



2026:DHC:1658-DB



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

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*Judgment reserved on: 13.02.2026*

*Judgment pronounced on: 27.02.2026*

*Judgment uploaded on: 27.02.2026*

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FAO(OS) 52/2025

M/S DURGA BUILDERS PRIVATE LIMITED .....Appellant

Through: Mr. Satvik Varma, Sr. Adv. and  
Mr. Anurag Ahluwalia, Sr.  
Advs. with Mr. Mohit Kumar  
Mudgal, Ms. Anushree Sudan,  
Mr. Shantanu Parmar, Mr.  
Gaurav Kumar, Ms. Harshita  
Verma and Mr. Karan Nambiar,  
Advs.

versus

MR AJAY RELAN & ORS.

.....Respondents

Through: Mr. Sudhir Makkar, Sr. Adv.  
with Mr. Mayank Tripathi, Mr.  
Ashish Hira, Ms. Saumya  
Gupta, Ms. Rhea Jain and Mr.  
Vasudev Pal, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

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

## **J U D G M E N T**

**ANIL KSHETARPAL, J.:**

**REV. PET. 75/2026**

1. The present review application has been filed on behalf of the Appellant/DBPL seeking review of the detailed judgment passed by this Court in the First Appeal on 23.12.2025 [hereinafter referred to as the Impugned Judgment/IJ'], whereby the said Appeal came to be dismissed, with the following observations:

*“For all the foregoing reasons, this Court has reached the conclusion*



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*that the recall application filed by DBPL, through its Director, Mr. Mehra was barred by limitation and the compromise decree dated 28.03.2003 satisfies the requirement of being lawful under Order XXIII Rule 3 of the CPC. Since, the said decree was entered into by those who, in law and in fact, were the recognised management of DBPL; consideration was recorded and accepted; repeated collateral challenges have been unsuccessful; and, most importantly, there is no demonstrable fraud on the Court.”*

2. The present Appeal was filed by DBPL against the order dated 17.03.2025 passed by the learned Single Judge [hereinafter referred to as ‘LSJ’], whereby the application moved by DBPL seeking to set aside the Compromise Decree dated 28.03.2003 [hereinafter referred to as subject decree’] came to be dismissed. It is pertinent to note that DBPL had entered into a settlement on 20.11.2002, which resulted in disposal of the suit for specific performance. Having availed the benefit of the said settlement, DBPL now seeks to resile from the aforesaid settlement.

3. The present review application is supported by an Affidavit sworn by Sh. Sanjeev Uppal, who claims to be the Authorized Representative of DBPL. Notably, the first Appeal was also instituted through the said Sh. Sanjeev Uppal in his capacity as the Authorized Representative of DBPL.

4. Learned senior counsel for the Appellant, while seeking review of the IJ has, inter alia, made four brief submissions. *Firstly*, it has been argued that this Court *vide* Order dated 30.10.2025, had directed that the application filed by DBPL under Order XLI Rule 27 of the Code of Civil Procedure, 1908 [hereinafter referred to as ‘CPC’], will be heard along with the main case. It is his case that, despite such



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direction, this Court by way of the IJ, failed to adjudicate upon the said application. *Secondly*, it has been argued that the reliance placed by this Court on the judgment of *Co. A (SB) No.7/2006* captioned *Arun Mehra & Anr. v. Durga Builders P. Ltd.*, is erroneous, inasmuch as the said judgment did not form part of record before this Court. *Thirdly*, it is contended that this Court failed to place reliance upon the police report, which according to him, militates against the validity of the compromise arrived at between the parties. *Lastly*, it has been argued that this Court did not consider Form 32, which demonstrates that the management of DBPL had been taken over by the Mehras.

5. Before dealing with the arguments made by the learned senior counsel for DBPL/Review Applicant, this Court deems it necessary to highlight that the First Appeal came to be disposed of by way of an elaborate judgment, after hearing the arguments advanced by the learned senior counsel for the parties at considerable length. In this regard, it also becomes pertinent to record that the learned senior counsel for DBPL, at the time of the final arguments, did not invite the attention of this Court to the pendency of the application filed under Order XLI Rule 27 of the CPC. Consequently, notwithstanding the earlier Order dated 30.10.2025 directing that the said application be heard along with the main appeal, the same did not fall for consideration and was not adjudicated upon at the time of disposal of the Appeal.

