



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

% *Reserved on: 18th February, 2026*
Pronounced on: 1st June, 2026

+ **RSA 202/2024, CM APPL. 70406-70407/2024 & 70409/2024**

1. **DALJEET SINGH**
S/o Late Sh. Raghbir Singh,
R/o Village Shahbad Daulatpur,
Delhi- 110042
2. **MANJEET SINGH**
S/o Late Sh. Raghbir Singh,
R/o Village Shahbad Daulatpur,
Delhi- 110042
3. **RAJ KUMAR**
S/o Late Sh. Raghbir Singh,
R/o Village Shahbad Daulatpur,
Delhi- 110042
4. **KAMLA**
W/o Late Sh. Ranjeet Singh,
(LR of Late Sh. Ranjeet Singh)
R/o Village Shahbad Daulatpur,
Delhi- 110042
5. **SANTOSH BALHARA**
W/o Sh. Sunil Balhara,
(LR of Late Sh. Ranjeet Singh),
R/o Kh. No. 131, Gali No. 1,
Neb Sarai, Delhi- 110068
6. **VIKRAM JEET RANA**
S/o Late Sh. Ranjeet Singh,
(LR of Late Sh. Ranjeet Singh)
R/o Village Shahbad Daulatpur,



Delhi- 110042

7. SAPANA

W/o Sh. Vivek Mathur,
(LR of Late Sh. Ranjeet Singh),
R/o H. No. 310B, Opp. Sr. Sec. School,
Karala, Mohammadpur Majri,
Delhi- 110081

.....Appellants

Through: Mr. Sahil Rao, Advocate

versus

1. JAI KISHAN,

S/o Late Sh. Daya Nand,
R/o H. No. 398, Near PNB Bank,
Village Shahbad Daulatpur, Delhi- 110042

2. PRADEEP KUMAR

S/o Late Sh. Daya Nand,
R/o H. No. 398, Near PNB Bank,
Village Shahbad Daulatpur, Delhi- 110042

3. SUNITA

W/o Late Sh. Daya Nand,
R/o H. No. 398, Near PNB Bank,
Village Shahbad Daulatpur, Delhi- 110042

.....Respondents

Through: Mr. Naveen Kumar Yadav, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Second Appeal under Order XLII read with Section 100 of



the Code of Civil Procedure, 1908 (CPC) has been filed against the judgment dated 10.07.2024 whereby the learned District Judge has upheld the judgment dated 10.07.2024 passed by the learned Civil Judge, whereby the Suit of the Plaintiffs/Respondents seeking to restrain the Defendants/Appellants from dispossessing the Plaintiffs from the Suit Property **was allowed**, while the relief of Mandatory Injunction seeking directions for raising the boundary wall alongside the suit land of the Plaintiffs, was dismissed.

2. The Plaintiffs/Respondents had filed a **Civil Suit bearing CS No. 53489/16 (Old No. 360/12)** for *Permanent and Mandatory Injunction*.

3. *The facts in brief*, are that the Plaintiffs are the owners, actual cultivators and in physical possession of agricultural ancestral land bearing Khasra No. 15/22/1 situated in the Revenue Estate of Village Shahabad, Daulatpur, Delhi, admeasuring 1 Bigha 2 Biswas (*hereinafter referred to as the 'Suit Property'*). The Defendants are the owners of land adjoining the Suit Property on both sides, bearing Khasra Nos. 15/21/2 (1-9) and 15/22/2 (3-14), admeasuring 3 Bighas 5 Biswas, situated in Village Shahabad, Daulatpur, Delhi.

4. On 20.05.2012, Plaintiff No. 1, Jai Kishan, visited the Suit Property and was shocked to find that the boundary pillars on all sides of the Suit Property had been demolished and that the Suit Property of the Plaintiffs had been merged with the adjoining land of the Defendants. It was claimed that the Defendants attempted to encroach upon and grab the Suit Property of the Plaintiffs by raising a boundary wall on one side thereof; however, the said attempt was thwarted due to the intervention of the local villagers and the



protest lodged by the Plaintiffs. Consequently, the construction of the boundary wall was stopped.

5. The Plaintiffs made written complaints dated 26.05.2012, 29.05.2012 and 29.07.2012 to the local Police, but no action was taken thereon. It was further averred that the concerned SDM had, vide Order dated 03.05.1999, directed demarcation of the Suit Property. The Plaintiffs, therefore, claimed that they had a reasonable apprehension that the Defendants would dispossess them from the Suit Property by illegally taking possession thereof and merging it with their own land.

6. Accordingly, the Plaintiffs sought a decree of Permanent Injunction restraining the Defendants from illegally interfering with or taking possession of the Suit Property, and a decree of Mandatory Injunction for directing the Defendants to restore the demolished boundary pillars to their original position.

