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

**Date of Decision: 02<sup>nd</sup> April, 2026**

+ RFA 362/2024

RAM GOPAL MISHRA .....Appellant

Through: Mr. Rahul Sharma, Mr. Atharv  
Bhardwaj, and Ms. Nayanika Tahlan,  
Advocates.

versus

MEHTA ROSHAN LAL AND SONS .....Respondent

Through: Dr. Amit George, Mr. Rishabh Dheer,  
Ms. Aishwarya Singh, Ms. Rupam  
Jha, Ms. Ibansara Syiemlieh, Mr.  
Vaibhav, Mr. Sarthak Bhardwaj, Mr.  
B.A. Pamidighantam and Mr. Prateek  
Srivastava, Advocates.

+ RFA 298/2024

MEHTA ROSHAN LAL AND SONS .....Appellant

Through: Dr. Amit George, Mr. Rishabh Dheer,  
Ms. Aishwarya Singh, Ms. Rupam  
Jha, Ms. Ibansara Syiemlieh, Mr.  
Vaibhav, Mr. Sarthak Bhardwaj, Mr.  
B.A. Pamidighantam and Mr. Prateek  
Srivastava, Advocates.

versus

RAM GOPAL MISHRA & ORS. ....Respondents

Through: Mr. Rahul Sharma, Mr. Atharv  
Bhardwaj, Ms. Nayanika Tahlan,  
Advocates for R-1.



**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

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

**ANUP JAIRAM BHAMBHANI J.**

**RFA 362/2024**

**CM APPL. 31876/2024 (stay)**

By way of the present appeal filed under section 96 of the Code of Civil Procedure 1908 ('CPC'), the **appellant – Ram Gopal Mishra** impugns judgment and decree dated 06.01.2024 passed by the learned Additional District Judge – 04, North District, Rohini District Courts, Delhi in suit bearing CS DJ No. 59588/2016, whereby the learned trial court has decreed the respondent's suit seeking recovery of possession of shop bearing No. C-20, situate at Chaudhary Hari Singh, New Subzi Mandi, Azad Pur, New Delhi ('suit property') along with the reliefs of permanent injunction and recovery of damages. The appellant was defendant No. 1 and the respondent was the plaintiff in the suit.

2. Notice on the present appeal was issued *vidé* order dated 27.05.2024; whereafter reply dated 21.11.2024 has been filed in the matter.

**PROCEEDINGS BEFORE THE SUPREME COURT**

3. *Vidé* order dated 25.11.2024, almost at the inception of the present appeal, the learned Predecessor Bench had passed the following order:

*“3. The appellant has assailed the judgment and decree for restoration of possession of property under Section 5 Specific Relief Act. As reflected from record, the appellant had set up a case of tenancy before the Trial Court and in that regard, the impugned judgment, especially at pdf 47-48 needs to be examined. Therefore, till next date operation of the impugned judgment and decree is stayed.”*



4. This order was challenged by the respondent by way of SLP (C) No.10230/2025; and *vide* order dated 07.04.2025, the Supreme Court had disposed-of the SLP, requesting this court “to consider the desirability” of disposing-of CM APPL. No. 31876/2024 seeking stay of the impugned judgment and decree, on 08.05.2025 or soon thereafter. The parties were also granted liberty to file their reply/rejoinder to CM APPL. No. 31876/2024.
5. Reply dated 15.04.2025 has come to be filed to CM APPL. No. 31876/2024. As recorded in order dated 07.07.2025 passed by the learned Registrar, the appellant had stated that they do not wish to file rejoinder to that application.
6. Arguments on the application were heard on two dates; and considering the contours of the arguments made on CM APPL. 31876/2024, the appeal itself was taken-up for disposal.
7. The court has heard Mr. Rahul Sharma, learned counsel for the appellant; and Dr. Amit George, learned counsel appearing on behalf of the respondent.

