



2025:DHC:9338-DB



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

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Date of Decision: 17.10.2025

+ CONT.CAS(C) 571/2025
TANI SANDHU BHARGAVA

.....Petitioner

Through: Mr. Jayant Mehta, Sr. Adv.
along with Mr. Laksh Khanna,
Ms. Diksha Suri, Mr. Pallav
Arora and Riya Jain, Advs.

versus

SHUMITA DIDI SANDHU

.....Respondent

Through: Mr. Akshay Makheeja Sr. Adv.
along with Mr. Alok Gupta and
Mr. Ranjeet Singh, Advs.

(17)

+ RFA(OS) 49/2024, CM APPL. 72417/2024, CM APPL.
22102/2025, CM APPL. 30123/2025, CM APPL. 30124/2025,
CM APPL. 30125/2025, CM APPL. 30144/2025 and CM
APPL. 45593/2025

MRS SHUMITA SANDHU

.....Appellant

Through: Mr. Sanjeev Sindhvani, Sr.
Adv. and Mr. Akshay Makheeja
Sr. Adv. along with Mr. Alok
Gupta and Mr. Ranjeet Singh,
Advs.

versus

MRS TANI SANDHU BHARGAVA

.....Respondent

Through: Mr. Jayant Mehta, Sr.
Adv. along with Mr. Laksh
Khanna, Ms. Diksha Suri, Mr.
Pallav Arora and Riya Jain,
Advs.

(18)

+ RFA(OS) 4/2025



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MRS. SHUMITA SANDHU

.....Appellant

Through: Mr. Akshay Makheeja Sr. Adv.
along with Mr. Alok Gupta and
Mr. Ranjeet Singh, Advs.

versus

MRS. TANI SANDHU BHARGHAVA & ORS.

.....Respondents

Through: Mr. Jayant Mehta, Sr.
Adv.along with Mr. Laksh
Khanna, Ms. Diksha Suri, Mr.
Pallav Arora and Riya Jain,
Advs. for R-1.
Ms. Smriti Maheshwari, Adv.
for R-2.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

CONT.CAS(C) 571/2025

1. The present petition has been filed under Section 11/12 and 2(b) of the Contempt of Courts Act, 1971, read with Rule 5(1) of the Contempt of Courts (Delhi High Court) Rules, 2025, read with Section 151 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] against the Respondent for wilful disobedience of the order dated 18.03.2025 passed by this Court in RFA(OS) 49/2024 captioned *Shumita Sandhu vs. Tani Sandhu Bhargava*.



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2. Learned senior counsel representing the Petitioner submits that he has instructions not to press the present Contempt Petition, as the same has been purged.

3. Accordingly, the Contempt Petition stands disposed of.

RFA(OS) 49/2024 and RFA(OS) 4/2025

4. The present judgment shall dispose of two connected Appeals, i.e., RFA(OS) 49/2024 and RFA(OS) 4/2025, which are arising from two cross suits.

5. In order to comprehend the issues involved in the present case, relevant facts in brief are required to be noticed.

6. The Appellant/Smt. Shumita Sandhu is the widow of Sh. Sanjay Singh Sandhu, who passed away on 03.07.2019. Late Sh. Sanjay Singh Sandhu was the brother of Respondent No.1/Smt. Tani Sandhu Bhargava, thereby making the Appellant sister-in-law of Respondent No. 1.

7. Respondent No.1 filed a suit for the possession of mandatory injunction for passing a decree with respect to the Ground Floor of Block No.172, Plot No.202, Jor Bagh, New Delhi – 110003 [hereinafter referred to as “suit property”], on the strength of a registered Gift Deed dated 29.01.2008 executed by her mother, Late Smt. Sheila Sandhu, in her favour [hereinafter referred to as “Gift Deed”].



8. The Appellant contested the suit on various grounds, one of the grounds being that the suit property is a Joint Hindu family property. It was also claimed by the Appellant that she is a coparcener in the suit property. It was further alleged by the Appellant that the alleged Gift Deed is forged and fabricated and not a result of the free mind of the executant, i.e., Late Smt. Sheila Sandhu, as she was suffering from Alzheimer's.

9. Though the expression used in the written statement is Hindu Undivided Family (HUF), however, that is a concept known to the Income Tax law because it is the only taxable unit as per the Income Tax Act, 1961. In Hindu Law, it is either Joint Hindu Family or Joint Hindu Family Property.

10. The second suit was filed by the Appellant to claim the partition of the suit property.

11. Learned Single Judge, *vide* the impugned judgment dated 18.09.2024, decreed the suit in exercise of powers under Order XII Rule 6 of the CPC, while observing that the defense put forth by the Appellant is moonshine and the Gift Deed, relied upon by Respondent No. 1, has not been challenged.

