



2026:DHC:4459



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

Reserved on: 26th February, 2026

Pronounced on: 19th May, 2026

+ RC.REV. 313/2018, CM APPL. 27702-27703/2018, CM APPL. 53087/2018, CM APPL. 37836/2022

MR. SOM NATH KHARBANDA
(THROUGH HIS LEGAL HEIRS)

....Petitioner

Through: Mr. Anil Sapra, Senior Advocate
with Mr. Rakesh Malhotra,
Advocate.

versus

MR. MANOJ KUMAR MITTAL & ORS

....Respondents

Through: Mr. Piyush Pahuja and
Mr. Upender Kumar, Advocates.

+ RC.REV. 376/2018, CM APPL. 31399/2018, CM APPL. 53081/2018

CHARANJEET SINGH

.....Petitioner

Through: Mr. Anil Sapra, Senior Advocate
with Mr. Rakesh Malhotra,
Advocate.

versus

MANOJ KUMAR MITTAL & ORS

.....Respondents

Through: Mr. Piyush Pahuja and
Mr. Rohan Anand, Advocates
for R-1.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petitions under Section 25-B(8) of the Delhi Rent Control Act, 1958, (for short, "DRCA") have been filed assailing common impugned



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order dated 29.05.2018 passed in Case No. E-616/2017 (CIS No. 713/2017) passed by learned ARC, Central, Tis Hazari Courts, Delhi, whereby, the applications seeking leave to defend filed on behalf of the petitioners were dismissed and an eviction order was passed against them in the eviction petition filed on behalf of respondent No.1-Manoj Kumar Mittal.

2. During the pendency of the proceedings in the present petitions, petitioner in **RC REV. 313/2018-Somnath Kharbanda** had passed away on 25.10.2023. An application, **CM APPL. 13416/2024**, was filed on behalf of the legal heirs of the said deceased revisionist under Order XXII Rule 3 read with Section 151 of the CPC, and they were impleaded in the present petition *vide* order dated 23.11.2023 passed by learned Predecessor of this Court as learned counsel for respondent No.1 had given no objection to their impleadment.

3. Brief facts of the present case are that, respondent no. 1-Manoj Kumar Mittal had filed an eviction petition seeking eviction of the petitioners-tenants from demised premises, *i.e.*, one shop on the ground floor of the property bearing no. 17-A, Kamla Nagar, Delhi-110007, on the ground of *bonafide* requirement under Section 14(1)(e) of the DRCA. It was stated that respondent No.1 is a co-owner of the aforesaid property. Earlier, one Chandgi Ram was the owner of the demised premises having purchased the said property by way of a Sale Deed dated 11.08.1964. It was stated that he had three sons and five daughters namely, Sunder Lal Mittal, Rattan Lal Mittal, Ram Autar Mittal, Umra Devi, Triveni Devi, Pushpa Devi, Munni Devi,



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Bimla Devi, Tusla Devi wife of Chandgi Ram, and Umra Devi, Triveni Devi, Pushpa Devi, Munni Devi, Bimla Devi, and Ratan Lal Mittal, had executed a relinquishment deed dated 15.01.1985 in favour of Sunder Lal Mittal, father of respondent No.1, and Ram Avtar Mittal, uncle of respondent No.1. It was further stated that partition took place between Sunder Lal and Ram Avtar Mittal *vide* registered Partition Deed dated 21.12.1989 and father of respondent No.1 became absolute owner of the subject property. Thereafter, Sunder Lal Mittal, father of the respondent No.1, passed away on 05.03.2000 and was survived by his wife-Bhagirathi, and respondent No.1 including other siblings, namely, Ashok Mittal, Dinesh Mittal, J.K. Mittal, Manoj Kumar Mittal, Asha Singhal, Usha Goyal, Madhu Garg. Bhagirathi Devi, mother of respondent No.1, died on 20.12.2006.

4. It was stated that the subject premises comprise of one shop on the ground floor of the subject property, and were let out to Permanand & Nihal Chand. Both of them have expired and the demised premises are now in possession of the petitioners-tenants/sons of Permanand. Family of the respondent No.1 consists of his wife, three children including two daughters, a son, and himself. The ground on which respondent No.1 has preferred eviction petition was that the said premises are required *bonafidely* by his younger daughter, Sonika Mittal, who wants to do business of Management Consultant and Financials Strategic Solution Provider for which she requires a proper office consisting of 300 sq. feet. It was stated that said daughter requires 4 separate cabins, and a separate consultation cabin for herself



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exclusively, and he has no other alternate suitable accommodation in Delhi except the premises in question.

5. Further that, respondent No.1 is residing at 7376, First Floor, Prem Nagar, Delhi-110007, which is owned by his wife, Manju Mittal, which consists of four habitable rooms, and the entire floor is being used for residential purposes, and further that, ground floor is most suitable for office and there is no lift facility in the demised premises as well as in residential house at Prem Nagar, Delhi. There is no space available to open an office in their residential house.

6. It was further stated that subject property consists of two and a half floor in which ground floor is occupied by the petitioners and one small shop is in possession of Gayatri Devi, widow of elder brother of respondent No.1/Ashok Mittal. First floor is occupied by respondent No.1, and second floor portion/room is also occupied by said Gayatri Devi. Therefore, respondent No.1 does not have any suitable accommodation in Delhi except the premises in question.

7. In leave to defend application filed on behalf of the petitioners, it was stated that the demised premises had been in the tenancy of father of the petitioners-Permanand, and maternal uncle-Nihal Chand, for last 65 years. Tenancy was created by Late Chandgi Ram, predecessor-in-interest of respondent No.1. It was stated that the eviction petition was bad for non-



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impleadment of other LRs of father of petitioners and uncle-Nihal as they have passed away leaving behind six sons and two daughters.

