



2026:DHC:6074



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

Reserved on: 28.07.2026
Date of Decision: 30.07.2026

+ CM(M) 925/2026 & CM APPL. 48132/2026

RAJINDER LAL ARORA & ORS.

.....Petitioners

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva and Mr. Lakshay Yadav, Advs.

versus

MONU DHINGRA

.....Respondent

Through: Mr. Sanjay Ghosh, Sr. Adv. with Mr. Rohan Mandal, Advs.

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

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J U D G M E N T

1. The present matter is listed on CM APPL. 48132 filed on behalf of the respondent, seeking continuation of the trial proceedings pending before the learned Trial Court in CS No. 839/2017 or, in the alternative, an early hearing of the present matter.
2. For the reasons stated in the aforesaid application, the same is allowed. The present petition has been taken up for hearing today and is being disposed of by this judgment.
3. Petitioners/defendants, defending a suit for declaration, mandatory injunction, permanent injunction and mesne profits, have assailed orders dated 29.10.2025 and 20.02.2026 passed by the learned District Judge-03,



Patiala House Courts, New Delhi¹, in CS No. 839/2017, titled “*Monu Dhingra v. Rajinder Lal Arora & Ors.*”.

4. The underlying dispute pertains to the ownership and possession of the property i.e., Shop No. 45-A, Ground Floor, Khan Market, New Delhi². The petitioners contested the suit by filing their written statement disputing the respondent’s claim over the subject property.

5. On 09.10.2018, the learned Trial Court framed the following issues:

“ISSUES-

1. Whether the suit property Shop no. 45-A, Khan Market, New Delhi, belongs to the Joint Family as alleged by the defendants? OPD
2. Whether the suit is time barred? OPD.
3. Whether the suit is bad for want of proper Court fee? OPD.
4. Whether plaintiff is a permissive occupier/licensee in the half back portion of the shop no. 45-A, Khan Market, New Delhi? OPP.
5. Whether plaintiff is entitled to mandatory injunction against the defendant thereby directing the defendants to remove themselves from the suit property? OPP
6. Whether plaintiff is entitled to Rs. 2 lakhs for damages/mesne profits along with interest @ 15% p.a. from the date of filing of the suit till actual possession is handed over? OPP
7. Relief.

No other issue arise or press.

Issue of Court fee be taken as preliminary issue.”

6. Whereafter the respondent/plaintiff led evidence and concluded the examination of his witnesses. During the course of trial, respondent filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908³ seeking amendment of the plaint, particularly with regard to the relief of damages/mesne profits. The prayer in the said application is stated as:

“a) Permit the amendment of the prayer in the plaint to read as: “(e) payment or a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) **per month** and or any other amount which this Hon’ble Court may deem fit and

¹ Hereinafter “learned Trial Court”

² Hereinafter “subject property”

³ Hereinafter “CPC”



proper”.

7. The said application was allowed by the learned Trial Court on 15.03.2022. *Vide* the said order dated 15.03.2022, the petitioners were permitted to cross examine the respondent, only to the limited aspect of recovery of damages as was prayed in the amended plaint.

8. Consequent upon the amendment, the petitioners filed an application under Order XIV Rule 5 CPC seeking framing of additional issues. The said application was allowed *vide* order dated 07.05.2025, and the learned Trial Court framed three additional issues relating to the respondent/plaintiff's claim for damages/mesne profits at the rate of Rs. 2,00,000/- per month, sufficiency of court fees and limitation in respect of the amended monetary claim. The operative portion entailing the additional issues framed by the learned Trial Court is reproduced hereunder:

“Additional issues:

- 6 A. Whether plaintiff is entitled to damage/mesne profits from the period 2001 till date at the rate of Rs.2 lacs per month? OPP
- 6 B. Whether plaintiff has paid court fee for the relief (e)? OPD
- 6 C. Whether the prayer for damages/mesne profit of Rs.2lacs per month is barred by the law of limitation? OPD”

9. Thereafter, the petitioners sought a limited opportunity to further cross-examine the respondent's witnesses confined to the additional issues so framed. The said request came to be rejected by the learned Trial Court by an order dated 29.10.2025.

