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

% ***Date of Decision: 30th May, 2025***

+ CM(M) 1076/2025 & CM APPL. 36235/2025

SMT. JYOTI

.....Petitioner

Through: Mr. Saurabh Kansal and Ms. Ashu Chaudhary, Advocates.

versus

SH. DHARAMPAL SINGH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is plaintiff before the learned Trial Court and is aggrieved by the order dated 03.01.2024 whereby her application moved under Order XII Rule 6 CPC has been dismissed.
2. The petitioner has filed a suit for specific performance seeking direction to register *Sale Deed* dated 29.09.2014 with further request to injunct defendant from transferring, alienating or creating any third party interest with respect to such property.
3. The stand taken by the defendant in his written statement has also been taken note of and, according to him, there was no transaction between him and plaintiff and he had never executed any agreement.
4. Learned Trial Court, after careful perusal of the pleadings, came to the conclusion that there was a doubt whether *Sale Deed* dated 29.09.2014 was ever, actually, executed by the defendant. It also observed that the signatures



on the *Sale Deed* were also disputed and the factum of payment of money was also under question.

5. Relying on all these triable issues, the Court declined such request of passing any admission decree.

6. The relevant observations made in paras 14, 15, 16 and 17 are extracted as under:-

“14 Having stated as above, on perusal of WS, it is found that the defendant had denied the execution of any agreement between the plaintiff and the defendant as well as receipt of any sale consideration from the plaintiff. However, on perusal of the Civil Suit bearing no. 535777/2016 titled as “Dharm Pal Singh Vs. Urmila & Ors”, filed by the defendant against his wife and children, it is found that there are categorical admissions on the part of the defendant with respect to execution of the agreement and acceptance(sic) of the sale consideration. Order 12 rule 6 CPC is wide in application and the court while deciding an application under Order 12 rule 6 CPC can rely upon the admissions made in “pleadings and otherwise”. Although, the defendant has not made any admission in the WS filed in the present suit but in an earlier litigation between the defendant and his family members, he has categorically admitted the factum of execution of agreement and receipt of substantial sale consideration. The only difficulty is that subsequently, these admissions were withdrawn by the plaintiff in the said suit by seeking amendment. So the question that needs to be decided is whether the admissions made by the defendant in the original plaint can still be taken as admission for the purposes of decreeing the present suit under Order 12 Rule 6 CPC.

15 The plaintiff has argued that the defendant had amended-the original plaint in Civil Suit bearing no. 535777/2016 titled as “Dharam Pal Singh Vs. Urmila & Ors”, only after receiving the summons in the instant suit on 05.11.2015, to defeat the rights of the plaintiff and to create a false defence. This contention of the plaintiff is corroborated from the record as the application under Order 6 Rule 17 CPC was moved on 22.01.2016, which was a date prior to the filing of WS (date of filing - 07.09.2016) in the present case. This clearly reveals the intentions of the defendant to abuse the judicial process. The defendant has also concealed about the Civil Suit bearing no. 535777/2016 titled as “Dharm Pal Singh Vs. Urmila & Ors”, in his WS.

16 Another contention of the defendant that the application of the



defendant under Order 6 Rule 17 CPC in Civil Suit bearing no. 535777/2016 titled as “Dharm Pal Singh Vs. Urmila & Ors”, was decided on merits is also misplaced as the plaintiff was dominis litis in that proceeding and the amendment was allowed to determine real controversy between the parties to that suit and were not in nature of admissions, however, in the instant suit, the original plaint can be read as admissions against the defendant as they stand as admissions qua plaintiff and therefore, the same cannot be ignored. In the said Civil Suit bearing no. 535777/2016 titled as “Dharm Pal Singh Vs. Urmila & Ors”, the dispute between the parties pertained to the fact that the wife and the children of the defendant were interfering with the possession of the defendant who was the absolute owner of the suit property and it was immaterial to state in the said suit that the plaintiff had already sold the property to Smt. Jyoti (plaintiff herein), whereas in the instant suit, this fact is extremely relevant as the defendant has disputed the execution of the agreement as well as receipt of sale consideration. Thus, from the admissions of the defendant in the earlier suit, it is evident that an agreement to sell was executed and payment was received by defendant but the plaintiff has not placed on record any agreement to sell. The execution of Sale Deed dated 26.04.2019 is not admitted by the defendant in the earlier suit.

17 Moreover, the signatures of the defendant are mismatched on the WS filed in the instant suit, the Sale Agreement dated 26.09.2014 and the plaint in Civil Suit bearing no. 535777/2016 titled as “Dharm Pal Singh Vs. Urmila & Ors”. In the plaint (sic), in Civil Suit bearing no. 535777/2016 titled as “Dharm Pal Singh Vs. Urmila & Ors”, and the WS in the instant case, the defendant has written his complete name as signatures I.e. Dharam Pal Singh, whereas in the Sale Agreement dated 26.09.2014, the defendant has affixed his signatures as Dharam Pal only. This raises a doubt that whether the Sale Deed dated 26.09.2014 was actually executed by the defendant herein. Once the signatures on the Sale Deed dated 26.09.2014 is disputed the factum of payment of money also becomes disputed as there is no Agreement to Sell/Receipt showing payment in cash to the defendant. These are all triable issues and by relying upon the admissions made by the defendant in Civil Suit bearing no. 535777/2016 titled as “Dharam Pal Singh Vs. Urmila & Ors”, the plaintiff cannot discharge his burden under Section 101 of the Indian Evidence Act. Therefore, the present application is **dismissed**.”

7. Thus apparently, the learned Trial Court has taken note of the fact that there was no admission, much less unequivocal and unambiguous one.
8. Additionally, judgment on admission cannot be sought as a matter of



right. It is a discretion vested with the Court and keeping in mind the nature of case and the averments made in the written statement by the defendant, it can be safely said that there is no illegality or perversity in the impugned order, necessitating any interference by this Court while exercising supervisory powers under Article 227 of Constitution of India.

9. Resultantly, the petition is, hereby, dismissed in *limine*.

10. Pending application also stands disposed of.

(MANOJ JAIN)
JUDGE

MAY 30, 2025/ss/SS