly defeat the claim of the plaintiffs of partition but is not found to be a material one, since the defendant No. 1 who has taken the said plea has in an earlier statement on oath stated contrary thereto.”

14. In *Virender Kumar Garg v. Ravinder Kumar Garg*, a Division Bench of this Court, while deciding an appeal from a Single Judge's order whereby Appellant's suit was dismissed, noted that while the plaint disclosed an oral partition, no particulars re: the oral partition were on record; nothing was brought on record to support the plea of oral partition.

16. It is well settled in law that transfer of immovable property can only by registered instrument and not by way of an oral agreement. The pleas raised by Contesting Defendants are therefore clearly untenable and the Court sees no reason to put the suit to trial. The Court does not find any fetter in passing a preliminary decree determining the rights of the parties since the relationship between the parties and their shares are evident from the pleadings on record. Accordingly, a preliminary decree is passed declaring that the Plaintiff and Defendant Nos. 1 to 6 shall each have a 1/7 share in the suit properties.”

(emphasis added)

III. Reliance was also placed on *Vineeta Sharma v. Rakesh Sharma*



(2020) 9 SCC 1, where a three-Judge Bench was dealing with daughter's right in coparcenary property and stated that the intent of Section 6 of the Hindu Succession Act, 1956, is to accept genuine partitions that might have taken place and not set up as a false defence and only oral *ipse dixit* is to be rejected outrightly. The objective of preventing false or frivolous defences from defeating the benefits conferred by the amended provisions must be given full effect. When such a defence is raised, the Court must exercise great caution in accepting it. Such a plea may be entertained only where cogent, impeccable, and contemporaneous documentary evidence, preferably in the form of public documents, supports it. Relevant paragraph of *Vineeta (supra)* is extracted as under:

“135. A special definition of partition has been carved out in the Explanation. The intendment of the provisions is not to jeopardise the interest of the daughter and to take care of sham or frivolous transaction set up in defence unjustly to deprive the daughter of her right as coparcener and prevent nullifying the benefit flowing from the provisions as substituted. The statutory provisions made in Section 6(5) change the entire complexion as to partition. However, under the law that prevailed earlier, an oral partition was recognised. In view of change of provisions of Section 6, the intendment of the legislature is clear and such a plea of oral partition is not to be readily accepted. The provisions of Section 6(5) are required to be interpreted to cast a heavy burden of proof upon proponent of oral partition before it is accepted such as separate occupation of portions, appropriation of the income, and



consequent entry in the revenue records and invariably to be supported by other contemporaneous public documents admissible in evidence, may be accepted most reluctantly while exercising all safeguards. The intendment of Section 6 of the Act is only to accept the genuine partitions that might have taken place under the prevailing law and are not set up as a false defence and only oral ipse dixit is to be rejected outrightly. The object of preventing, setting up of false or frivolous defence to set at naught the benefit emanating from amended provisions, has to be given full effect. Otherwise, it would become very easy to deprive the daughter of her rights as a coparcener. When such a defence is taken, the court has to be very extremely careful in accepting the same, and only if very cogent, impeccable, and contemporaneous documentary evidence in shape of public documents in support are available, such a plea may be entertained, not otherwise. We reiterate that the plea of an oral partition or memorandum of partition, unregistered one can be manufactured at any point in time, without any contemporaneous public document needs rejection at all costs. We say so for exceptionally good cases where partition is proved conclusively, and we caution the courts that the finding is not to be based on the preponderance of probabilities in view of provisions of gender justice and the rigour of very heavy burden of proof which meets the intendment of Explanation to Section 6(5). It has to be remembered that the courts cannot defeat the object of the beneficial provisions made by the Amendment Act. The exception is carved out by us as earlier execution of a registered document for partition was not necessary, and the court was rarely approached for the sake of family prestige. It was approached as a last resort when parties



were not able to settle their family dispute amicably. We take note of the fact that even before 1956, partition in other modes than envisaged under Section 6(5) had taken place.”