12. The second suit filed by the Appellant was dismissed on the ground that the previous judgment passed in the suit filed by Respondent No.1 records that Respondent No.1 is entitled to the possession of the suit property.



13. Heard learned counsel representing the parties at length and, with their able assistance, perused the paperbook.

14. Learned counsel representing the Appellant, while referring to the written statement filed by her in the suit filed by Respondent No.1 and various other documents, including the medical record, relied upon in the written statement, submits that the suit filed by Respondent No.1 could not be decreed under Order XII Rule 6 of the CPC. It is further submitted that the opportunity to lead evidence was required to be given to the Appellant to prove her defense.

15. *Per contra*, learned senior counsel representing the Respondent No.1, while referring to the detailed impugned judgment dated 18.09.2024 passed by the learned Single Judge, submits that the defense put forth by the Appellant was moonshine and had no substance. He further submits that the vague plea has been taken by the Appellant in order to prolong the litigation. It is further submitted that though the Appellant has alleged fraud, however has failed to give particulars as required under Order VI Rule 4 of the CPC. It was also contended that the Appellant never challenged the Gift Deed either by filing a separate suit or by counterclaim, and hence, the impugned judgment has been correctly passed.

16. This Court has considered the submissions under Order XII Rule 6 of the CPC, which reads as under:

“6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.



(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

17. Order XII of the CPC is based upon admissions made by the parties. It enables the Court to pass a judgment where a party to the suit has, either orally or in writing, admitted the facts and the Court comes to the conclusion that the parties are no longer at issue.

18. It is a settled principle of law that the provisions contained under Order XII Rule 6 of the CPC are not mandatory in nature. The said provision merely confers a discretionary power upon the Court to pronounce judgment and decree on the basis of admissions made by the parties. The use of the expression “may” in the Rule, rather than “shall,” indicates that the power is enabling and permissive, and not obligatory or peremptory. Accordingly, even in the presence of an admission, the Court retains full discretion to determine whether such admission is sufficient and conclusive enough to justify the passing of the judgment and decree.

19. Further, the Supreme Court, in ***Uttam Singh Duggal & Co. Ltd. v. United Bank of India & Ors.***¹, has elucidated the underlying object of this provision as being to facilitate a party in obtaining a speedy judgment to the extent of the relief to which, on the basis of the opponent’s admission, such party is entitled. However, the exercise of this power must be undertaken judicially and with circumspection, and only in those cases where the admissions are unequivocal, unambiguous, and unconditional, leaving no scope for doubt.

¹ (2000) 7 SCC 120.



20. This position of law has recently been reiterated by the Supreme Court in ***Rajiv Ghosh v. Satya Naryan Jaiswal***², whereby the Supreme Court held as follows:

“26. The primary object underlying Rule 6 is to enable a party to obtain speedy judgment at least to the extent of admission. Where a plaintiff claims a particular relief or reliefs against a defendant and the defendant makes a plain admission, the former is entitled to the relief or reliefs admitted by the latter. [See : Uttam Singh v. United Bank of India, (2000) 7 SCC 120]

27. As observed in the Statement of Objects and Reasons for amending Rule 6, “where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled.”

28. The provisions of Rule 6 are enabling, discretionary and permissive. They are not mandatory, obligatory or peremptory. This is also clear from the use of the word “may” in the rule.

29. The powers conferred on the court by this rule are untrammelled and cannot be crystallized into any rigid rule of universal application. They can be exercised keeping in view and having regard to the facts and varying circumstances of each case.

30. If the court is of the opinion that it is not safe to pass a judgment on admissions, or that a case involves questions which cannot be appropriately dealt with and decided on the basis of admission, it may, in exercise of its discretion, refuse to pass a judgment and may insist upon clear proof of even admitted facts.

*31. To make order or to pronounce judgment on admission is at the discretion of the court. **First, the word “may” is used in Rule 6 and not the word “shall” which prima facie shows that the provision is an enabling one. Rule 6 of Order 12 must be read with Rule 5 of Order 8 which is identical to the Proviso to Section 58 of the Evidence Act. Reading all the relevant provisions together, it is manifest that the court is not bound to grant relief to the plaintiff only on the basis of admission of the defendant.** (See : Sher Bahadur v. Mohd. Amin, AIR 1929 Lah 569)”*

(Emphasis supplied)

²2025 SCC OnLine SC 751.



21. Thus, Order XII Rule 6 of the CPC serves as a procedural mechanism for the expeditious disposal of suits where the entitlement of one party is apparent from clear admissions, but it does not create an absolute right to judgment in every instance of admission. The Court must, in each case, satisfy itself that the admission relied upon is complete, definite, and incapable of any other interpretation before invoking the said provision.