8. The petitioners placed on record a certified copy of relinquishment deed dated 24.08.2016 executed by Gayatri Mittal-wife; Vivek Mittal-son; Chetna Goel-Daughter of Late Ashok Mittal (brother of respondent No.1), executed in favour of Mukul Mittal-son of Late Ashok Mittal to show that said Ashok Mittal was owner of southern side 'L Type' of built up property Municipal Nos.6332 to 6335 built on plot bearing No.17A, 50 sq. yards Kamala Nagar by way of Will dated 06.04.1998 executed by Sunder Lal Mittal. It was the case of petitioners that aforesaid relinquishment deed dated 24.08.2016 also goes to show that after relinquishment of their shares by aforesaid persons in favour of Mukul Mittal son of Late Ashok Mittal, he became sole and absolute owner of the subject property wherein demised premises are situated. It was also the case of the petitioners that respondent No.1 is not the owner of the demised premises, and he also does not claim that he has been authorised by said Mukul Mittal to act as landlord of the demised premises on his behalf. Even otherwise, in the subject property where demised premises are situated on the ground floor, on the first floor there exists a room, kitchen, bathroom and a balcony in front, and on second floor, a room, and kitchen, are lying vacant, and same can be utilised by the younger daughter of respondent No.2 for their *bonafide* requirement. Nihal Chand-*Proforma* respondent had also separate leave to defend application before learned ARC raising similar triable issues.



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9. Learned counsel for the petitioners has submitted that the ground for *bonafide* requirement has been created by respondent No.1 on account of his own act and conduct as initially, he had refused to accept rent paid by the petitioners, and same was tendered/deposited by them by way of an application for deposit of rent under Section 27 of the DRCA. It is pointed out that, in the said application, other siblings of the respondent No.1/co-owners were also arrayed as party. Learned counsel for the petitioners has, however, *inter alia* limited his submission primarily to the ground that the ownership of respondent No.1 over the subject premises has been disputed. It is submitted that aforesaid Mukul Mittal, who is nephew of respondent No.1, is the owner of the subject property having acquired the same by way of relinquishment deed dated 24.08.2016 executed by Gayatri Mittal-wife; Vivek Mittal-son; Chetna Goel-Daughter of Late Ashok Mittal (brother of respondent No.1), executed in favour of said Mukul Mittal. It is pointed out that in the said relinquishment deed, it has been averred that predecessor of said executors, *i.e.*, Sunder Lal Mittal, had acquired the subject property by way of partition deed dated 21.12.1989 which got further devolved to Ashok Kumar Mittal by Will dated 06.04.1998. It is further submitted that a civil suit, **CS OS No. 25/2019**, has been filed on behalf of one JK Mittal-brother of respondent No.1 in Ordinary Original Civil Jurisdiction of this Court for partition of the same subject property, *i.e.*, 17-A, Kamala Nagar, Delhi, claiming himself to be Class I legal heir of Late Shri Sunder Lal Mittal as also for declaration and injunction against all his brothers including present respondent No.1 and his nephew-Mukul Mittal. In the written statement filed on behalf of Mukul Mittal in said suit, Mukul Mittal has claimed ownership of the subject



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property as he had entered into an agreement to sell in respect of same property in January 2019 in favour of third parties-Shiv Charan and Anuj Goel, and therefore, the claim of ownership of respondent No.1 over the subject premises is disputed by other co-owners of the property. It is further pointed out that the said civil suit is pending before this Court, and the defendants therein including respondent No.1 and Mukul Mittal have been restrained from creating any third party interest or transferring the ownership rights in the subject property *vide* order dated 21.01.2019 passed by learned Coordinate Bench. It is further pointed out that the said co-owners of the property have not been made party by respondent No.1 in the present eviction petition. Further, respondent No.1 had denied execution of aforesaid will by erstwhile owner, his father, in favour of Ashok Mittal during the course of eviction proceedings. In these circumstances, it is submitted that there is a dispute with respect to the ownership of respondent no.1 over the subject premises, and he has no ownership over the subject property as the subject property had devolved upon Mukul Mittal by way of registered documents as stated hereinbefore, prior to the filing of subject eviction petition. It is further submitted that respondent no.1 in the said suit had contended that the subject property had devolved upon him by way of registered partition deed executed between Sunder Lal Mittal and Ram Avtar Mittal whereby the subject premises had devolved upon his father-Sunder Lal Mittal, and thereafter, to him by way of registered relinquishments deed. In view of these submissions, *locus* of the respondent No.1 to file subject eviction petition on the ground of ownership, which has been disputed by other co-owners of the property, has been challenged by the petitioners in their leave to defend application.



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10. Besides the aforesaid, the petitioners have also raised challenge with respect to incorrect site plan filed on behalf of respondent No.1 as well as availability of alternate suitable accommodation available in the other portion of the subject property as well as property owned by respondent No.1 situated at first floor of 7376, Prem Nagar, Delhi. It is further submitted that respondent No.1 has admitted that he has available additional space at his disposal in the property situated in Prem Nagar, Delhi, and the same has also been reflected in the site plan. Reliance has been placed on the judgment of Hon'ble Supreme Court in **Inderjeet Kaur v. Nirpal Singh**¹, to contend that at the stage of leave to defend application, the tenant is required to show a strong *prima facie* case in his favour and if same is not shown to make out triable issues, leave to defend should not be granted.