(emphasis added)

- IV. Reliance was also placed on a decision of this Court in ***Mohd. Ansar Siddiqui v. Varun Sachdeva***, 2025 SCC OnLine Del 2201. While deciding the first appeal, the Court held that the defence set up by the defendant was *ex facie* specious, untenable and *mala fide*. Further, noting that since the sale deed was not denied, the suit property will be considered as ownership of the respondent, and occupancy by the appellant would be at best a month-to-month tenancy. For ease of reference, relevant paragraphs of the judgment are extracted as under:

“18....

(viii) *The sale deed having been not denied, the suit property would certainly be considered as ownership of the respondent and the occupancy by the appellant, would undoubtedly be at best, as a month-to-month tenancy. The assertion that they had entered into an oral agreement to sell, as noted above, cannot come to the benefit of the appellant, as per law. The written statement is, therefore, bereft of any legal defence that the appellant can have.*

(ix) *In this regard, the following passages of PPA Impex (supra) are instructive, which are extracted as under. In the said decision by Division Bench of this Court, it is highlighted that no document has been filed evidencing an agreement to sell between the appellant and the respondent or even the predecessor-in-title. Importantly, the Division Bench notes that if pleadings of this nature, which*



are total moonshine, are taken note of, the provision of Order XII Rule 6 of CPC, would be virtually annihilated.”

(emphasis added)

V. In **Sunil Kapoor v. Himmat Singh** 2010 SCC OnLine Del 354, the defendant had filed a petition under Article 227 of the Constitution of India challenging an order passed in a pending suit that dismissed an application under Section 10 CPC. It was not disputed that the defendant was a tenant. However, before the institution of the eviction suit, the defendant had filed a suit seeking specific performance of an Agreement to Sell concerning the immovable property. The Court held as under:

“15. What follows is that even if the petitioner/defendant were to succeed in his suit for specific performance of agreement to sell, till the execution of a conveyance deed in pursuance to the decree, if any, in favour of the petitioner, the petitioner has no ground in law to save his possession of the premises. The status of the petitioner would continue to be as before i.e. of a tenant whose tenancy has been determined.

16. Once that is found to be the position in law, the defence of the agreement to sell is not a legal defence available to the petitioner in the suit for ejectment. If that be so, there is no common question involved in the previously instituted suit for specific performance and the subsequently instituted suit for ejectment.

20. Though the aforesaid two judgments of the Division Bench of this Court are on injunction application in suits for specific performance, but the principles laid down therein would apply here. The jurisdiction, if any, to stay eviction pending a suit for specific performance is of the court where



the suit for specific performance is pending and the court where the suit for ejectment/eviction is pending ought not to restrain its hands merely because the suit for specific performance has been filed.”

(emphasis added)

- VI. Reliance by the counsel for respondent was placed on ***S.M. Asif v. Virender Kumar Bajaj***, (2015) 9 SCC 287, where the Supreme Court had held as under:

“9. In the suit for eviction filed by the respondent landlord, the appellant tenant has admitted the relationship of tenancy and the period of lease agreement; but resisted the respondent-plaintiff's claim by setting up a defence plea of agreement for sale and that he paid an advance of Rs 82.50 lakhs, which of course is stoutly denied by the respondent landlord. The appellant-defendant also filed the suit for specific performance, which of course is contested by the respondent landlord. When such issues arising between the parties ought to be decided, mere admission of relationship of landlord and tenant cannot be said to be an unequivocal admission to decree the suit under Order 12 Rule 6 CPC.”

