



2026:DHC:973



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

% Date of Decision: 14.01.2026

+ **FAO 390/2017**

DELHI DEVELOPMENT AUTHORITYAppellant

Through: Ms.Mrinalini Sen, Standing Counsel
for DDA with Ms.Aditi Singh and
Mr.Aman, Advocates

versus

SHISH PALRespondent

Through: Mr.P.S. Gullia and Mr.Varun Verma,
Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been preferred assailing the judgment dated 27.01.2017 passed by the learned ADJ-01 (*South*), *Saket Courts, New Delhi* in RCA No.8885/16.
2. Vide the impugned judgment, the learned ADJ partly allowed the appeal. While learned ADJ upheld the order passed by the Trial Court insofar as reliefs of declaration and mandatory injunction sought in the Suit was held to be barred by law and consequently the plaint *qua* the said reliefs was rejected under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 (CPC), the suit insofar as relief of permanent injunction is concerned, was held to be maintainable.
3. Briefly put, the *Shish Pal*/respondent, had approached the Trial Court by way of a Suit seeking declaration and permanent injunction in respect of



property bearing No. T-93/1, *Khirki Village, New Delhi*, stated to be falling in *Khasra* No. 1097/228. It was averred that he along with his family members was residing in the said property for the last 70–80 years and thus had perfected title thereto by way of adverse possession.

He further claimed that the DDA, without issuance of any notice, trespassed upon the said property and attempted to carry out forceful demolition in the existing construction. It was claimed that the suit property originally belonged to the District Board relating to Bandh Area of *Khirki* Village and with the consent of District Board, Shish pal's family was in possession in the suit property for more than 80 years.

Apart from seeking a declaration to the effect that he had perfected title over the suit property by way of adverse possession, a further relief of mandatory injunction was also claimed, seeking directions to the DDA to carry out demarcation in accordance with law.

4. The Trial Court, vide order dated 09.06.2016, considered the issue of maintainability of the suit as well as the application filed under Order XXXIX Rule 1 & 2 CPC. In that context, The Trial Court noted the plaintiff's contention that in the matter of DDA vs. Sujan Singh [RSA No.75/11] it was observed that in case the property in question falls under *Khasra* No.1097/228, DDA had no claim thereto.

5. The suit was resisted by the DDA on multiple grounds. It was contended that the suit was not maintainable for want of statutory notice under Section 53B of the Delhi Development Act, 1957. It was next contended that the suit property stands required by the DDA even if it belonged to District Board in 1974. It was also urged that the plaint was



vague inasmuch as it failed to provide proper particulars or demarcation of the suit land.

6. The Trial Court held that a person cannot seek a declaration of title on the basis of adverse possession. It was further observed that while the plaintiff asserted that the suit property fell in Khasra No. 1097/228, he simultaneously sought the relief of demarcation, which was otherwise maintainable before the revenue authorities. The Trial Court also noted that the plaintiff had made a vague assertion of being in possession of the suit property for the last 70–80 years, without disclosing any specific commencement point of the alleged adverse possession.

7. While upholding the objections the plaint in entirety alongwith the application under Order 39 Rule 1 and 2 was rejected. This order on being assailed, was partly upheld, in terms noted herein above. In reaching its conclusion, learned ADJ took note of the fact that the plaintiff has claimed continuous possession and therefore directed that he be not dispossessed without due process of law.

8. The only contention put forth by learned counsel for DDA is that a suit for permanent injunction would not lie.

9. The contention that a simpliciter suit for permanent injunction is not maintainable, is meritless. It is apt to record that even a trespasser, who claims possession of a property without any lawful right thereto, cannot be dispossessed except by recourse to law. It is a settled position in law that possession, as a matter of fact, is entitled to protection against forcible dispossession, irrespective of the question of title. In Munshi Ram & Others



v. Delhi Administration¹, the Supreme Court categorically held that no person, including the true owner, has a right to dispossess another by use of force and that a person in possession cannot be evicted except by recourse to law.

10. The aforesaid principle was reiterated in Krishna Ram Mahale (Dead) by His Lrs. v. Mrs. Shobha Venkat Rao², wherein the Supreme Court held that even a person who is in unauthorised possession cannot be dispossessed otherwise than in due course of law.

11. Similarly, in Rame Gowda (D) by Lrs. v. M. Varadappa Naidu (D) by Lrs. & Anr.³, the Supreme Court again clarified that a person in peaceful and settled possession is entitled to seek an injunction to protect such possession against unlawful interference, even as against the rightful owner, until evicted in accordance with law. The principle laid down in the aforesaid decisions is that a suit seeking injunctive relief simpliciter, founded on possession and a threat of forcible dispossession, is maintainable in law.

12. In view of above, the appeal is dismissed being devoid of merit.

**MANOJ KUMAR OHRI
(JUDGE)**

JANUARY 14, 2026

pmc

(corrected & released on 05.2.2026)

¹ (1968) 2 SCR 455

² (1989) 4 SCC 131

³ AIR 2004 SC 4609