11. Reliance has been placed on the judgment passed by learned Coordinate Bench of this Court in **Ujagar Singh Kakkar v. Chander Mohan & Ors.**², to contend that initial burden of proof to prove that co-owner is the landlord is on the person who asserts that he is the landlord, and if there is nothing on record to show that tenants had accepted said person as their landlord, and if any objection regarding the same and misjoinder of parties is raised on behalf of the tenants in such circumstances, then the same could not be rejected at preliminary stage.

¹ (2001) 1 SCC 706,

² (1987) 12 DRJ 124, Civil Revision No.889 of 1984 decided on 04.08.1986



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12. Reliance has also been placed on the judgment passed by Hon'ble Supreme Court in **Precision Steel & Engineering Works & Another v. Prem Deva Niranjana Deva Tayal**³, to contend that initial burden is on the landlord to prove to the satisfaction of the Court, the conditions under which possession of the subject premises has been sought, and if averments have been made in affidavit, seeking leave to defend disclosing such facts which, if ultimately proved to the satisfaction of Court, disentitle the landlord from recovering possession, then this itself makes it obligatory upon the Controller to grant leave to defend.

13. *Per contra*, learned counsel for respondent No.1-Manoj Kumar Mittal has submitted that the petitioners have admitted that, initially the tenanted premises were let out to their father-Permanand, and uncle-Nihal Chand by his grand-father, Chandgi Ram, and the rent was paid by them to his grandfather. Further, the ownership of his grandfather over the tenanted premises was not disputed by the petitioners. It is further submitted that the petitioners, in view of Section 116 of the Indian Evidence Act, 1872, are also estopped from disputing or raising challenge with respect to the title of the landlord once having admitted landlord and tenant relationship between them and paid rent to his predecessor-in-interest. Reliance has been placed on the judgment of **Anil Kumar Jain v. Bhawan Shankar Khanna**⁴, in support of this contention.

³ (1982) 3 SCC 270

⁴ (2015) 220 DLT 23



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14. Reliance has also been placed on the judgment by learned Coordinate Bench of this Court in **Subhash Jain v. Ravi Sehgal**⁵, wherein it has been held that it is not of concern to the tenant as to how landlord had acquired the property, and tenant cannot object the history of ownership in view of the Section 116 of the Indian Evidence Act, 1872. Further, reliance has been placed on the judgment in **Rajendra Kumar Sharma v. Leelavati**⁶, to contend that for the purpose of a petition under Section 14(1)(e) of the DRCA, the landlord is not required to prove absolute ownership over the subject premises, rather he has to merely show that he holds the title better than that of the tenant. It is further the case of the respondent No.1 that co-owner can maintain eviction petition under Section 14(1)(e) of the DRCA without impleading other legal heirs and *inter se* arrangement between the co-owners/landlord is of no concern to a tenant. Reliance has been placed on the judgment of Hon'ble Supreme Court in **Kanta Goel v. B.P. Pathak**⁷, to contend that a co-owner is as much an owner of the entire property as any sole owner, and thus, was not disentitled from suing for eviction.

15. It is further the case of respondent No.1 that no objection was raised on behalf of the aforesaid plaintiff-JK Mittal in the present eviction proceedings. Reliance has also been placed on the judgment of Hon'ble Supreme Court in **Pal Singh v. Sunder Singh**⁸, to contend that when other co-owner(s) did not

⁵ 2014 (2) Rajdhani Law Reporter 457

⁶ (2008) 155 DLT 383

⁷ 118 (2005) DLT 176

⁸ (2004) 3 SCC 178



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object to the eviction, one co-owner could maintain an action/petition for eviction, even in the absence of other co-owner.

16. Reliance has also been placed on the judgment of Hon'ble Supreme Court in **Dhannalal v. Kalawati Bai**⁹, to contend that the consent of co-owner is assumed, unless it is shown that other co-owner is not agreeable to eject the tenant and proceedings for ejection are in spite of disagreement.

17. Learned counsel for respondent No.1 has further submitted that petitioners in their leave to defend application had not, at all, disputed the *bonafide* need and requirement of his daughter for the reasons as stated in the eviction petition. The expertise, qualifications, willingness of his daughter to carry on her own business, and her job profile had not been disputed. Reliance has been placed on the judgment of Hon'ble Supreme Court in **Uday Shankar Upadhyay & Ors. v. Naveen Maheshwari**¹⁰, to contend that once it is not disputed that landlord is in *bonafide* need of the premises, it is not for the courts to say that he should shift to the first floor or any higher floor, and it is well known that shops and businesses are usually conducted on ground floor because the customers can reach there easily.

18. With respect to availability of alternate suitable accommodation, it is submitted that respondent No.1 is not having any other commercial alternate accommodation in Delhi or in any other part of Delhi at his disposal. Insofar as the contention that first and second floor of the property are lying vacant

⁹ (2002) 6 SCC 16

¹⁰ (2010) 1 SCC 503



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and unoccupied, it is submitted that said first and second floors are residential in nature and cannot be used for commercial purposes. It is further submitted that ground floor of a property is much more suitable for carrying on business and commercial activities as there is likelihood of good footfall of the customers. Objection has also been taken on behalf of respondent No.1 with respect to non-impleadment of other legal heirs of Late Sh. Permanand and Nihal Chand-initial tenants. It is further the case of respondent No.1 that eviction petition against one of the joint tenants is binding upon all of the other tenants. It is further pointed out that the petitioners have not placed on record any site plan of their own while disputing the site plan placed on record on behalf of respondent No.1/landlord. It is further submitted that, during the pendency of the present eviction proceedings, Mukul Mittal (nephew of respondent No.1) had neither disputed nor raised any objection nor anything averse to the claim of present respondent was raised by him.