#### **SUBMISSIONS ON BEHALF OF THE APPELLANT**

8. Mr. Sharma submits, that suit bearing CS DJ No.59588/2016 was filed by the respondent (plaintiff) seeking possession of the suit property alongwith the reliefs of permanent injunction and recovery of *pendenté lite* and future damages. Learned counsel submits, that the learned trial court has rejected the appellant’s (defendant No.1’s) contention that he was a tenant in the suit property under the respondent for a rental of



Rs.2,000/- per month; and has accordingly proceeded to decree the suit against the appellant.

9. Challenging the decision of the learned trial court, learned counsel for the appellant has made the following 02 principal submissions:

9.1. *One*, that the appellant's tenancy under the respondent was an oral tenancy, for a monthly rent of Rs.1,500/- with effect from 17.10.2001, with the rent being enhanced by Rs. 150/- per month, every third year. Learned counsel contends that the last paid rent was Rs.2,000/- per month; and therefore, the respondent's suit was barred under section 50 of the Delhi Rent Control Act, 1958 ('DRC Act');

9.2. *Two*, that though the tenancy was oral and the rent was paid in cash without any receipt being issued towards the same, it is contended that the tenancy stands proved by way of the following 03 broad sets of documents:

9.2.1. Receipt dated 28.01.2005 issued to the appellant by the Agricultural Product Market Committee (APMC), Azadpur, Delhi under section 104 of the Delhi Agricultural Produce Marketing (Regulation) Act 1998, towards payment of fine in discharge of a challan for certain infractions relating to sale of fruits and vegetables in the market, which shows that the appellant was the occupant of Shop No. C-20, New Subzi Mandi, Azad Pur, Delhi *i.e.* the suit property;



- 9.2.2. Show-cause notices issued by the APMC to the appellant in relation to certain other infractions, again showing that the suit property was the appellant's address; and
- 9.2.3. Certain electricity bills in respect of the suit property, which the appellant claims were paid by cheque as evidenced by the appellant's bank statements, which again show the suit property as the appellant's address.
10. Learned counsel accordingly submits, that the learned trial court has erroneously proceeded to decree the suit, without considering the appellant's status as a tenant under the respondent in the suit property, protected by the provisions of the DRC Act.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

11. On the other hand, Dr. George, learned counsel appearing for the respondent has disputed the contentions raised on behalf of the appellant, by arguing that there was neither a 'landlord-tenant' nor any other kind of relationship between the appellant and the respondent; and that the respondent had inducted one Mohd. Yunus (defendant No.3) as tenant in the suit property, who had subsequently vacated the suit property.
12. Dr. George has argued that thereafter, two persons, one Dushyant Chandel (defendant No.2) and Ram Gopal Mishra (appellant), unauthorisedly entered upon and occupied the suit property, as rank trespassers. It is argued that in fact, pursuant to the impugned judgment and decree, Dushyant Chandel has vacated the suit property, which is the reason that *only* the appellant *i.e., one of the three defendants in the suit* has filed the present appeal.



13. Learned counsel has further submitted, that the issuance of challans or show cause notices by the APMC; or the payment of electricity bills by the appellant, are not evidence of the existence of landlord-tenant relationship between the appellant and the respondent; and the appellant has failed to prove his tenancy under the respondent, failing to discharge the onus placed upon him by the learned trial court.
14. Dr. George has also drawn attention to the fact, that though the appellant now seeks to contend that he had paid rent of Rs.2,000/- per month to the respondent *in cash*, in the written statement filed before the learned trial court, the appellant had *inter-alia* asserted the following:

*“It is submitted that the replying defendant is running his shop from the suit premises from 17<sup>th</sup> October 2001 onwards, which as (sic) been taken on rent from the plaintiffs Firm, the alleged partners, in fact who are all children of late Sh. Roshan Lal Mehta. **The replying defendant is paying monthly rent of Rs.2000/-, which has been deposited by the plaintiffs in their account, some times personally and some times given cheques to Sh. Rakesh Mehta, who has deposited himself (sic) in the account of the Firm.** It is mention worthy that it is general practice in the New Sabji Mandi, known as ‘Chaudhary Hari Singh Sabji Mandi’ that land lords do not give any rent receipt to their tenants, no lease agreement is signed, so that tenancy may not be established and proved. In case any tenant demands to have lease/rent agreement or rent receipt, he is being thrown out the Mandi after looting is goods and belongings by bouncers kept for this purpose only. The replying defendant has paid Pagree amount to the plaintiffs and after that he was allowed to enter the suit premises in 2001 and since then he is running his business from the said premises. ... ..”*