7. The Defendants, in their *Written Statement*, asserted that the adjoining lands on either side of the Suit Property, bearing Khasra Nos. 15/21/2 (1-9) and 15/22/2 (3-14), belong to them and their brother, Surjeet Singh, and that they are the recorded Bhumidars, in possession thereof. It was further stated that the Suit Property of the Plaintiff, is situated between the aforesaid two Khasra numbers of the Defendants and that, ever since the consolidation proceedings conducted in the year 1975-76, the land has remained in their possession.

8. It was claimed that, under the garb of the present Suit, the Plaintiffs intend to take possession of the Suit Property. However, according to the Defendants, the right, title and interest of the Plaintiffs, has already been



extinguished, on account of lapse of time. It was further contended that the efficacious remedy available to the Plaintiffs was to file a Suit under Section 84 of the Delhi Land Reforms Act, 1954. Moreover, the Defendants asserted that the present Suit was barred under Section 185 of the Delhi Land Reforms Act, 1954.

9. The Defendants further stated that no passage had been provided by the Consolidation Authority, for access to the Suit Property at the relevant point of time and, therefore, the question of the Plaintiffs being in possession thereof, did not arise. According to the Defendants, a wheat crop had been sown by them on the Suit Property and was standing thereon, at the relevant time. The remaining averments made in the plaint were denied, in toto.

10. *No Replication was filed on behalf of the Plaintiffs.*

11. The *issues* on the pleadings were framed on 23.11.2016, as under:

“(i) Whether the suit is barred under section 185 DLRA?

OPD

(ii) Whether the plaintiff is entitled to the decree of permanent injunction, as prayed for? OPP

(ii) Whether the plaintiff is entitled to the decree of mandatory injunction as prayed for? OPP

(iv) Relief.”

12. The Plaintiff No. 2-Sh. Pradeep Kumar examined himself as **PW-1** and proved the site plan, aksizra, khatoni, the Police complaints and also the demarcation report dated 09.10.2014 as Ex.PW1/A to PW1/1 to PW1/12.

13. The Defendant No. 4 Sh. Raj Kumar Rana examined himself as **DW-1** and deposed on similar lines as the defence taken in the Written Statement.



14. DW-2, Sh. Lalit Kumar Rana, Halka Patwari from the office of the SDM, Alipur, produced and proved the original Aks Shizra pertaining to the Suit Property and the two Khasra numbers of the Defendants, as well as the Khasra Girdawari records of all the concerned Khasra numbers for the period 2016–2018.

15. The learned Civil Judge, on appreciation of the evidence held that the Suit for Declaration and Injunction was not barred under Section 185 of the Delhi Land Reforms Act, 1954. It was further observed that DW-1, Sh. Rajkumar Rana, had admitted in his cross-examination that, *“as per the revenue record, plaintiffs are the owner of Khasra No. 15/22/1 (1 Bigha 2 Biswas), i.e., the Suit Property.”* He also admitted that there was no Khasra Girdawari reflecting possession of the Suit Property, in favour of the Defendants. While DW-1 stated that he had been cultivating the Suit Property for a long period, his testimony was found to be inconsistent and contradictory, as he subsequently stated that they had been cultivating the Suit Property, only since the year 2017.

16. From the testimony of DW2 and admissions made by the Defendants, it emerged that the Plaintiffs were the owners and in possession of the Suit Property, while the Defendants failed to establish their settled possession over the same. *Accordingly, the Suit for Permanent Injunction was decreed in favour of the Plaintiffs and the Defendants were restrained from interfering with the peaceful settled possession of the Plaintiffs over the Suit Property.*

17. Insofar as the *Mandatory Injunction* for directing the Defendants to reconstruct the boundary wall allegedly demolished by them is concerned, a



reference was made to the testimony of PW1, who had admitted that they had never raised boundary pillars around the Suit Property and thus, it was held that no question of them having been demolished by the Defendants arose. *The relief of **Mandatory Injunction** for directing the Defendants to reconstruct the boundary pillars was, therefore dismissed.*

18. Aggrieved by the said judgment, the Defendants/Appellants preferred **RCA DJ 39/2019.**

19. However, the *learned District Judge* re-affirmed the assertions made by the learned Civil Judge, by referring to the testimony of the Plaintiffs, Halka Patwari as well as the Defendants, and concurred with the observations of the learned Civil Judge. **It was held that there was no merit in the Appeal and it was consequently, dismissed.**

20. The present *Regular Second Appeal* has been filed by the Defendants/Appellants, assailing the Judgment dated 10.07.2024 passed by the learned District Judge.