19. It is further the case of respondent No.1 that his father-Sunder Lal Mittal during his lifetime had neither executed any Will in favour of Ashok Mittal, and reliance placed on the alleged Will dated 06.04.1998, stated to be allegedly executed by Late Sunder Lal Mittal, is misplaced as said Will is forged and fabricated. It is submitted that, in this regard a FIR No. 84/2022, under Sections 420, 468, 471 of the IPC, has been registered at P.S. Roop Nagar against said Mukul Mittal for forging and preparing a bogus Will. It is the further case of respondent No.1 that neither Ashok Mittal nor Mukul Mittal are owner(s) of the suit property rather all legal heirs of Late Sunder Lal Mittal are co-owners, including the present respondent, and have 1/7th



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share each in the suit property, and therefore, respondent No.1 has every right and interest in the suit property as also to file eviction petition against the petitioners. It is, therefore, submitted that the claim of Ashok Mittal having become owner of the suit property by way of forged Will dated 06.04.1998 allegedly executed by Late Sunder Lal Mittal, and thereafter, legal heirs of Ashok Kumar Mittal allegedly executing a relinquishment deed dated 24.08.2016 in favour of Mukul Mittal (nephew of respondent no. 1) thereby, the latter becoming owner of the premises is not maintainable. In view of the aforesaid submissions, it is prayed that the present petition be dismissed with cost, and the impugned eviction order passed by learned ARC be upheld.

20. Reliance has also been placed on the following judgments by learned counsel for respondent No.1 in support of latter's case: -

- i. Anil Jain v. Bhagwan Shankar Khanna¹¹**
- ii. Rajender Kumar Sharma & Ors. v. Leelawati & Ors.¹²**
- iii. Prativa Devi v. T.V. Krishnan¹³**
- iv. Kusum R, Moti Ram v. Uma Vati¹⁴**
- v. Subhash Jain v. Ravi Sehgal¹⁵**
- vi. Deepak Textiles & Ors. v. Sanhay Gautam¹⁶**
- vii. Kuldeep Raj Arora v. Rohtash Kumar Seewal & Ors.¹⁷**

¹¹ 220 (2015) DLT 23 (CN)

¹² 155 (2008) DLT 383

¹³ (1996) 5 SCC 353: JT 1996 (1) SC 764

¹⁴ 217 (2015) DLT 527

¹⁵ 2014 (2) Rajdhani Law Reporter 457

¹⁶ 265 (2019) DLT 36

¹⁷ 260 (2019) DLT 402



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- viii. **Krishna Kumar Rast v. Sumitra Devi**¹⁸
- ix. **Sant Lal v. Rajinder Kumar**¹⁹
- x. **Bansi Lal v. Ashok Bhardwaj**²⁰
- xi. **Ram Babu Agarwal v. Jay Kishan Das** ²¹
- xii. **Bhupinder Singh Bawa v. Asha Devi**²²
- xiii. **Sri Ram Pasricha v. Jagannath & Ors.**²³
- xiv. **Subhash Chander Gupta v. Vasudev Kumar**²⁴
- xv. **Jai Gopal & Ors. v. Vikas Bansal**²⁵
- xvi. **Uday Shankar Upadhyay & Ors. v. Naveen Maheshwari**²⁶
- xvii. **Rajesh Jain v. Qazi Shamim Ahmed & Ors.**²⁷
- xviii. **Surinder Singh v. Jasbir Singh**²⁸

21. Heard learned counsels for the parties and perused the records.

22. Learned ARC, while dismissing the applications seeking leave to defend filed on behalf of the petitioners, *vide* the common impugned order dated 29.05.2018 had observed as under: -

¹⁸ AIR 2014 SC 3635

¹⁹ 189 (2012) DLT 137

²⁰ 192 (2012) DLT 159

²¹ 2009 (2) Rent Control Reporter 455

²² AIR 2016 SC 5258

²³ AIR 1976 SC 2335

²⁴ 2009 (1) Rent Control Reporter 441

²⁵ 236 (2017) DLT 382

²⁶ (2010) 1 SCC 503

²⁷ 2015 (2) Rajdhani Law Reporter 438

²⁸ 172 (2010) DLT 611



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“Ownership as well as existence of landlord-tenant relationship: -

16. In the present case, the respondents have disputed the ownership of the petitioner over the premises in question as well as existence of landlord-tenant relationship between the parties stating that the certified copy of the relinquishment deed dated 24.08.2016 executed by Smt. Gayatri Devi Mittal W/o Late Sh. Ashok Mittal, Sh. Vivek Mittal, S/o Late Sh. Ashok Mittal and Smt. Chetna Goel D/o Late Sh. Ashok Mittal in favour of Sh. Mukul Mittal S/o Late Sh. Ashok Mittal goes to show that the said Sh. Ashok Mittal was the owner of Southern side L type of built up property bearing Municipal No. 6332 to 6335 built on plot bearing No. 17A, 50 Sq. Yds., Kamla Nagar, by virtue of Will dated 06.04.1998 executed by Sh. Sunder Lal Mittal S/o Late Sh. Chandagi Ram. The relinquishment deed dated 24.08.2016 also goes to show that after relinquishment of their shares by the said Smt. Gayatri Devi Mittal, wife of late Sh. Ashok Mittal and Smt. Chetna Goel, daughter of late Sh. Ashok Mittal in favour of Sh. Mukul Mittal, Sh. Mukul Mittal, the releasee became the sole and absolute owner of the said property, wherein the shop in question is situated. In the face of this registered relinquishment deed dated 24.08.2016, Sh. Mukul Mittal S/o Late Sh. Ashok Mittal is the sole owner of built up property bearing Municipal No. 6332 to 6335 built on plot bearing No. 17A, 50 sq. yds., Kamla Nagar, Delhi, wherein the suit shop is situated and not the petitioner. The present petitioner does not claim that he has been authorized by the said Sh. Mukul Mittal S/o Late Sh. Ashok Mittal, the owner to act as the landlord.

