



2025 :DHC :2779



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

Date of Decision: 09th April, 2025

+ RFA 337/2025 & CM APPL. 21314/2025

KIRAN

.....Appellant

Through: Mr. Jai Wadhwa and Mr. Ronak
Karanpuria, Advocates with appellant
in-person with her mother.

versus

PRAMOD KUMAR

.....Respondent

Through: Mr. Mohit Kapoor, Advocate.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

CM APPL. 21313/2025 (exemption)

Exemption allowed, subject to just exceptions.

The application stands disposed-of.

RFA 337/2025

By way of the present regular first appeal filed under section 96 of the Code of Civil Procedure 1908 ('CPC'), the appellant impugns order and preliminary decree dated 21.01.2025 passed by the learned District Judge-06, West-District, Tis Hazari Courts, Delhi in Civil Suit No.675/24.

2. *Vide* order dated 21.01.2025, the learned trial court has allowed the application filed by respondent (plaintiff) under Order XII Rule 6



CPC and has partially decreed the suit insofar as it relates to the relief of possession and permanent injunction with respect to the Third Floor of property bearing No.342/1, Than Singh Nagar, CNG Pump, Anand Parbat, Karol Bagh, New Delhi ('subject premises') in favour of respondent (plaintiff) and against the appellant (defendant).

3. Mr. Jai Wadhwa, learned counsel appearing on behalf of the appellant has raised the following principal contentions in challenge to order and preliminary decree dated 21.01.2025 :

3.1. That *no* statement of the appellant was recorded before the learned trial court under Order X of the CPC;

3.2. That the purported statement recorded under Order X of the CPC does not bear the genuine signatures of the appellant and the signatures appended thereto are markedly different from her usual signatures;

3.3. That in her written statement filed before the learned trial court, the appellant had categorically denied execution of any rent agreement whatsoever; and since the contents of the statement purportedly recorded under Order X CPC were contrary to those of the written statement, the learned trial court ought not to have decreed the suit partially without affording to the parties an opportunity to lead evidence.

4. A perusal of the impugned order shows that the learned trial court did in fact record the appellant's statement under Order X of the CPC, which was to the following effect :

“Statement of (defendant) Ms Kiran D/o late Sh Jogender, age 30 years,



(under Order X CPC)

on SA

I reside at H No. 342/1, Than Singh Nagar, CNG Pump, Anand Parbat, Karol Bagh, New Delhi-110008. I have taken the said house on rent from Sh Pramod Kumar/plaintiff for monthly rent of Rs.10,000/- (Rupees Ten Thousand only). The electricity and water bills are also paid by me in addition to rent. I have been residing in the said address since the later half of the year 2022. There was no rent agreement in writing, it was verbally agreed. It is correct that I have received legal notice dated 03.07.2023. It is correct that I have also received legal notice dated 17.07.2024. It is correct that I had replied to the legal notice vide (sic) dated 06.08.2024 through Sh JJ Tyagi, Advocate, however, he had not mentioned all the averments that I had stated in the reply to the legal notice and he also did not agree to take up my case.

I have no objection in vacating the suit premises subject to payment of Rs. 10,000/- as my security amount deposited.”

(underscoring supplied; bold in original)

5. It must be mentioned that the record shows two dates on which the appellant's statement is supposed to have been recorded under Order X CPC. As per the application filed under Order XII Rule 6 CPC, the statement under Order X CPC was recorded on 14.11.2024; though the copy of statement on record itself bears the date 21.01.2025. Moreover order-sheets dated 14.11.2024 and 21.01.2025 both show that the statement of the appellant was recorded under Order X CPC on those dates.
6. However, the ambiguity in the date of recording the statement under Order X CPC is of no consequence insofar as the present appeal is concerned, since there is no gainsaying that such statement was indeed recorded by the court in the terms set-out in para 4 above.



7. It may be observed that despite what has been argued on behalf of the appellant, statement dated 21.01.2025 recorded under Order X of the CPC has been signed at the foot by the appellant; and therefore, the appellant's argument that she did not get any statement recorded under Order X CPC before the learned trial court, or that the signatures appearing at the foot of the statement are not hers, is heard only to be rejected.
8. It may be recorded here for sake of clarity, that notices dated 03.07.2023 and 17.07.2024 referred-to in the appellant's statement under Order X CPC were notices in terms of section 106 of the Transfer of Property Act 1882, the receipt of which the appellant has admitted in that statement. The appellant has also said that she had sent a reply dated 06.08.2024 to the legal notice through her lawyer. Furthermore, the appellant has also admitted that she had taken the subject premises on rent from the respondent plaintiff for a rent of Rs.10,000/- per month.
9. In view of the above, the appellant's plea that there was inconsistency as between her statement purportedly recorded under Order X CPC *and* the written statement, is also devoid of any merit, since the appellant has unequivocally admitted both the factum of tenancy as well as the receipt of legal notices terminating her tenancy. In fact, in paras 3 and 8 of her para-wise reply in her written statement, the appellant has admitted that she paid rent to the respondent, thereby affirming her status as a tenant in the subject premises under the respondent.



10. Consequently, this court finds no reason to doubt the authenticity of the statement recorded under Order X CPC merely on account of the appellant's bald and brazen *negation of the rent agreement* in the written statement.
11. It needs to be articulated that Order XII Rule 6 CPC recognises *admissions of fact* made, not just in the pleadings, but also those made "*otherwise, whether orally or in writing*". Furthermore, this provision empowers the court to act on such admissions of fact "*at any stage*" of a suit; and the court is also empowered to act on "*its own motion*", without awaiting an application by any of the parties and awaiting the determination of any question between the parties. The intent and purpose of Order XII Rule 6 CPC is to promptly close issues in relation to which there are admissions of fact, which obviate the need for marshalling evidence.
12. As a sequitur to the above, this court finds nothing remiss in the impugned order, whereby the respondent's suit for recovery of possession and other reliefs has been *partially* decreed on an application filed under Order XII Rule 6 of the CPC.
13. Upon being queried, learned counsel for the appellant submits that in fact, consequent upon passing of the impugned order dated 21.01.2025, execution petition bearing Ex.No. 68/2025 was filed by the respondent, pursuant to which a bailiff was appointed and possession of the subject property has already been handed-over to the respondent on 07.04.2025.
14. Learned counsel for the appellant has argued that no notice of the execution petition was issued to the appellant, which is also an



argument that must be rejected, since the execution petition was filed within 02 years of the passing of the preliminary decree and no notice was therefore required to be issued in such execution petition in view of Order XXI Rule 22 of the CPC.

15. Lastly, learned counsel appearing for the appellant has argued that certain articles and the personal effects belonging to the appellant are still lying in the subject premises. Learned counsel appearing for the respondent on advance copy submits, that the bailiff has drawn-up a list of those articles and personal effects; and the respondent has himself moved an application before the learned trial court offering to return those articles and personal effects (as per the list prepared by the bailiff) to the appellant.
16. In view of the above, this court finds no reason to entertain this appeal, which is accordingly dismissed at the stage of issuance of notice itself.
17. It is however directed that all articles and personal effects as per the bailiff's report/list be returned to the appellant within 03 weeks.
18. The appeal is disposed-of.
19. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

APRIL 9, 2025/ak