21. The *grounds of challenge* are that for the purpose of grant of Injunction to protect the possession of an owner or any person, it must be established that such person was in lawful possession of the Suit Property. However, the Plaintiffs, in paragraph 3 of the plaint, had admitted that, “on 20.05.2012 when Plaintiff No. 1 visited the Suit Property, he was shocked to see that not only had the boundary pillars on all sides of the Suit Property been demolished, but that the Suit Property had also been merged by the Defendants with their own land.”

22. These averments stood corroborated by the Complaints dated 20.05.2012, 29.05.2012 and 28.07.2012 made by the Plaintiffs/Respondents



to the Police wherein also, it was stated that they have been dispossessed by the Defendants and also sought restoration of possession.

23. It is further contended that once it was proved from the testimony of PW1 that he was not in physical possession of the Suit Property, then a simplicitor Suit for Injunction was not maintainable, without claiming possession.

24. The onus was on the Plaintiffs to prove their possession and to show that they were actually in possession of the Suit Property. Admittedly, no crops were recorded in the official Khasra Girdawari record for the Suit Property from 1996 to 2011, which, according to the Appellants, strongly indicated that the Plaintiffs were not in possession thereof during this period.

25. However, the learned Trial Court, in his judgment dated 27.02.2019, decided the issue of possession in favour of the Plaintiffs, mainly because the Defendants were not able to prove their own settled possession. It is claimed that the decision improperly shifted the burden of proof from the Plaintiffs, who were required to establish their possession independently.

26. It is further contended that the Suit has been decreed despite the Khasra Girdawari records reflecting no cultivation by the Plaintiffs from 1996 to 2011. This omission, according to the Appellants, significantly undermines the Plaintiffs' claim of physical possession, as the absence of crop records during the this period, contradicts their assertion that they had been actively and regularly cultivating the Suit Property. The learned District Judge erred by heavily relying on an outdated Khatauni records, while disregarding the need for current possessory proof.

27. The Plaintiffs, in their cross-examination, had admitted that the



boundary pillars, which were alleged to have been demolished by the Defendants, had in fact, never existed. This crucial inconsistency, according to the Appellants, demonstrated the absence of a valid cause of action and ought to have resulted in the dismissal of the Suit.

28. The learned Civil Judge as well as the learned District Judge have overlooked the admissions made by the Plaintiffs, which clearly show that the cause of action first arose on 20.05.2012, when Plaintiff No. 1 observed that the Defendants had allegedly started occupying the property by demolishing the boundary pillars and had extended threats to the Plaintiffs. They also acknowledged that they made Complaints to the Police in May and July, 2012 seeking restoration of possession of the Suit Property. These complaints, according to the Appellants, constitute an admission by the Plaintiffs that they had been dispossessed and were seeking to regain possession. These admissions demonstrated that the Plaintiffs were not in possession of the Suit Property; this key consideration was allegedly overlooked by both the Courts, while decreeing the Suit in favour of the Plaintiffs.

29. Reliance is placed on Narayan Bhagwantrao Gosavi Balajiwale v. Gopal Vinayak Gosavi, 1960 AIR 100, wherein it was held that admissions constitute substantive evidence and, unless satisfactorily explained or rebutted, may have a decisive bearing on the determination of a party's claim to possession.

30. Reliance is also placed on Radha Kishan v. Salig Ram, 1952 AIR SC 47, wherein it was held that matters concerning agricultural land fall within the exclusive domain of the revenue courts under the Delhi Land Reforms



Act, and that such jurisdictional limitation, is substantive in nature. It is, therefore, claimed that both the Courts overlooked the mandatory jurisdictional bar and erroneously exercised jurisdiction in the matter.

31. The Supreme Court in *Kishan Lal v. Lal Chand* AIR 1964 SC 500 held that denial of a material witness, compromises the fairness of the trial and infringes upon the party's fundamental right to substantiate their claims through adequate representation.

32. The Supreme Court in *S.P. Chengalvaraya Naidu v. Jagannath*, (1994) 1 SCC 1, held that possession must be established through cogent and reliable evidence and that historical records, by themselves, may not constitute proof of current possession where a contrary claim is supported by evidence. The recent revenue records, such as the Khasra Girdawari, which could have reflected the current status of possession, were not produced in support of the claim for injunctive relief. Reliance is also placed on *Anathula Sudhakar v. P. Buchi Reddy*, (2008) 4 SCC 594.

33. It is further contended that the report of the Local Commissioner has been unjustifiably discarded, despite recording the Appellants' peaceful possession of the Suit Property. Moreover, in *Suraj Bhan v. Financial Commissioner*, AIR 1969 SC 221, it was held that the firsthand observations of a Local Commissioner regarding possession carry considerable evidentiary value in adjudicating disputes relating to land possession. According to the Appellants, the disregard of this impartial report constitutes a serious procedural lapse, as it deprived the Courts of objective evidence regarding the status of possession of the Suit Property.

