



2025:DHC:9124-08



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

*Date of decision: 14<sup>th</sup> October, 2025*

+ RFA(COMM) 580/2025 & CM APPL. 64566/2025 & CM APPL. 64563/2025

AMIT PASRIJA

.....Appellant

Through: Mr. Rishipal Singh and Mr. Dinesh Kumar, Advs.

versus

NITIN JAIN

.....Respondent

Through: *Nemo.*

**CORAM:**

**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT (ORAL)**

**NITIN WASUDEO SAMBRE, J.**

**CM APPL. 64564/2025 (Exemption) & CM APPL. 64565/2025 (Exemption)**

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

**RFA(COMM) 580/2025**

1. Heard.
2. The challenge in the present appeal is to the judgment and decree dated 14<sup>th</sup> July 2025 passed by the learned District Judge, Commercial Court, Central District, Tis Hazari Courts, Delhi.
3. The respondent-plaintiff filed a suit bearing a commercial suit CS



No.901/2023 claiming following reliefs: -

*“a) pass a decree of possession of the suit property being one Shop on Ground Floor, part portion of freehold built up property bearing Khasra No. 218, Pvt. No. 1, having its size (20feetx6feet) without roof! ‘terrace rights situated at Gate No. 4, Near NKS Hospital, Sanjay Nagar, Gulabi Bagh, area of Village Sadhora Kalan, Delhi-110007, in favour of the plaintiff and against the defendant no. 1.*

*b) pass a decree of recovery of sum of Rs. 4,97,230/ (Four Lakh Ninety Seven Thousand Two Hundred Thirty) towards arrears of rent interest and mesne profit till 01.05.2023 along with the interest calculated @ 18% p.a. from the due date till the actual payment in favour of the Plaintiff and against . Defendant no.1, ;*

*c) pass a decree of damages / mesne profits in favour of the Plaintiff to the extent of Rs.2,000/- per day from filing of present suit till the handing over ‘%. Of the possession of the suit premises by the Defendant no.1 to the Plaintiff.*

*d) Pass a decree for permanent injunction thereby restraining Defendants no.1 & 2, their agents, servants, representatives, employees, contractors, assigns, etc. from carrying out any structural change, demolition, construction or in any way changing the nature of the suit property i.e one Shop on Ground Floor, part portion of freehold built up property bearing Khasra No, 218, Pvt. No. 1, having its size (20feetx6feet) without roof/ terrace rights situated at Gate No. 4, Near NKS Hospital, Sanjay Nagar, Gulabi Bagh, area of Village Sadhora Kalan, Delhi-1 10007; Sadhora Kalan, Delhi-1 10007;*

*e)Pass a decree for mandatory injunction thereby directing Defendants no. 1 & 2 to restore the suit property i.e one Shop on Ground Floor, part portion of freehold built up property bearing Khasra No. 218, Pvt. No, 1, having its size (20feetx6feet) without roof terrace rights situated at Gate No, 4, Near " NKS Hospital, Sanjay Nagaf, Gulabi Bagh, area of Village Sadhora Kalan, Delhi-1 10007 in original condition in which it was let out by the Plaintiff to Defendant no.! in terms of para 11 above;*

*And/or;*

*f) pass such other or further order in favour of the plaintiff and against the defendant which this Hon'ble Court may deem' fit and proper,”*

4. Though, the appellant/defendant/judgment debtor filed a written statement, since the same was filed at a belated stage, the Trial Court has



taken off the defence of the present appellant-defendant from the record.

5. The claim in the suit came to be decreed as under: -

*“29. The suit of plaintiff stands partly decreed i.e. for arrears of rent, mesne profit/ damages and interest thereupon. However, the suit regarding claims against the defendant no. 2 as in Prayer (d) and (e) of the Prayer clause of the suit stands declined.*

*30. The plaintiff is held to be entitled as follows:*

*a) for arrears of rent of Rs.1,98,000/- (@Rs. 16,500/- clause 2 of the lease deed) from 01.01.2022 till 31.12.2022,*

*b) for mesne profits / damages @ 10% compounded increase every year @ Rs. 20,000/- per month due and payable w.e.f 01.01.2023 till its realization (security amount lying with plaintiff be adjusted in this amount),*

*c) Plaintiff is further entitled to interest on the arrears of mesne profits @ 12% per annum simple from the end of each illegal month of occupation and till payment of arrears with interest.”*

6. It is the contention of the learned counsel for the appellant that the order of the payment of arrears of rent of Rs.1,98,000/- at the rate of Rs.16,500/- per month, as per clause (ii) of the lease deed, for the period from 01<sup>st</sup> January 2022 till 31<sup>st</sup> December 2022, and also the payment of the mesne profit/damages @10% to be increased every year @Rs.20,000/- per month, due and payable w.e.f. 01<sup>st</sup> January 2023 till the realisation of the said amount, is without any legal basis.

