



2026:DHC:5023



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

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*Reserved on: 14th May, 2026
Pronounced on: 01st June, 2026*

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RSA 80/2026, CM APPL. 25620-25621/2026

MEGH NATH YADAV

S/o Late Goverdhan Yadav

R/o Garrage No.11,

Sujan Singh Park

New Delhi.-11003.

.....Appellant

Through: Mr. Virendra Singh and Mr. R. H.
Siddiqui, Advocates.

versus

SIR SOBHA SINGH AND SONS PVT LTD

Having its registered office at:

1-A, Janpath New Deli-110011.

Through its Director/Principal Officer

Authorized Representative

Shri Premender Singh

.....Respondent

Through: Mr. Anand Singh and Ms. Purna,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the *Appellant/Defendant* to assail the *Judgment and Decree dated 23.03.2026*, whereby the learned District Judge, in RCA DJ No. 4/2026, *upheld* the *ex-parte* Judgment and Decree dated 09.01.2025, of the Ld. Civil



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Judge **decreeing** the suit of the Plaintiff/Respondent for *possession and recovery of pendente lite and future damages/mesne profits @ Rs. 8,000/- per month from 18.12.2020 till recovery of possession, along with interest @ 6% per annum.*

2. The Plaintiff/Respondent, Sir Sobha Singh & Sons Pvt. Ltd., filed a *Suit bearing CS No.926/2020 seeking Possession, recovery of pendente lite and future damages/mesne profits, along with interest.*

3. **Briefly stated**, the case of the Plaintiff/Respondent was that it was the owner/landlord of the premises constructed at Sujan Singh Park, New Delhi-110003, the leasehold rights whereof were stated to be vested in the Plaintiff/Respondent under the Land & Development Office (L&DO), Ministry of Urban Development, Government of India. The present Suit was filed in respect of Garage No. K-11, Sujan Singh Park, New Delhi-110003 (*hereinafter referred to as the "Suit Property"*), which was given to the Defendant/Appellant through oral tenancy at a monthly occupation charges of ₹4195/- inclusive of water and service charges.

4. The Plaintiff had earlier instituted an Eviction Petition bearing E. No. 31/2015 under Section 14(1)(a) of the Delhi Rent Control Act, 1958, in respect of the Suit Property, which was allowed *vide* Order dated 12.01.2017 by Id. SCJ-cum-RC, Patiala House Courts, New Delhi. The benefit under Section 14(2) of the Delhi Rent Control Act was given to the Defendant, upon deposit of arrears of rent calculated at the then applicable rate of Rs.3,316/- per month and the Eviction Petition was finally disposed of.

5. Subsequently, the applicable use and occupation charges in respect of the Suit Property stood enhanced from time to time, and pursuant to Notice dated 12.11.2018, it became *Rs.4,195/- per month w.e.f. 01.01.2019.*



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6. The Plaintiff terminated the tenancy of the Appellant/Defendant *vide* Notice dated 04.12.2013, and that any amount received thereafter, was accepted only towards use and occupation charges. Without prejudice thereto, it was stated that the present Suit itself be treated as a notice of termination of tenancy.

7. The Plaintiff claimed that the Defendant was misusing the Suit Property for commercial purposes, without the consent or knowledge of the Plaintiff and contrary to the terms of the lease granted by the Land & Development Office. However, the Defendant has continued the misuser, despite various Notices asking to stop the alleged misuse.

8. The plaintiff asserted that the use and occupation charges in respect of the Suit Property was in excess of Rs.3,500/- per month, and the tenancy of the Appellant/Defendant already stood terminated. Thus, the Appellant/Defendant had no subsisting right to continue in possession of the Suit Property and *was liable to hand over vacant possession thereof*.

9. Also, being in unauthorized occupation of the Suit Property, the Appellant/Defendant was also liable to pay damages/mesne profits @ Rs.8,000/- per month, i.e. the prevailing market rent, from the date of institution of the Suit till recovery of possession.