(emphasis supplied)



15. It is pointed-out by learned counsel for the respondent, that the appellant had also filed several petitions under section 21 of the DRC Act seeking to deposit the rent of the suit property before the learned Rent Controller; and all those petitions were disposed-of, giving liberty to the respondent to withdraw the rent so deposited. However, the respondent has never withdrawn any amount so deposited by the appellant before the learned Rent Controller, since the respondent has always disputed any landlord-tenant relationship with the appellant.
16. It is further pointed-out that in fact, the last of such petitions, bearing new DR No.54149/2016, was dismissed by the learned Rent Controller *vidé* order dated 13.05.2016, with the following observations:

*“The process u/s 27 DRCA is a summary process based on the admission of the relationship of landlord and tenant between the parties. The court has no jurisdiction under this provision to delve into the issue (sic) the relationship, if the same is disputed.*

\* \* \* \* \*

**These proceedings cannot be allowed to be used for creating evidence regarding the alleged tenancy when the parties are taking different stands regarding the possession of the petitioner.”**

(emphasis supplied)

17. In this backdrop, learned counsel has drawn attention to the following observations of the learned trial court, basis which, the learned trial court has decreed the suit:

**“Issue no.1**

*“Whether the defendant no. 1 is a tenant under the plaintiffs with effect from 17.10.2001 at the rate of Rs.2,000/- per month? OPD-1.*

*“31. Onus of proving this issue has been placed on defendant no. 1.*



*“32. Defendant no. 1 has examined himself as DWI by way of his affidavit in evidence Ex. DWI/1. He has been cross examined by **Ld. Counsel for the plaintiff and there he has deposed that it is correct that no agreement of tenancy was executed between them.He was inducted as a tenant in the suit premises since October, 2001 and at that time he was paying Rs.1500/- per month as rent. Every third year, rent was enhanced at the rate of Rs150- per month. At present DWI was depositing Rs.2,000/- per month as rent in the Court as there is dispute between them.***

*“33. DWI further deposed that he never asked for receipts and the plaintiff never gave. He started depositing rent in the Court since August, 2011. It is correct that he had filed an injunction suit in the Court of Senior Civil Judge, Rohini which had been decided. DW 1 had seen the file and stated that he has stated the rate of rent as Rs.2,000/- per month in para no.2 of the plaint. DWI did not have any documentary proof of paying the rent in cash.*

*“34. Ld. Counsel for the defendant, during the course of arguments, had referred to certain documents i.e. petition filed by defendant no.1 under section 21 of DRC Act. Vide order dated 09.12.2016, the Ld. ACJ/CJ/ARC North, Rohini Courts had disposed of the DR Petition No.43/16 titled Ram Gopal Mishra vs. Rakesh Mehta & Ors., directing the respondent/landlord to withdraw the rent without any prejudice to his rights by withdrawal of the rent. The withdrawal of the rent shall not have any effect upon his rights and would not be deemed as the waiver of his rights. Defendant no.1 had been filing DR petitions at different point of times before the concerned courts and same have been disposed of without prejudice to the rights and contentions of the plaintiff herein.*

***“35. I have gone through the aforesaid various orders passed by the ARC courts as well as order dated 18.03.2019 passed by Rent Control Tribunal and conclude that the aforesaid orders cannot be read as conclusive and final that rent of the suit premises is Rs.2,000/- per month as alleged by the defendant no.1. Here in the present case defendant no. 1 was to independently prove this fact in which he has failed. Therefore, this issue is decided against defendant no. 1 and in favour of the plaintiff.***



**“Issue No.6 & 10**

*“Whether defendant no.s 1 and 2 have trespassed in the suit property in the intervening night of 21-22nd July, 2011? OPP*

\* \* \* \* \*

*“Whether after trespassing in the suit property defendant no.s 1 and 2 have introduced defendants nos. 3 and 4 in the basement and the ground floor portion respectively of the suit property? OPP”*