22. As already noticed in the present case, the suit was contested by the Appellant by alleging that the property is a Joint Hindu Family Property and the alleged Gift Deed is forged and fabricated, apart from the fact that it was not the result of the free mind of the executant. In such circumstances, the Court was expected to identify the issues that require adjudication and grant an opportunity to the parties to lead evidence.

23. Though the Appellant has claimed that the Gift Deed is a result of fraud, however, this may be a result of a lack of vocabulary. In substance, she is claiming that the Gift Deed is forged and fabricated. Moreover, failure to give particulars of fraud should not necessarily lead to admission. The party may subsequently amend the pleadings and add the particulars of fraud.

24. Additionally, a non-executant of a document is not required to seek its annulment in terms of Section 31 of the Specific Relief Act, 1963 [hereinafter referred to as “SRA”]. The scope of Section 31 of



the SRA has been laid down in the landmark judgment in **Suhrid Singh v. Randhir Singh**³, where in the Court held as follows:

“7. Where the executant of a deed wants it to be annulled, he has to seek cancellation of the deed. But if a non-executant seeks annulment of a deed, he has to seek a declaration that the deed is invalid, or non est, or illegal or that it is not binding on him. The difference between a prayer for cancellation and declaration in regard to a deed of transfer/conveyance, can be brought out by the following illustration relating to A and B, two brothers. A executes a sale deed in favour of C. Subsequently A wants to avoid the sale. A has to sue for cancellation of the deed. On the other hand, if B, who is not the executant of the deed, wants to avoid it, he has to sue for a declaration that the deed executed by A is invalid/void and non est/illegal and he is not bound by it. In essence both may be suing to have the deed set aside or declared as non-binding. But the form is different and court fee is also different. If A, the executant of the deed, seeks cancellation of the deed, he has to pay ad valorem court fee on the consideration stated in the sale deed. If B, who is a non-executant, is in possession and sues for a declaration that the deed is null or void and does not bind him or his share, he has to merely pay a fixed court fee of Rs. 19.50 under Article 17(iii) of the Second Schedule of the Act. But if B, a non-executant, is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay an ad valorem court fee as provided under Section 7(iv)(c) of the Act.”

(Emphasis supplied)

25. Further, while relying upon the judgment rendered in **Suhrid Singh** (supra), the Supreme Court in **Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties and Ors.**⁴, held as follows:

“25. The reasoning in the aforesaid judgment would again expose the incongruous result of Section 31 of the Specific Relief Act being held to be an in rem provision. When it comes to cancellation of a deed by an executant to the document, such person can approach the Court Under Section 31, but when it comes to cancellation of a deed by a non-executant, the non-executant must approach the Court Under Section 34 of the Specific Relief Act, 1963. Cancellation of the very same deed, therefore, by a non-executant would be an action in personam since a suit has to be filed Under

³(2010) 12 SCC 112.

⁴MANU/SC/0599/2020.



Section 34. However, cancellation of the same deed by an executant of the deed, being Under Section 31, would somehow convert the suit into a suit being in rem. **All these anomalies only highlight the impossibility of holding that an action instituted Under Section 31 of the Specific Relief Act, 1963 is an action in rem.**”

(Emphasis supplied)

26. Therefore, Section 31 pertains to the cancellation of instruments and operates *in personam*, as the right to seek such cancellation vests exclusively in the executant or a person claiming under him, who apprehends that the existence of the document, though void or voidable, may cause him serious injury if left outstanding. Conversely, Section 34 deals with declaratory relief, which is *in rem* in nature, as the declaration made by the Court determines the legal status or character of a person or the validity of a right against all persons. Thus, a non-executant, one who is not a party to the document, cannot seek its cancellation but may instead pray for a declaration that such an instrument is null, void, or not binding upon him.

27. Further, the Appellant, while filing the written statement, is entitled to claim that such a document is not binding on rights and for the same, the Appellant is not required to file either a counterclaim or a separate suit.

28. Furthermore, the Appellant had also filed a separate suit seeking partition, claiming to be the co-owner of the suit property. Hence, she was claiming right, title or interest in the suit property.

29. In these circumstances, the judgment based on Order XII Rule 6 of the CPC was not called for. Consequently, judgments dated 01.08.2024 and 18.09.2024 passed in CS(OS) No. 452/2019 captioned



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Tani Sandhu Bhargava v. Shumita Didi Shandu and CS(OS) No.585/2024 captioned ***Mrs. Shumita Sandhu v. Tani Sandhu Bhargava and Ors.*** respectively, are set aside, while restoring the suits to their original number.

30. The parties, through their respective counsel, are directed to appear before the learned Single Judge (Roster Bench) on 06.11.2025.

31. The present Appeals, along with pending applications, are disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER17, 2025

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