34. The reliance on an old Khatauni, without the production of recent



KhasraGirdawari records to establish continuous possession, created a material gap in the evidence. In Konda Lakshmana Bapuji v. Government of Andhra Pradesh, (2002) 3 SCC 258, it was held that the grant of injunctive relief requires proof of continuous and uninterrupted possession, failing which the claim of possession remains unsupported and thus, untenable.

35. The *substantial questions of law* have arisen in the present Regular Second Appeal, as the legal principles governing protection of possession and the burden of proof are alleged to have been erroneously applied, while deciding the Suit. It is, therefore, submitted that the impugned judgment dated 10.07.2024 passed by the learned District Judge be set aside and the Suit of the Plaintiffs be dismissed.

36. The Respondents/Plaintiffs in support of their Appeal have given a brief synopsis reiterating and re-affirming the grounds of Appeal as stated hereinabove.

Submissions heard and record perused.

37. Essentially, the Appeal is directed against the grant of the relief of Permanent Injunction, whereby the Appellants have been restrained from interfering with the peaceful possession of the Plaintiffs/Respondents over the Suit Property.

38. The *first aspect* which is not even disputed is that, as per the Revenue Record, the Suit Property is in the name of the Plaintiffs. This aspect has been admitted by DW1 in his testimony that the Plaintiffs are the owners of the Suit Property. The second material witness was DW2, Sh. Lalit Kumar Rana, Halka Patwari, who also deposed that the Suit Property was owned by the Plaintiffs and was situated between the two parcels of land, belonging to



the Defendants on either side. While the Defendants had asserted that pursuant to the consolidation proceedings, the Suit Property, being located between their two parcels of land, had remained in their possession since 1975-76.

39. However, the learned Civil Judge rightly referred to the testimony of DW2, Halka Patwari, who deposed that, as per the revenue records, there was an entry of Jowar crop for Kharif 2016, in the Suit Property. Thereafter, in the Rabi season, there was no entry of any crop. Likewise, in respect of the Khasra numbers belonging to the Defendants, there was no entry of any crop for Kharif, 2016 and the subsequent Rabi season of 2017. There was no record showing any crop standing in any of the aforesaid three Khasra numbers. DW2 further explained that crops may have been standing in the aforesaid fields, for which reason no corresponding entry was made in the Khasra Girdawari for the year 2017-2018. *The Revenue Record, therefore, clearly reflected that the Suit Property was recorded as being in the possession and cultivation of the Plaintiffs.*

40. There was a Demarcation Report dated 09.10.2014, the authenticity of which was questioned by the Defendants. The said Report had been prepared in the presence of both the Defendants/Appellants and the Plaintiffs. DW1 admitted his signatures on the Demarcation Report and admittedly, no complaint was made before any authority in regard to the Demarcation Report; rather, DW1 denied the suggestion that the Demarcation Report dated 09.10.2014, Ex. PW1/12, and the Khasra Girdawari had been manipulated or falsely prepared at the instance of the Plaintiffs. These two documents lend support to the claim of possession, set



up by the Plaintiffs.

41. The *main contention* of the Defendants in support of their plea that the Plaintiffs were not in possession of the Suit Property, was that it was a landlocked parcel of land and that no rasta/passage existed through which the Plaintiffs could access or cultivate the Suit Property. However, DW2, Halka Patwari, had deposed that, as per the Aks Shizra, there were more than 500 Khasra numbers, which did not have any rasta or passage.

42. It is a known fact that in cases where the lands are situated adjoining each other and there is no independent rasta or passage, the owner of a land parcel is entitled to access his land through the adjoining plots surrounding the Suit Property. Merely because there is no independent access, does not lead to the conclusion that the Plaintiffs were not in possession of the Suit Property.

43. The Appellants had vehemently contended that, according to the Plaintiffs themselves, the boundary pillars had been removed and the Defendants had merged the Suit land with their own land. However, the Revenue Record clearly reflected that crops were being cultivated by the Plaintiffs, thereby evidencing their possession over the Suit Property. Moreover, merely because the boundary pillars had not been erected by the Plaintiffs, does not divest them of their rights in the Suit Property, of which they are admittedly the recorded owners.

44. It may also be noted that where the property is a vacant plot of land, possession ordinarily follows title and is determined with reference to the person recorded as the owner of such land.

45. *The learned Civil Judge* thus, upon appreciation of the entire



evidence on record, rightly concluded that the possession of the Plaintiffs stood established, and this finding of fact was affirmed by the *learned District Judge* in the impugned judgment dated 10.07.2024.

46. From the aforesaid discussion, it is evident that the present Second Regular Appeal challenges are only to the finding of fact and there is no substantial question of law, which has been raised.

47. There is no merit in the present Appeal, which is hereby, dismissed. Pending Applications, if any, are also disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE01, 2026

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