\* \* \* \* \*

*“48. PW 1 has been cross examined by Ld. Counsel for defendant no. 1 and there he deposed that there was a tenant by the name of Mohd. Yusuf (defendant no.3) from 2008 to 2011 and was paying rent @ Rs.30,000/- per month. Ordinary receipt was issued to defendant no.3 for receipt of rent which means a receipt on plain paper. He had not placed on record any receipt. He had not shown this amount of Rs.30,000/- in any of his document like ITR etc. This amount of Rs.30,000/- was distributed among all the partners. It is correct that he had not mentioned this fact in his plaint. He has not placed on record copy of license issued for his shop twenty two years before. **After vacating the shop by defendant no.3, the shop was not rented to any other person. He went to the police station on 22.07.2011 when his shop was trespassed by defendant no. 1 & 2 and police assured of getting the same vacated. Thereafter, he made complaints in writing on 24.07.2011 and 29.07.2011.***

\* \* \* \* \*

*“52. From the testimony of plaintiff/PW1, it stands proved on record that defendant no. 1 and 2 trespassed in the suit property in the intervening night of 21/22.07.2011. It further stands proved on record that defendant no.2 has been allowed by plaintiff to use the platform at the front side of the ground floor on the Eastern Side of the property on license basis and further that defendant no.3 was the tenant in 400 sq feet area of the basement and 50 sq feet of the ground floor of the suit property for monthly rent of Rs.30,000/-. **It is admitted case of the defendants that plaintiffs are the owner of the suit shop. Defendant no.3 had vacated the concerned portion in July, 2011. The plaintiff has further been successful in proving that after trespassing in the suit***



**property, defendant no. 1 and 2 introduced defendant no.3 and 4 in the basement and ground floor portion respectively of the suit property.** Therefore, all these issues are decided in favour of the plaintiff and against the defendants.

**“Issue no.11 to 13**

“Whether the plaintiff is entitled for recovery of possession of the suit property i.e. shop bearing No. C-20, situated at Chaudhary Hira Singh, New Subzimandi, Azadpur, Delhi.OPP

“Whether the plaintiff is entitled for decree of permanent injunction restraining the defendants from creating third party interest of whatsoever nature in the suit property ? OPP

“Whether the plaintiff is entitled for a decree of recovery of damages of Rs. 1 lakh per month since August, 2011 along with future and pendent lite damage ? If so at what rate? OPP

“53. All these issues are taken up together as they are inter connected and can be decided simultaneously. Onus of proving all these issues has been placed on the plaintiff.

**“54. In view of my observations on issue no.6 to 10, the plaintiff is entitled to the recovery of possession of the suit property and also decree of permanent injunction restraining the defendants from creating any third party interest in the suit property.**

“55. So far as issue no.13 is concerned, plaintiff has relied on certified copy of lease agreement Ex. PW1/23. The said lease agreement Ex. PW 1/23 is in respect of only one room on third floor, front side of property bearing No.C-97, situated at New Sabzi Mandi, Azadpur, Delhi-33 and this property had been rented by the concerned landlord for a monthly rent of Rs.25,000/- from 01.07.2012 to 30.06.2013 for Rs.25,000/- per month from 01.07.2013 to 30.06.2014 for Rs.27,500/- per month and from 01.07.2014 to 30.06.2015 for Rs.30,250/-.

“56. It is seen that there is no cross examination by and on behalf of the defendants on this lease agreement Ex. PW1/23. Here in the present case, the plaintiff has claimed pendent lite and future



*mesne profit/damages @ Rs.1,00,000/- per month since August, 2011 along with future and pendent lite damages.*

*“57. After going through the facts of the case and the documents relied on by the plaintiff, the claimed damages @ Rs.1,00,000/- per month since August, 2011 are found to be at very higher side. However, the damages @ Rs.40,000/- per month since August, 2011, pendent lite and future also, are deemed to be justifiable.”*

(emphasis supplied)

18. Accordingly, learned counsel argues, that the learned trial court has correctly decreed the suit in favour of the respondent on all counts.