10. Subsequently, the petitioners preferred an application under Order XVIII Rule 17 CPC seeking recall of the respondent's witnesses for further cross-examination on the additional issues. The learned Trial Court, by order dated 20.02.2026, dismissed the said application. Relevant paras of the impugned order dated 20.02.2026 read as under:



“11. It is the contention on behalf of plaintiff that the additional issues were framed on the basis of amended plaint only because there was clerical mistake in the initial plaint and the words *‘per month’* were not mentioned in the prayer clause for claiming the damages/mesne profits at the rate of Rs. 2 lakhs. Vide order dated 15.03.2022, permission was granted to the defendant to cross examine the plaintiff to the limited aspect of the recovery of damages as prayed in the amended plaint. Plaintiff as PW-3 has been cross-examined at length on behalf of the defendants and his cross-examination was concluded on 21.04.2022. Accordingly, as per records sufficient opportunity to cross-examine the plaintiff with respect to the amended plaint and framing of additional issues has already been availed by the defendants and thus, no ground for providing any further opportunity to the defendants to further cross-examine the plaintiff for the purpose of additional issues is made out. Remaining witnesses of plaintiff are only the formal/official witnesses who produced the summoned record. Sufficient opportunity to cross-examine all the witnesses produced by the plaintiff has already been granted to the defendants.”

11. Aggrieved by the orders dated 29.10.2025 and 20.02.2026, whereby the petitioners have been denied an opportunity to further cross-examine the respondent’s witnesses on the additional issues framed by the learned Trial Court, the petitioners have invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

12. Mr. Mohit Chaudhary, learned counsel appearing on behalf of the petitioners, submits that the learned Trial Court has committed error in declining the petitioners a limited opportunity to further cross-examine after permitting amendment of the plaint and framing additional issues, which constitute distinct questions requiring independent adjudication and could not have been treated as having been covered by the earlier cross-examination.

13. It is submitted that the petitioners sought only a restricted opportunity confined to the additional issues and not a reopening of the entire evidence.



14. According to him, denial of an opportunity to cross-examine the respondent/ respondent's witnesses on the additional issues has caused serious prejudice, rendered the additional issues otiose, and resulted in violation of principles of natural justice.

15. On the other hand, Mr. Sanjay Ghosh, learned senior counsel appearing on behalf of the respondent, opposes the present petition and submits that the petition is a further attempt to delay the adjudication of a suit which has remained pending since the year 2017 solely on account of the conduct of the petitioners.

16. He submits that the respondent had already been recalled and further cross-examined pursuant to the order dated 15.03.2022 permitting amendment of the plaint, and, therefore, the petitioners had duly availed the liberty granted by the learned Trial Court. He further submits that the amendment merely corrected a clerical omission by inserting the words "*per month*".

17. According to him, the additional issues framed on 07.05.2025 were merely consequential to the amendment already allowed and did not enlarge the scope of the controversy so as to necessitate a fresh round of cross-examination. It is, thus, contended that the learned Trial Court rightly exercised its discretion in rejecting the petitioners' application under Order XVIII Rule 17 CPC, and no case for interference under Article 227 of the Constitution is made out.

18. Heard learned counsels for the parties.

19. On the facts as disclosed in the record, the controversy before this Court is a narrow one. The only question which arises for consideration is whether, after permitting amendment of the plaint and framing additional



issues arising therefrom, the learned Trial Court was justified in declining the petitioners a limited opportunity to further cross-examine the respondent's witnesses on such additional issues.

20. The record reveals that the respondent and his witnesses were examined and cross-examined prior to the amendment of the plaint. Subsequently, the learned Trial Court, by order dated 15.03.2022, allowed the respondent's application under Order VI Rule 17 CPC. Thereafter, on the petitioners' application under Order XIV Rule 5 CPC, the learned Trial Court itself framed additional issues on 07.05.2025. The framing of the said issues is a clear acknowledgment by the learned Trial Court that fresh questions requiring adjudication had arisen in the suit.