7. According to him, not only the entitlement of the mesne profit is disputed but also the payment of interest ordered is at a penal rate. That being so, it is claimed that even if the evidence of the appellant is struck off, the respondent-plaintiff is liable to discharge its initial burden thereby



proving the agreement-in-question which he has failed to.

8. The counsel would further invite our attention to the observations made by the Trial Court in the matter of the payment of arrears of rent and mesne profits that too without any basis.

9. To substantiate his contentions, he has invited our attention to the cross-examination of the plaintiff carried out by the appellant which according to him is not looked into and appreciated.

10. We have considered the aforesaid submissions in the light of the findings recorded by the learned Trial Court.

11. The respondent-plaintiff has entered the witness box and deposed in support of his claims put forth in the plaint. He has proved the rent agreement which was for a period from 01<sup>st</sup> January 2021 till 31<sup>st</sup> December 2022. The rent agreement further speaks of payment of rent at a particular rate which has been dealt with in the judgment under challenge.

12. Considering the claim put forth by the respondent-plaintiff and that of the claim of the appellant in the cross-examination, the Trial Court proceeded to analyse the evidence of the plaintiff in the backdrop of the pleadings.

13. It can be noticed that the Trial Court framed the issues regarding the unlawful demolition of the wall of the tenanted premises and installation of the gate, the locking of the premises by the defendant and the entitlement of the damages.

14. The Trial Court framed a consolidated issue as regards to payment of damages, *mesne* profit and occupation charges.

15. The learned Trial Court thereafter at the time of the examining the evidence of PW-1 has considered the terms of the lease deed executed



between the plaintiff and the defendant.

16. It has been categorically observed by the learned Trial Court at the time of appreciating of the evidence that the appellant was inducted as a tenant in the premises w.e.f. 01st January 2021 till 31<sup>st</sup> December 2022 at the rent of Rs.15,000/- per month which was to be enhanced @10% per annum up till 31<sup>st</sup> December 2022.

17. His evidence further speaks of the payment of the electricity dues were not made by the appellant, so also about his knowledge of the illegal demolition of the wall and the alteration to the premises.

18. The Trial Court upon appreciation of the evidence in analytical manner has recorded a finding that the plaintiff has failed to discharge the burden as regards the demolition of wall, the installation of gate and as such recorded a finding that the alteration to the premises in question by the defendant were not proved.

19. Though, the counsel for the appellant has tried to claim that the possession was handed over much prior to the suit being instituted, such contentions of the appellant can be appreciated only upon having established that the possession was lawfully handed over to the plaintiff.

20. It is the case of the plaintiff that upon the appointment of the Local Commissioner who has carried out the visit at the spot, it was established that the premises were locked, and it was carrying a tag of the premises being *available for rent* and a contact number was also provided. The law recognises a particular procedure to be adopted under the provisions of Transfer of Property Act about handing over of the possession.

21. Such possession being lawfully to be handed over by the appellant to the respondent is at all not established.



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22. In such an eventuality, the Trial Court proceeded to award the order for payment of arrears of rent and *mesne* profit.
23. The order is based on the terms of the lease agreement between the parties.
24. In that eventuality, particularly having regard to the fact that the appellant has failed to establish his defence before the Trial Court as his defence was struck off, we deem it appropriate to hold that the learned Trial Court has rightly decreed the suit thereby directing not only payment of arrears of rent but also that of the damages.
25. We are equally required to be sensitive to the fact that that appellant during the cross-examination could have established that he has already paid the rent to the respondent which even he has failed to establish and that being so, the order of payment of arrears of rent rightly so passed by the learned Trial Court.
26. That being so, in our opinion the appeal lacks merits and stands dismissed.
27. Pending applications, if any, also stand disposed of.
28. A copy of this judgment be uploaded on the website of this Court forthwith.

**NITIN WASUDEO SAMBRE  
(JUDGE)**

**ANISH DAYAL  
(JUDGE)**

**OCTOBER 14, 2025/sky/as**