### CONCLUSIONS

19. Upon a conspectus of the arguments made before this court, and having gone through the records and the facts obtaining in the matter, it is evident that the suit has been decreed essentially on the basis that the appellant had failed to prove that he was a tenant under the respondent *or* that he was paying to the respondent a rental of Rs.2,000/- per month for the suit property.
20. From the evidence on record, it is seen that the appellant has failed to produce any lease agreement or rent deed to show his status as a tenant under the respondent; and the appellant has also failed to adduce any oral evidence of such tenancy. Furthermore, aside from certain applications filed by him under section 21 of the DRC Act, the appellant has also failed to adduce any evidence to show that he was paying Rs. 2000/- per month to the respondent as rent; and that he was therefore a protected tenant under the DRC Act. It is the settled position that the mere filing of an application before the learned Rent



Controller under section 21 of the DRC Act does not prove existence of a landlord-tenant relationship between an applicant and a respondent; and the proceedings under section 21 of the DRC Act are not proceedings by which ‘tenancy’ can be established.

21. In the above backdrop, the respondent had filed the suit against the appellant, contending that the appellant was a rank trespasser in the suit property; and the learned trial court has correctly inferred that the respondent was therefore entitled to recovery of possession of the suit property from the appellant.
22. Insofar as the issue of *mesne-profits*/damages for unauthorised use and occupation is concerned, the learned trial court has proceeded on the basis of a certified copy of a certain lease agreement as evidence of the prevailing rental of a similarly situate property, which document was duly exhibited as Ex. PW1/23 in the course of trial, and which agreement remained un-rebutted.
23. Based on the rental for various periods of time as disclosed in the said lease agreement, the learned trial court has come to the conclusion that the *mesne-profits*/damages claimed by the respondent at the rate of Rs.1,00,000/- per month are on the higher side; and having considered the rental disclosed in the said lease agreement, the learned trial court has assessed *mesne-profits*/damages payable by the appellant to the respondent at Rs.40,000/- per month from August, 2011, as well as *pendenté lité* and future, holding the said amount as justifiable.
24. Since, in the opinion of this court, the *mesne-profits*/damage assessed by the learned trial court have a justifiable basis, and appears to be fair



and reasonable, this court finds no reason to interfere with the impugned judgment and decree.

25. The appeal is accordingly dismissed.
26. The appeal stands disposed-of in the above terms.
27. Pending applications, if any, also stand disposed-of.

**RFA 298/2024**

28. By way of the present appeal filed under section 96 of the CPC, the **appellant - Mehta Roshan Lal and Sons** – *inter-alia* seeks enhancement of the *mesne profits*/damages awarded by the learned trial court *vidé* impugned judgment dated 06.01.2024 passed by the learned Additional District Judge – 04, North District, Rohini District Courts, Delhi in suit bearing CS DJ No. 59588/2016.
29. Notice on the present appeal was issued *vidé* order dated 06.05.2024.
30. This court has heard learned counsel for the parties briefly on the present appeal along with RFA No. 362/2024.
31. In view of what has been decided in RFA No. 362/2024, this court is of the opinion that there is no basis for the appellant to seek enhancement of the *mesne profits*/damages as claimed in prayer ‘a’.
32. The prayer for enhancement of *mesne profits*/damages is accordingly rejected.
33. Furthermore, by way of prayer ‘b’ in the present appeal the appellant claims that respondents Nos. 2 and 4, who are also alleged to have been occupying the suit property unauthorizedly, be held liable for such illegal occupation and trespass; and that *mesne profits*/damages be also imposed against the said respondents.



34. Insofar as prayer 'b' is concerned, this court is of the view that since it is respondent No.1, who had claimed to be tenant in the suit property; and is admittedly the last person who was occupying the suit property and has been found to be a trespasser, this court is not inclined to delve further into prayer 'b', which is also accordingly rejected.
35. The present appeal is accordingly disposed-of.
36. Pending applications, if any, also stand disposed-of.

**ANUP JAIRAM BHAMBHANI, J**

**APRIL 02, 2026**

ak/ss