17. On the other hand, it is submitted by the petitioner that the petitioner is a co-owner of the part property bearing No. 17-A, Kamla Nagar, Delhi-110007. Earlier, Sh. Chandgi Ram was the owner of the suit property by virtue of registered sale deed dated 11.08.1964. Sh. Chandgi Ram had three sons and, five daughters, namely, Sh. Sunder Lal Mittal, Sh. Rattan Lal Mittal, Sh. Ram Autar Mittal, Smt. Umra Devi, Smt. Triveni Devi, Smt. Pushpa Devi, Smt. Munni Devi and Smt. Bimla Devi. Smt. Talsa Devi W/o Sh. Chandgi Ram, Smt. Umra Devi W/o Late Sh. Rama Nand, Smt. Triveni Devi W/o Sh. D. C. Gupta, Smt. Pushpa Devi W/o Sh.



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Gobind Ram. Smt. Munni Devi W/o SH. Ram Rattan Goel, Smt. Bimla Devi W/o Sh. Bajrang Lal Naharia and Sh. Rattan Lal Mittal S/o Sh. Chandgi Ram, executed a registered Relinquishment Deed dated 15.01.1985 in favour of Sh. Sunder Lal Mittal (the father of the petitioner) and Sh. Ram Autar Mittal (uncle of the petitioner). A partition took place between Sh. Sunder Lal and Sh. Ram Autar Mittal vide registered Partition Deed dated 21.12.1989, thereby, Sh. Sunder Lal Mittal became absolute owner of the suit property. Sh. Sunder Lal Mittal died on 05.03.2000 leaving behind his legal heirs, namely, Smt. Bhagirathi Devi (wife), Sh. Ashok Mittal, Sh. Dinesh Mittal, Sh. J.K. Mittal, Sh. Manoj Mittal, Smt. Asha Singhal, Smt. Usha Goyal and Smt. Madhu Garg. Smt. Bhagirathi Devi has died on 20.12.2006. The petitioner is son and legal heir of late Sh. Sunder Lal Mittal. Further, it is submitted by the petitioner that no such Will dated 04.04.1998 was executed by Sh. Sunder Lal Mittal, son of Late Sh. Chandgi Ram, the father of the petitioner. It is also submitted that if the legal heirs of Late Sh. Ashok Mittal relinquished their rights in favour of their one family member, then it does not mean that he became absolute owner of the entire property. It is submitted that Late Sh. Ashok Mittal was one of the co-owners of the suit property, thus, his son stepped into his shoes.

18. Perusal of record shows that in order to prove his contentions, the petitioner has placed on record the copy of registered Sale Deed dated 11.08.1964 vide which the grandfather of the petitioner Late Sh. Chandgi Ram had purchased the suit property. The petitioner has also placed on record copy of registered Relinquishment Deed dated 15.01.1985 executed by other legal heirs of Late Sh. Chandgi Ram in favour of Sh. Sunder Lal Mittal (father of the petitioner) and Sh. Ram Autar Mittal (uncle of the petitioner), after the demise of Sh. Chandgi Ram, vide which they have relinquished their share with respect to the suit property in favour of Sunder Lal Mittal and Sh. Ram Autar Mittal. Further, the petitioner has placed on record the copy of registered Partition Deed dated 21.12.1989, by virtue of which Sh. Sunder Lal Mittal (father of the petitioner) became the absolute owner of the premises in question). Sh. Sunder Lal Mittal has expired and after his demise, his legal heirs including the petitioner herein became the co-owner with respect to suit premises.



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19. On the other hand, the respondent has relied upon the copy of Relinquishment Deed dated 24.08.2016 stating that after relinquishment of then- shares by the said Smt. Gayatri Devi Mittal, wife of late Sh. Ashok Mittal and Smt. Chetna Goel, daughter of late Sh. Ashok Mittal in favour of Sh. Mukul Mittal, Sh. Mukul Mittal, the releasee became the sole and absolute owner of the said property, wherein the shop in question is situated. **However, the perusal of the said Relinquishment Deed shows that Sh. Ashok Kumar Mittal (father of Sh. Mukul Mittal) is stated to be the owner of only Southern Side L-Type of built up property bearing Municipal No. 6332 to 6335, built on plot bearing No. 17-A, land area measuring 50 sq. yds. situated at Kamla Nagar, Delhi, which was relinquished by his other legal heirs in favour of Sh. Mukul Mittal, which has also been shown to be in possession of Sh. Mukul Mittal in the site plan filed by the petitioner in 'yellow colour'. On the other hand, the site plan filed by the respondent nowhere demarcates the portion of said Sh. Mukul Mittal. That being the case, it stands proved that after the demise of Sh. Ashok Kumar Mittal, Sh. Mukul Mittal, being one of the legal heir of Late Sh. Ashok Kumar Mittal, have only stepped into the shoes of his father and became owner of the portion which was under the possession of his father earlier, as shown in yellow colour in the site plan filed by the petitioner and also mentioned in the Relinquishment Deed relied upon by the respondents themselves. Thus, it cannot be said after execution of relinquishment deed dated 24.08.2016, Sh. Mukul Mittal, became the sole owner of the entire suit property.**

20. Even otherwise, the petitioner, being one of the co-owner/LR of Late Sh. Sunder Lal Mittal with respect to the suit premises, is well within his right to file the present eviction petition. It is a well settled law under the DRC Act that a person is not required to prove his absolute ownership over the premises in question, he is only required to show that his title is better than that of the tenant. Reliance in this regard is placed upon the case-law titled as *Rajender Kumar Sharma v. Leela Wati, 155 (2008) DLT 383*, wherein it was laid down that a landlord is not required to prove absolute ownership as required under Transfer of Property Act and



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he is required to show only that he is more than a tenant. Same was the ratio of decision given in *Jiwan Lal v. Gurdial Kaur & Ors.* 1995 RLR 162. Moreover, in *Yashpal v. Chamanlal Sachdeva*, 129 (2006) DLT 200, it has been held that co-owner can maintain a petition and that the inter-se-arrangement between owners is no business of the tenant. Hence, on the basis of the documents placed on record, the co-ownership of the petitioner over the premises in question as well as landlord-tenant relationship between the parties stands duly proved for the purpose of the DRC Act.