(emphasis added)

- VII. However, the facts in ***S.M. Asif*** (*supra*) are distinguishable because, in that case, the defendant had raised a defence based on an Agreement to Sell and claimed to have paid an advance of Rs. 82.5 lakh. In that case, the benefit of Order XII Rule 6 of CPC was not granted.
- VIII. Reliance was placed on ***Karan Kapoor v. Madhuri Kumar***, (2022) 10 SCC 496, where the Court had adumbrated on the issue of



discretionary power under Order XII Rule 6 of CPC and that it cannot be claimed as a matter of right, and reliance had been placed on **S.M. Asif** (*supra*). Relevant paragraph is extracted as under:

“26. On the issue of discretion of Court to pass judgment on admission, a three-Judge Bench of this Court in S.M. Asif v. Virender Kumar Bajaj made the legislative intent clear to use the word “may”, which clearly stipulates that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right. In the said case, the suit for eviction was filed by the respondent landlord against the appellant tenant. The relationship of tenancy was admitted including the period of lease agreement. The plaintiffs' claim was resisted by the defendant setting up a plea that the property in question was agreed to be sold by an agreement and the advance of Rs 82,50,000 was paid.

27. The defendant in course of taking the defence stoutly denied that the respondent-plaintiff has continued to be the landlord after entering into agreement to sell. The suit for specific performance was also filed which of course was contested by the plaintiff. In the said case, this Court was of the view that deciding such issues requires appreciation of evidence. Mere relationship of landlord and tenant cannot be said to be an unequivocal admission to decree the suit under Order 12 Rule 6CPC. Resultantly, this Court by setting aside the judgment [S.M. Asif v. Virender Kumar Bajaj, 2014 SCC OnLine Del 7564] , passed by the High Court remitted the matter back to the trial court subject to deposit of the arrears of the rent and the compensation for use of occupation of the suit premises. Such deposit was subject to final outcome of the



eviction as well as suit for specific performance.”
(emphasis added)

IX. Reliance was further placed on ***Himani Alloys Ltd. v. Tata Steel Ltd*** (2011) 15 SCC 273. The Supreme Court held that a judgment cannot be given if the admission is not categorical. Order XII Rule 6 of CPC is not mandatory or peremptory but discretionary, and it mandates that the Court exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial, which may permanently deny any remedy to the respondent. It is noted that the facts of the matter related to a claim for recovery based on an alleged admission of liability, wherein the respondent had pleaded that the agreement was merely tentative and intended to allow the accounts to be verified, rather than constituting a final settlement. Even otherwise, the principle of law laid down in *paragraph 11 of Himani Alloys (supra)* cannot be doubted and is, in fact, also accepted by this Court. Relevant paragraph of ***Himani Alloys (supra)*** is extracted as under:

“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. There is no such admission in this case.”
(emphasis added)

33. The respondent is, therefore, at best, merely a permissive licensee in the property and is estopped under Section 116 of the Indian Evidence Act, 1872 from disputing the title of the petitioners. The Trial Court ought to have appreciated that the plea of contribution from joint family funds was unsubstantiated, as the respondent had not pleaded any details regarding the alleged contribution, including the amount contributed towards the purchase of the property.

34. Based on the decision in ***Sunil Kapoor*** (*supra*), the Court is inclined to exercise its discretion in favour of the petitioners, particularly since ownership of the property stands admitted and the respondent's possession is based, at best, on the alleged oral family settlement, in respect of which a declaratory suit has been filed.

35. Respondent may have rights that crystallise post the decree in the said suit. Until then, however, the permissive licence to occupy the property has been revoked by the petitioners, *inter alia*, through two legal notices that were neither denied nor left unanswered.

36. Accordingly, the impugned order is set aside, and application under Order XII Rule 6 of CPC is allowed, and the relief is granted in favour of petitioners with respect to prayer (A) of the suit and be decreed to that extent.



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37. As regards prayer (B), (C) and (D), the matter is remanded back to the Trial Court or to consider the same basis the evidence of the parties.

38. Accordingly, the petition is disposed of. Pending applications, if any, are rendered infructuous.

39. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

OCTOBER 15, 2026/MK/bp

Signature Not Verified

Digitally Signed By: RAHUL
KUMAR CHODHARY
Signing Date: 15.10.2026
15:16:02

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