21. Once additional issues came to be framed, the parties necessarily became entitled to lead and test evidence confined to such issues. The right to cross-examination is not an empty procedural formality but an integral component of a fair trial. Where fresh issues are introduced after a witness has already been examined, the opposite party cannot ordinarily be denied an opportunity to confront the witness on matters which were not in issue when the earlier cross-examination was undertaken.

22. The learned Trial Court, while rejecting the petitioners' request, proceeded on the premise that sufficient opportunity had already been granted to cross-examine the respondent. In the opinion of this Court, such reasoning overlooks the material distinction between the original issues framed in the suit and the additional issues subsequently framed pursuant to the amendment of the plaint. The earlier cross-examination could not have been directed towards issues which had not even come into existence at that stage.



23. Equally, this Court is unable to subscribe to the view that permitting a limited further cross-examination would necessarily amount to reopening the entire trial or encourage dilatory tactics. The petitioners did not seek to recall the respondent or his witnesses for a *de novo* cross-examination. Their request was confined to matters arising out of the amendment and the consequential additional issues framed.

24. The submission on behalf of the respondent that the amendment merely corrected a clerical omission by inserting the words “*per month*” cannot be accepted as a ground to deny cross-examination. As the additional issues framed on 07.05.2025 are not wholly repetitive of the issues originally framed. Having consciously framed such issues, the learned Trial Court ought to have ensured that both parties were afforded a reasonable opportunity to address them in accordance with law.

25. Insofar as the impugned order dated 29.10.2025 is concerned, this Court is not persuaded to interfere with the same. The said order was passed on an application seeking recording of further evidence in terms of the order dated 15.03.2022, whereby the petitioners had already been granted an opportunity to further cross-examine the respondent on the limited aspect arising out of the amendment to the plaint. The learned Trial Court, upon considering the proceedings conducted before the learned Local Commissioner, concluded that the petitioners had already availed the liberty granted under the said order.

26. The application culminating in the impugned order dated 20.02.2026, however, stood on a distinct footing. The petitioners therein sought recall of the respondent’s witness under Order XVIII Rule 17 CPC for the limited purpose of further cross-examination on the additional issues framed on



07.05.2025. While considering the said application, the learned Trial Court was required to independently examine whether the nature of the additional issues necessitated such recall. Instead, the application came to be rejected solely on the premise that sufficient opportunity had already been granted to the petitioners pursuant to the order dated 15.03.2022. In doing so, the learned Trial Court failed to appreciate the legal consequence of the additional issues framed by it and erroneously equated the opportunity granted pursuant to the order dated 15.03.2022 with the petitioners' subsequent request for a limited cross-examination confined to the additional issues.

27. Accordingly, the impugned order dated 20.02.2026 cannot be sustained and is hereby set aside. However, no ground for interference is made out in respect of the order dated 29.10.2025, which is confined to the liberty granted under the order dated 15.03.2022.

28. In view of the above discussion, the petitioners shall be granted an effective opportunity to further cross-examine the respondent/respondent's witnesses, which shall remain strictly confined to the additional issues framed by the learned Trial Court *vide* order dated 07.05.2025 and the facts relevant thereto. The learned Trial Court shall, on the date already fixed, i.e., 07.08.2026, assign a date for recording the further cross examination of the respondent/respondent's witness, as the case may be, strictly confined to the scope indicated herein. The learned Trial Court shall endeavour to conclude the said exercise as expeditiously as possible and, preferably, within a period of one month, subject to the exigencies of its board.

29. It is clarified that the petitioners shall not be permitted to traverse matters already covered during the earlier cross-examination or seek to reopen



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the evidence beyond the limited scope indicated herein.

30. The learned Trial Court shall thereafter proceed with the suit expeditiously and in accordance with law, without granting any unnecessary adjournment to either party.

31. Accordingly, the present petition is disposed of in the above-stated terms. Pending application(s), if any, also stand disposed of.

32. Needless to clarify that nothing observed in the present order shall be construed as an expression on the merits of the case.

AJAY DIGPAUL, J

JULY 30, 2026/ar/dd