21. It was also averred by the respondents that Sh. Parmanand, father of the respondents expired leaving behind six sons (including two respondents) and two daughters. The present petition is liable to be dismissed on account of the non-impleadment of said legal heirs of late Sh. Parmanand and Sh. Nihal Chand, maternal uncle of the respondent, the other joint tenant, who is still alive. The said Sh. Nihal Chand, is a necessary party. However, during proceedings of the case, an application u/o 1 Rule 10 CPC is moved on behalf of said Sh. Nihal Chand, for impleading him as respondent, being one of the co-tenant, which was allowed vide order dated 25.11.2017 and Sh. Nihal Chand was also impleaded as respondent in the present petition. As regards non-impleadment of other legal heirs of late Sh. Parmanand, the said contention of the respondent is not sustainable as it is a settled law that the landlord is not required to implead all the Lrs of the deceased tenant and the eviction petition being filed against one of the LR of the deceased tenant is maintainable. Reliance in this regard is placed upon the case-laws titled as *Mohd. Usman v. Surayya Begum*, 1990 (3) Delhi Lawyer 163 and *Kanji Manji v. Trustees of Port of Bombay*, AIR 1963 SC 498, wherein it has been held that "On the death of a tenant, the legal heirs inherits the tenancy rights as joint tenants and not as tenants in common. In joint tenancy two or more tenants take identical interests simultaneously with each other. The joint tenancy differ from tenancy in common. In joint tenancy, incidents of tenancy are the same as those enjoyed by original tenant and if one of the legal heir is not made a party, the other legal heirs who are joint tenants represents the tenancy". In the present case as well, the respondents no.1 & 2 are the legal heirs of Late Sh. Parmanand and thus, interests of all the other legal heirs of Late Sh. Parmanand are



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duly represented by them. Hence, the present petition filed by the petitioner is perfectly maintainable.”

(emphasis supplied)

23. The respondent had filed the subject eviction petition showing himself as the co-owner of part property bearing no. 17-A, Kamala Nagar, Delhi. The respondent in the eviction petition had claimed that the property was originally owned by Late Sh. Chandgi Ram, who had three sons and five daughters. It was stated that all other legal heirs of Late Sh. Chandgi Ram had registered a relinquishment deed dated 15.01.1985 in favour of Sh. Sunder Lal Mittal (father of the respondent) and Ram Autar Mittal (uncle of the respondent). Thereafter, it is claimed a partition took place between the aforesaid brothers *vide* a registration partition deed dated 21.12.1989 whereby Sh. Sunder Lal Mittal (father of the respondent) became the absolute owner of the subject property.

24. Respondent No.1's father (Sh. Sunder Lal Mittal) passed away on 05.03.2000 leaving behind his legal heirs including respondent's mother-Smt. Bhagirathi Devi, Ashok Mittal, Dinesh Mittal, J.K. Mittal, Manoj Kumar Mittal (respondent No.1), Smt. Asha Singhal, Smt. Usha Goyal and Smt. Madhu Garg. It was stated in the petition that Smt. Bhagirathi Devi died on 20.12.2006, and the respondent is the son and legal heir of Late Sh. Sunder Lal Mittal.



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25. On the other hand, it is a matter of record that Sh. Mukul Mittal who is stated to be nephew of the respondent (son of Sh. Ashok Mittal) also claims exclusive ownership on the subject property. The claim of Mr. Mukul Mittal is that Mr. Sunder Lal Mittal (grandfather of the respondent) had executed a will in favour of Sh. Ashok Mittal, and subsequently, wife of Sh. Ashok Mittal, *i.e.*, Smt. Gayatri Devi, and Smt. Chetna Goyal (his daughter) had registered a relinquishment deed dated 24.08.2016 in favour of Mr. Mukul Mittal. It is also a matter of record that one of the brothers of respondent No.1-J.K. Mittal had instituted a suit, **CS OS No. 25/2019**, titled as “Mr. J.K. Mittal v. Mr. Ashok Kumar Mittal (since deceased through LRs and Ors.)” in Ordinary Original Civil Jurisdiction of this Court. The said suit has been filed by Mr. J.K. Mittal for partition of the same subject property. It was also claimed in the said suit that Mr. Mukul Mittal (defendant No.1A therein) had entered into an agreement to sell with respect to the subject property in favour of third parties, and in these circumstances, the defendants in the said suit were restrained from creating any third-party interest. Subsequently, in the written statement filed on behalf of Mr. Mukul Mittal in the said suit, following stand was taken: -

“2. That the Plaintiff has intentionally mislead this Hon'ble Court by mentioning wrong, false, vague, bogus' and frivolous averment in his plaint and he has not come with clean hands before this Hon'ble Court and has Suppressed so many material facts from this Hon'ble Court intentionally and deliberately as stated above. Moreover, the true fact is that Shri Sunder Lal Mittal had executed a Will during his life time on dated 06.04.1998 thereby bequeathed his property *i.e.* suit property in favour of his son namely Shri Ashok Mittal and no other legal heirs of 'Late Shri Sunder Lal-



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Mittal has any right, title or interest in the suit property. After the death of Shri Ashok Kumar Mittal, his legal heirs i.e. Defendants No.1A to 1D became the joint owners of the suit property. Therefore, the suit of the Plaintiff is liable to be dismissed with costs.”

