



2026:DHC:2143



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 11<sup>th</sup> March, 2026*+ RFA 894/2018 with CM APPL. 45592/2018, CM APPL. 45593/2018  
& CM APPL. 16609/2021

SUSHIL KUMAR SONI & ORS .....Appellants  
Through: Ms. Varsha Agarwal, Advocate  
(*through VC*).

versus

RAVINDER .....Respondent  
Through: Mr. Rohan Kanhai, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**AMIT BANSAL, J. (Oral)**

**CM APPL. 45592/2018**

1. The appellants (plaintiffs before the Trial Court) instituted a suit being CS No. 576168/2016 titled *Shri Sushil Kumar Soni & Ors. v. Shri Ravinder inter alia* for recovery of possession, use, occupation, damages, mesne profits as well as permanent injunction.
2. The said suit as dismissed *vide* judgment dated 28<sup>th</sup> August, 2018 passed by ADJ-03 (N/W), Rohini Courts, Delhi (hereinafter 'impugned judgment').
3. The appellants preferred the present appeal against the impugned judgment along with the present application under Order XLI Rule 27(aa) of the Code of Civil Procedure, 1908 (hereinafter 'CPC') seeking to place on



record additional evidence in the form of following documents:

- (i) Agreement to Sale and Purchase dated 05.06.1973 of the property No. A-I/113-A Lawrance Road, Delhi-110035 executed between Sh. Ram Saran Dass Khurana and Smt. Chand Rani (Mother of Appellants) as annexed herewith as **Annexure-P78** and
- (ii) Receipt No. 9306 dated 30.07.1987 of Rs. 3000/- issued by DDA in favour of the Appellant No.2 as annexed as **Annexure-P79;**

4. It is submitted on behalf of the appellant that the aforesaid documents were in possession of the appellant no.3, who was the mother of the appellants no.1 and 2 and who expired on 2<sup>nd</sup> February, 2013, *i.e.*, during the pendency of the suit.

5. It is the submission of the appellants that the aforesaid documents were not traceable till the time of decision of the Trial Court and the appellants were not aware of the said documents.

6. The appellant no.3 resided with her son, Lt Cdr. Vijay Kumar Soni (appellant no.2), at Ramesh Nagar, Delhi.

7. It was only in September 2018, *i.e.* after the dismissal of the suit, that the appellant no.3(iii), the daughter of the late appellant no.3, visited the place of the appellant no.2 at Ramesh Nagar and opened the *almirah* of the late appellant no.3 that the aforesaid documents were found therein in an envelope.

8. It is submitted on behalf of the appellants that the aforesaid documents are necessary for the adjudication of the present appeal and the



same could not be filed before the Trial Court despite due diligence exercised on behalf of the appellants.

9. Reply to the present application has been filed on behalf of the respondent stating that the aforesaid documents should have been brought on record by the appellants before the Trial Court and the appellants cannot be permitted to bring the aforesaid documents on record at this stage.

10. I have heard counsel for the parties.

11. The Trial Court in the impugned judgment has specifically noted that no Agreement to Sell executed in favour of the appellant no.3, late Smt. Chand Rani, has been filed by the appellants.

12. The Trial Court, however, has also recorded in paragraph 11 of the impugned judgment that in the affidavit of the original seller Sh. Ram Saran Dass Khurana (Ex.PW-1/5), it has specifically been mentioned that an Agreement to Sell has been entered with the appellant no.3 and the vacant possession of the subject property has been delivered to her. Paragraph 11 of the impugned judgment is set out below:

11 The plaintiffs have also filed an affidavit affirmed by Sh. Ram Saran Dass Khurana before Notary Delhi on 06-06-1973, copy of which is Ex. PW1/5. In its para no. 2, there is mentioning about the entering into an agreement to sale with Smt. Chand Rani and it is also mentioned



in para no. 3 that vacant possession of the said property has been delivered to the said purchaser at the spot. No agreement to sale executed in favour of Smt. Chand Rani or in favour of Sh. Om Prakash has been produced on the judicial file or proved. The plaintiff no. 1 Sh. Sushil Kumar in the cross-examination has admitted that no suit has been filed for specific performance against Sh. Ram Saran Dass nor he was approached with regard to mutation/ transfer/ free hold and obtaining the conveyance deed from the DDA. The witness has deposed that the allotment value of the suit flat in the year 1973 was Rs. 13,500/- and he deposed that he does not have any receipt regarding payment of Rs. 13,500/- as per the installments. He admitted that Sh. Ram Saran during his lifetime had not executed agreement to sell and purchase and the possession letter of the suit property. Thus, mere a receipt showing the receiving of an amount of Rs. 3667/- cannot be considered a document of transfer of ownership of suit property in favour of plaintiff no. 3 or her husband. Thus, on the basis of evidence available on file, it can be said that the documents relied upon by the plaintiffs do not confer any title of the suit property on the plaintiffs. The issue is decided accordingly.

13. Therefore, in my considered view, the aforesaid documents are necessary and relevant for the adjudication of the present appeal.

14. I am satisfied with the aforesaid explanation given by the appellants for not bringing the aforesaid documents on record before the Trial Court despite exercise of due diligence.

15. Accordingly, this Court is of the view that the aforesaid documents should be admitted in evidence in the present appeal.



16. Photocopies of the aforesaid documents have been placed on record with the present appeal as Annexures P-78 and P-79 respectively. It is stated that the appellants are in possession of the originals thereof.

17. In view of the above, the present application is allowed and the aforesaid documents are taken on record.

18. The application is disposed of accordingly.

**RFA 894/2018**

19. In view of the order passed above, liberty is given to the respondent in the present appeal to file an affidavit of admission/ denial in respect of the aforesaid additional documents taken on record within four (4) weeks from today.

20. List before the Joint Registrar on 28<sup>th</sup> April, 2026 for marking of exhibits in respect of the aforesaid additional documents. The appellants shall produce the originals before the joint registrar on the said date.

21. List the appeal for hearing on 12<sup>th</sup> August, 2026 at *Top of the Board* in the category of '*Advance List*'.

**AMIT BANSAL, J**

**MARCH 11, 2026**

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