6. Be that as it may, once the said application was not pressed at the time of the final arguments, this Court was not required to



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adjudicate the same. However, since now a Review Petition has been filed by the DBPL, *inter alia*, on the grounds of non-adjudication of the said application, this Court considers it appropriate to now examine and determine the said application on its own merits.

7. DBPL by way of an application filed under Order XLI Rule 27 of the CPC, seeking leave to produce certain documents alleged to be necessary and desirable documents for the just adjudication of the Appeal, has made the following prayers:

- “1. Direct the Respondent no. 1 to present the copies of bank draft number 697818 and 697819 amounting to Rs. 1.80 CR along with a duly certified encashment certificate from his issuing bank;*
- 2. Direct the Respondent no. 1 to present the original possession letter dated 26.11.2002;*
- 3. Direct the Respondent no. 1 to produce the Power of Attorney allegedly issued in his name by Sh. KD Sumaiya;”*

8. At this stage, reference may be made to Order dated 20.11.2002, passed in CS (OS) 749/1994. Upon bare perusal of the said Order, it is evident that the counsel appearing on behalf of the DBPL (arrayed as Defendant No.5 in the civil suit) was in receipt of two demand drafts, aggregating to a sum of Rs.1.80 crores. The order passed on 20.11.2002 in the civil suit is extracted as under:

*“I.As.9361/2002 & 1018999/2002 in S.No. 749/94*

*The parties have arrived at a settlement out of court and in terms of the said settlement joint application is filed by the parties in the suit. However, an application praying for impleadment is also pending for consideration.*

*Counsel appearing for the proposed parties has submitted that under the terms of the settlement, an amount would be paid by the plaintiff to the defendant No.5, which should be directed to be deposited in Bank Account: No.372 of defendant No.5 with the Vijaya Bank, Greater Kailash-I, New Delhi, as there was an attachment order issued in respect of the aforesaid bank account of defendant No.5. This aspect will have to be dealt with as and when the said application is taken up*



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*for consideration. However, at this stage, the parties have agreed that the plaintiff would deliver demand drafts to the defendant No.5 on receipt of which the defendant. No.5 undertakes to get the premises vacated by the tenant, who is in occupation of the said premises as of today.*

*Counsel appearing for the defendant No. 5 receives bank draft No. 697818 dt.18.11.2002 for Rs.10,00,000/- (Rupees Ten lakhs only) as also bank draft. No.697819 dt. 18.11.2002 for Rs.1,70,00,000/- (Rupees One crore and seventy lakhs only) on understanding that defendant No.5 would possession of the premises from the tenant and shall hand-over the same to the plaintiff within a period recover of one month from today. In case there is any failure on the part of the defendant. No.5 to act in accordance with the undertaking given herein, it shall be open to the plaintiff to proceed in accordance with law. The said amount of the demand drafts shall be deposited by the defendant: No.5 in the Bank Account No.372 with the Vijaya Bank, which shall abide by the further orders to be passed on the next date.*

*Renotify on 19.12.2002.*

*A copy of this order shall be given DASTI to the counsel appearing for the parties.”*

9. The Order dated 20.11.2002 records the particulars of the said drafts and clearly delineates the bifurcation of the deposited amount, namely, Rs. 1.70 crores and Rs. 10 lakhs. Subsequently, the suit came to be finally disposed of in terms of the settlement on 28.03.2003. Notably, it is DBPL who has preferred the present Appeal. The Respondent No. 1, who was arrayed as the Plaintiff in the civil suit, is merely the purchaser of the property in question.

10. By way of the application filed under Order XLI Rule 27 of the CPC, DBPL has sought issuance of directions from this Court to the Respondent No.1 for production of certain documents. It is an admitted position that, at the relevant time, the management of the DBPL was under the control of Sh. R.K. Nanda and his wife, Smt. Promila Nanda. Therefore, once Respondent No.1 had handed over the demand drafts to DBPL, and the same were duly acknowledged



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before the Court, no direction can now be issued to Respondent No. 1 to produce the said demand drafts. DBPL presently asserts that the management of the company stands vested in Sh. Divij Mehra. In such circumstances, it is open to DBPL to examine its own books of accounts and records to ascertain the necessary particulars, rather than seeking production of documents from Respondent No.1.