26. In view of the aforesaid stand taken by the defendant No.1A- Mukul Mittal, the plaint filed on behalf of the plaintiff therein was amended by adding prayer for decree of declaration and cancellation of the aforesaid alleged will of Late Sh. Sunder Lal Mittal which was disclosed by Mr. Mukul Mittal in his written statement. It is also a matter of record that on a complaint filed by the respondent a FIR No. 84/2022, under Sections 420, 468, 471 of the IPC, has been registered at P.S. Roop Nagar against said defendant No.1A for forging and preparing a bogus Will.

27. Learned ARC, while dealing with the aforesaid argument advanced on behalf of the petitioner herein, had observed that the relinquishment deed executed by Smt. Gayatri Devi Mittal and Smt. Chetna Goyal (mother and sister of Mr. Mukul Mittal, respectively) mentions that Late Sh. Ashok Kumar Mittal (father of Mr. Mukul Mittal) was the owner of only southern side ‘L Type’ of built up property bearing Municipal Nos. 6332 to 6335 built on plot bearing No.17A, of land measuring 50 sq. yards situated at Kamala Nagar, and since the share, which was relinquished in favour of Mr. Mukul Mittal has been shown to be in the possession in the site plan filed by the respondent herein in yellow colour, it was held that Mr. Mukul Mittal had stepped into the shoes of his father, and became owner of the portion which was under the possession of his father and, therefore, it could not be said that he had become



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the sole owner of the entire suit property. However, the learned ARC did not appreciate that Mr. Mukul Mittal was claiming ownership of the entire property by way of a Will dated 06.04.1998 executed by Late Sunder Lal Mittal thereby, devolving the entire suit property to his father, Late Ashok Kumar Mittal.

28. It is pertinent to note that in the eviction petition the demised premises has been described as under: -

“17-A, Kamla Nagar, Delhi-110007”.

29. Even in the suit filed on behalf of Mr. J.K. Mittal, the said property had been described as under: -

“17-A, Kamla Nagar, Delhi admeasuring 50 sq. yards”

30. It is further noted that the respondent in counter-affidavit/reply filed to the applications seeking leave to defend on this issue had made the following averments: -

“12. That the contents of para no. 12 of the affidavit are wrong, false & frivolous, hence, the same are denied. It is denied that the certified copy of the relinquishment deed dated 24.08.2016 executed by Smt. Gayatri Devi Mittal wife of late Sh. Ashok Mittal, Sh. Vivek Mittal son of late Sh. Ashok Mittal, and Smt. Chetna Goel daughter of late Sh. Ashok Mittal in favour of Sh. Mukul Mittal son of Late Sh. Ashok Mittal goes to show that the said Sh. Ashok Mittal was the owner of Southern side L type of built up property bearing Municipal No. 6332 to 6335 built on plot bearing No. I7-A, 50 Sq. yards, Kamla Nagar, by virtue of will dated



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06.04.1998 executed by Sh. Sunder Lal Mittal son of Late Sh. Chandagi Ram. **It is submitted that no such Will dated 04-04-1998²⁹ was executed by Shri Sunder Lal Mittal son of late Shri Chandgi Ram, the father of the petitioner. It is also submitted that if the legal heirs of late Shri Ashok Mittal relinquished their rights in favour of their one family member, then it does not mean that he became absolute owner of the entire property.**

It is further submitted that late Shri Ashok Mittal was one of the co-owners of the suit property, thus, his son stepped into his shoes. It is also submitted that the petitioner has never executed any relinquishment deed or gift deed or sale deed in favour of Mukul Mittal. **It is submitted that none of the family members have seen the Will dated 06-04-1998.** Even otherwise, if there is any dispute among the co-owners, then the tenant cannot take advantage of the situation because once he is a tenant, he is a tenant. It is, however, admitted that Shri Ashok Mittal expired on 19-09-2007.

13. That the contents of para no.13 of the affidavit are wrong, false & frivolous, hence, the same are denied. It is denied that in the face of this registered relinquishment deed dated 24.08.2016, Sh. Mukul Mittal son of late Sh. Ashok Mittal is the sole owner of built up property bearing Municipal No. 6332 to 6335 built on plot bearing No. 17-A, 50 sq. yards, Kamla Nagar, Delhi wherein the suit shop is situated and not the petitioner. It is denied that this petition is therefore, liable to be dismissed on this ground alone. It is denied that it is needless to mention that the present petitioner does not claim that he has been authorized by the said Sh. Mukul Mittal son of late Sh. Ashok Mittal, the owner to act as the landlord. It is submitted that the relinquishment deed executed by the legal heirs of Shri Ashok Mittal in favour of another legal heir of late Shri Ashok Mittal, i.e. Shri Mukul Mittal, does not confer any right, title or interest over the entire property, because Shri Ashok Mittal was also one of the co-owners as the petitioner is.”

(emphasis supplied)

²⁹ As per record, the Will is dated 06.04.1998 and this date is incorrect.



