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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of Decision: 26<sup>th</sup> March, 2025**

+ CM(M) 564/2025

PARMESHWAR KUMAR BAGGA .....Petitioner

Through: Mr. Mrityunjay Kumar Singh with Mr.  
Saikat, Mr. Harsh Garg and Mr. Akash  
Soni, Advocates.

versus

AVINASH BAGGA .....Respondent

Through: Mr. Naresh Thanai and Ms. Khushboo  
Singh, Advs. for Respondent.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

**CM APPL. 17561/2025(exemption)**

Exemption allowed, subject to all just exceptions.

**CM(M) 564/2025**

1. Petitioner had filed a suit seeking recovery of possession and mesne profits and other reliefs.
2. When the above said suit was taken up by learned Trial Court on 01.07.2022, based on the statements made by the parties, the suit was disposed of and as compromised and a *consent decree* was directed to be prepared.
3. Later on, an application was filed before learned Trial Court under Section 151 read with Section 144 CPC by the plaintiff/petitioner with the prayer that the *consent decree* may be set aside. The above said application was dismissed by learned Trial Court on 20.09.2022. He is aggrieved by the



dismissal of his such application.

4. This Court has seen the averments made in the suit, the proceedings dated 01.07.2022 as well as averments made in the abovesaid application whereby petitioner had sought setting aside of such decree.

5. The suit is between the two real brothers and the petitioner had sought recovery of possession against his one brother Mr. Avinash Bagga. It is also apprised that during the pendency of the Suit, the other family members were also impleaded in the suit and admittedly, such added defendant No. 2 to defendant No. 4 relinquished their shares in the suit property in favour of defendant No. 1.

6. The suit was with respect to possession of property bearing No. 9B, Main Road, Majlis Park, Adarsh Nagar, Delhi-110033, and when the learned Trial Court took up the matter on 01.07.2022, though the matter was fixed for final arguments, it recorded that the matter had been settled between the parties. Joint statements of plaintiff and defendant No. 1 was recorded on oath by the learned Trial Court wherein they categorically deposed that they had settled their disputes in full and final. Learned Trial Court, placing reliance on their such statements recorded on oath, disposed of the suit by passing a *consent decree*.

7. The contention of the petitioner/plaintiff is merely to the effect that he had been misled and misrepresented by his previous counsel and was coerced to enter into compromise.

8. It is, merely on the above said premise that the petitioner has sought the



decree to be set aside.

9. When asked, learned counsel for petitioner replied that no complaint, whatsoever, had been filed by the petitioner against his such counsel.

10. During course of the arguments, since the petitioner was also present in Court and wanted to be heard, this Court granted indulgence to him and gave hearing to him. However, during his utterances, he came up with altogether a different story. According to him, he was rather threatened and coerced by his brother i.e. defendant no. 1 and, therefore, he had entered into compromise as per the further advice of his counsel. So much so, according to him, he did not understand as to what would be the implication of such settlement and, therefore, he prayed that the consent decree may be set aside. The revelations made by him are different to what he had earlier made in his application.

11. As noticed, the sole plank, for seeking aside the *consent decree*, is to the effect that the plaintiff had been misrepresented by his own counsel and that he was coerced by him to enter into settlement.

12. If that was so, the first automatic reaction would be to have lodged complaint against such counsel but for the reasons best known to the plaintiff, no such complaint has ever been filed.

13. In view of the abovesaid and the fact that detailed statements were recorded by the learned Trial Court, the *consent decree* cannot be set aside, merely on some bald assertion that there was some misrepresentation.

14. A decree, more so, when it is a *consent decree* attaches with it a lot of



sanctity. The learned Trial Court, after hearing the parties and their counsel and after recording their detailed statements, passed a *consent decree* and merely because at a later point of time, the plaintiff feels that such consent decree is not to his liking, he cannot be permitted to take the Court for a ride and move an application seeking to set aside the consent decree, merely on some fanciful assumption that he was misled by his counsel. Learned Trial Court has also, rightly, recorded that the proceedings before the Court were solemn and sacrosanct and cannot be set aside merely on the basis of some casual assertion.

15. Admittedly, as per Order XXIII Rule 3A CPC, no separate suit can be filed for setting aside decree on the ground that the compromise on which the decree was based was not lawful but fact remains that nothing has been pleaded as to on what basis the abovesaid settlement could even be labelled as ‘not lawful’.

16. In view of the abovesaid factual matrix and also keeping in mind the fact that the *consent decree* was passed after recording statements of concerned parties in the presence of their counsel and that no complaint of any kind has been made against the concerned counsel, this Court does not find any reason to interfere with the impugned order by invoking its supervisory jurisdiction under Article 227 of Constitution of India.

17. Petition stands disposed of in the aforesaid terms.

**(MANOJ JAIN)  
JUDGE**

**MARCH 26, 2025/ sw/shs**