11. DBPL has further sought directions to be issued to the Respondent No.1 for production of the original possession letter dated 26.11.2002. However, it is noted that this letter of possession was executed subsequent to the passing of the Compromise Decree pursuant to the settlement. Thereafter, the Sale Deed in respect of the property was executed by DBPL in favour of Respondent No.1 in the year 2010. DBPL has failed to demonstrate the relevance of the possession letter for the purposes of the present Appeal. The only allegation raised pertains to the purported appending of scanned signatures of Smt. Promila Nanda on the said letter. In the context of adjudicating the present Appeal, no justification has been furnished to show how this document bears upon the matters in dispute.

12. The last document sought by the Appellant is a registered Power of Attorney executed on 29.01.1993 by Sh. K.D. Somaia in favour of Sh. R.K Nanda and Smt. Promila Nanda. A photocopy of the said document is already part of the record of the civil suit. The particulars of the document are sufficient in order to enable DBPL to obtain a certified copy of the same from the office of the Registrar. It is pertinent to note that the document in question was not executed by Respondent No. 1, nor is Respondent No. 1 a party thereto. The Power



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of Attorney was executed solely by K.D. Somaia (HUF) in favour of Sh. R.K. Nanda and Smt. Promila Nanda.

13. Moreover, in the present case, DBPL does not wish to produce any document of its own, instead is praying for directions to be issued to the Respondent No.1 for production of certain documents. Order XLI Rule 27 of the CPC merely permits a party to produce additional evidence subject to fulfilling the requirement of law. However, in the present case, DBPL has sought issuance of direction to the Respondent No.1, which is clearly beyond the scope of Order XLI Rule 27 of the CPC. The purpose of the enabling powers conferred upon the Appellate Court to permit production of additional evidence are intended to facilitate the parties in adducing their own evidence and are not meant to serve as a mechanism for collecting evidence on behalf of DBPL. In view of the aforesaid, the application under Order XLI Rule 27 of the CPC lacks substance and is dismissed.

14. The second ground on which review has been sought pertains to the contention that the judgment in *Co. A (SB) No.7/2006* does not form a part of the record. A perusal of the paragraph no.38 of the Impugned Order passed by the LSJ reveals that the said judgment has indeed been referred to, and reliance has been placed thereupon. Accordingly, the submission advanced by the DBPL in this regard is without merit. It is further observed that the said judgment arose from litigation between the Mehras on the one hand and the Nandas on the other, to which Respondent No. 1 was not a party.

15. The next submission advanced by the learned Senior Counsel



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for DBPL is that this Court has not relied upon the police report. This Court has examined the police report and is of the view that the same is not entitled to any conclusive weight, as a report submitted by the police cannot be treated as conclusive evidence.

16. The final submission of learned senior counsel is that the Mehra's have taken over the management of DBPL, as is evident from Form 32. However, it is apparent from the order of the Supreme Court that when an offer was made to the Mehra's to assume management, they had expressed reluctance to do so. The order dated 15.10.2012 passed in *SLP (C) No.20293/2006* captioned *Arun Mehra & Anr v. Durga Builders Pvt. Ltd. & Ors.*, which has been extracted in the paragraph no.24 of the judgment dated 23.12.2025, is extracted as under:

*“24. Further, reliance may also be placed on the order dated 15.10.2012 in SLP (C) No. 20293/2006, the relevant paragraph is reproduced below:*

*“During the course of arguments, we enquired from learned counsel for the petitioners whether his clients are willing to take over the company along with all its liabilities as on date. Learned counsel for the petitioners submitted that if his clients are made aware of the actual liabilities then they may think of taking over the company.”*

*It is a recorded position that Mr. Mehra showed his reluctance to take over DBPL along with all its then liabilities, thereby highlighting his resistance to step into the role of management.”*

17. Keeping in view the foregoing discussion, the review application lacks merit and is accordingly dismissed.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**FEBRUARY 27, 2026**

*jai/hr*