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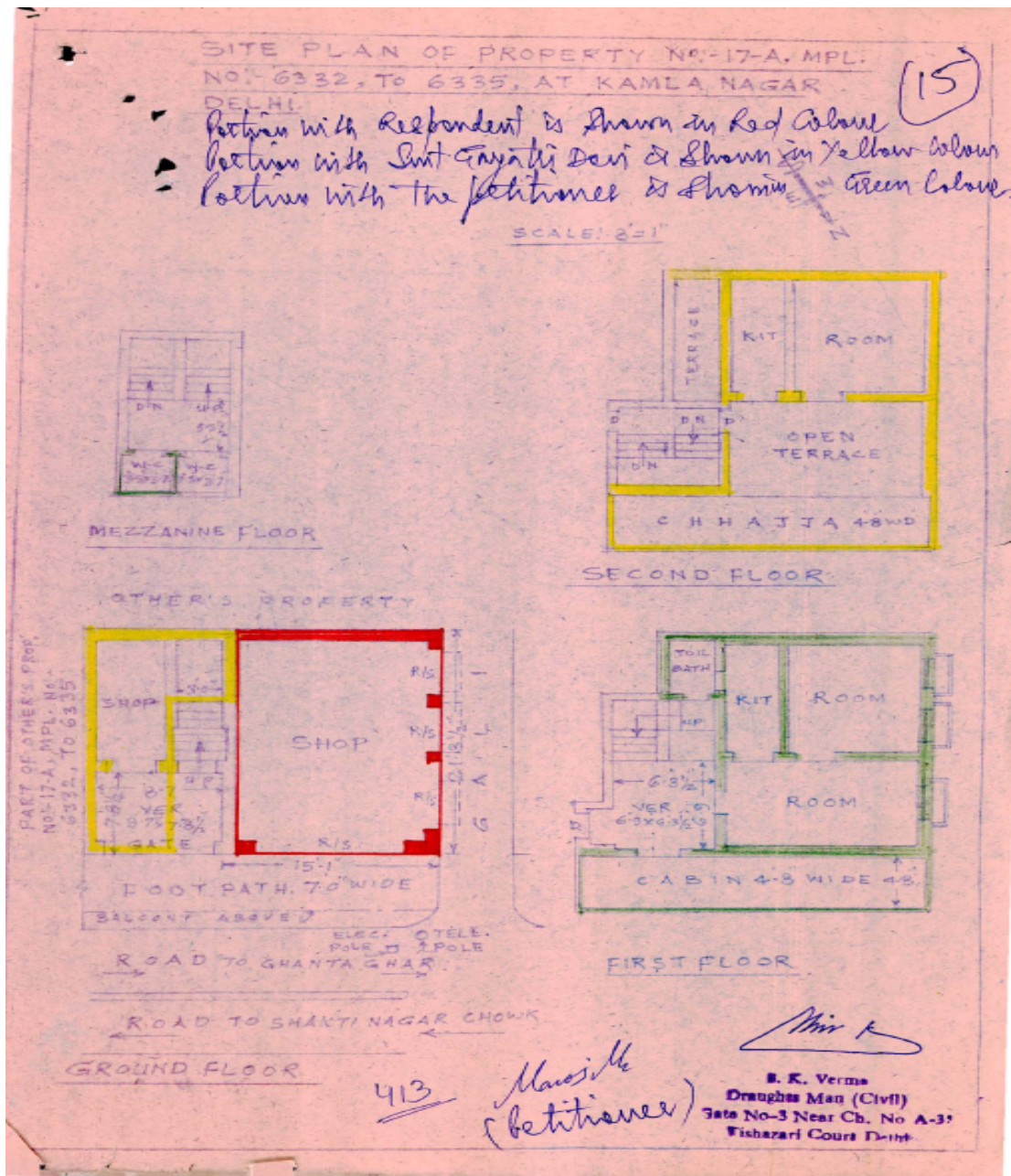


31. Thus, it was not even the respondent No.1's case that Mr. Mukul Mittal was claiming ownership of southern side of the property/demised premises bearing No.17A, Kamla Nagar, Delhi-110007. Even, *arguendo*, that it was the southern side which was allegedly inherited by Late Ashok Kumar Mittal, even then, as per site plan placed on record the demised premises shop is situated adjacent to the area admittedly in the possession of Mr. Mukul Mittal.

32. The site plan placed on record by the respondent is reproduced as under: -



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33. Thus, the demised premises-shop shown in the red colour is adjacent to the portion shown in yellow colour, which is admittedly, under the possession of Smt. Gayatri Devi Mittal even as per the said site plan. The respondent has



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shown their portion of the possession in green colour. Therefore, the aforesaid findings of the learned ARC are not borne out from the records. Admittedly, Mr. Mukul Mittal claims the ownership of the entire subject premises, as shown hereinbefore. The issue which arise in the present case is, whether the respondent is the co-owner of the subject premises at all. In the aforesaid suit, Mr. Mukul Mittal is clearly claiming himself to be the owner to the exclusion of the present respondent, and other legal heirs.

34. The judgments relied upon by the learned counsel for the respondents to the effect that the landlord has to show that he has a better right than the tenant, are not in dispute; however, where the ownership of the person claiming to be a co-landlord of the demised premises itself is in dispute, the same becomes a triable issue. In these circumstances, this Court is of the considered opinion that the petitioners have been able to raise a triable issue with respect to respondent No.1's status as an owner or co-owner of the demised premises, *i.e.*, one shop situated on the ground floor of the property bearing No.17A, Kamla Nagar, Delhi-110007.

35. In view of the aforesaid facts and circumstances of the present case, common impugned order dated 29.05.2018 passed in Case No. E-616/17 (CIS No.713/17) is set aside.

36. The present petitions are allowed and disposed of accordingly.



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37. The matters are remanded back to learned ARC for further proceedings in accordance with law.
38. Copy of the judgment be sent to the concerned learned ARC, Central, Tis Hazari Courts, Delhi, for necessary information and compliance.
39. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
(JUDGE)

MAY 19, 2026/bsr/kr/ns