10. The Plaintiff/Respondent thus, *sought a decree of possession along with recovery of damages/mesne profits, interest, costs and other consequential reliefs.*

11. The summons in the Suit were duly served upon the Appellant/Defendant, on 23.11.2022. However, since neither appearance nor Written Statement was filed on behalf of the **Appellant/Defendant, he was proceeded *ex parte*, vide Order dated 18.04.2023.**



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12. The Plaintiff/Respondent examined **PW-1**, Shri Preminder Singh, its Authorized Representative, who tendered his evidence by way of affidavit Ex. PW1/A and relied upon various documents, including the certified copy of the Board Resolution dated 22.11.2014 as Ex. PW-1/1; Certificate of Incorporation as Ex. PW-1/2; Site Plan as Ex. PW-1/3; office copy of notice dated 23.11.2015 as Ex. PW-1/4; postal receipts and AD card as Ex. PW-1/5 (Colly); office copy of notice dated 12.11.2018 as Ex. PW-1/7 and postal receipt as Ex. PW-1/8; two bills dated 01.07.2020 and 01.11.2020 as Ex. PW-1/11 (Colly).

13. The Plaintiff/Respondent also examined **PW-2**, *Shri Aman Kumar Mathasara, JA, Record Room (Civil), Patiala House Courts, New Delhi* who produced the judicial record pertaining to *RC No. 5340/2016* titled as '*Sir Sobha Singh And Sons Vs. Megh Nath Yadav*' which was exhibited as Ex. PW-2/1 (Colly).

14. The learned Trial Court, on appreciation of unrebutted testimony and material placed on record, it held that the Appellant/Defendant had admitted his status as tenant in the earlier eviction Order dated 12.01.2017 Ex. PW-2/1. The landlord-tenant relationship thus, stood proved. The tenancy stood terminated *vide* Notice dated 04.12.2013, and the user/occupation charges were Rs. *Rs.4,195/- per month, i.e. more than Rs. 3,500/-*. Therefore, the Suit of the Plaintiff was decreed for possession. Also, the damages/*mesne* profits @ Rs.8,000/- per month w.e.f. 18.12.2020 till recovery of possession, along with interest @ 6% per annum and costs, were also granted, considering that the Suit Property was situated at Sujan Singh Park, New Delhi.



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15. The Suit of the Plaintiff was, accordingly, decreed *vide ex parte Judgment and Decree dated 09.01.2025.*

16. Aggrieved by the *ex parte* Judgment and Decree dated 09.01.2025, the Appellant/Defendant preferred the Appeal **being RCA DJ No. 4/2026** along with a *challenge to the Order dated 09.01.2026, passed in Misc. SCJ No. 86/2025, whereby the application filed by the Appellant/Defendant under Order IX Rule 13 CPC seeking setting aside of the ex parte Judgment and Decree along with Application for condonation of delay, had been dismissed.*

17. The Appellant/Defendant before the learned First Appellate Court that he had never been served with the summons in the Suit and the alleged service had been manipulated by the Plaintiff/Respondent.

18. It was contended that the Appellant/Defendant had been a tenant in respect of the Suit Property for about 20 years and had been regularly paying rent thereof. It was further claimed that in March 2025, when the son of the Appellant/Defendant visited the office of the Plaintiff/Respondent for depositing rent for the months of January and February 2025, it was refused and only then the information regarding the alleged *ex parte* decree, was disclosed.

19. It was further contended that the Notice pertaining to enhancement of rent dated 23.11.2015, and termination of tenancy had never been served upon the Appellant/Defendant. He alleged that being an illiterate person, his thumb impressions may have been obtained on some papers, without disclosing the nature thereof. It was also contended that several officials from NDMC and other government departments, used to visit the tenanted premises for collection of bills and other papers and the



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Appellant/Defendant could have affixed his thumb impression under a mistaken belief, regarding the nature of the documents.

20. The Appellant/Defendant submitted that he contacted his present counsel and applied for certified copies on 03.04.2025. After obtaining the certified copies, the file had got misplaced, due to which the application under Order IX Rule 13 CPC could not be filed earlier and ultimately was filed on 09.06.2025. It was, thus claimed, that sufficient cause existed both for condonation of delay and for setting aside of the *ex parte* Judgment and Decree.

21. It was also contended that the Board Resolution relied upon by the Plaintiff/Respondent, was not validly proved and that the Notice dated 04.12.2013 terminating the tenancy, was invalid in law.

22. The learned First Appellate Court observed that the relationship of landlord and tenant between the parties ***was not disputed and stood admitted.***

23. The learned First Appellate Court also held that the Appellant/Defendant had not disputed the thumb impression appearing on the process server report and had merely raised vague pleas that he may have affixed his thumb impression under some misconception. Accordingly, it was held that the summons had been duly served upon the Appellant/Defendant on 23.11.2022.

24. It was further held that the Appellant/Defendant had failed to show any sufficient cause either for non-appearance in the Suit or for the delay in filing the application under Order IX Rule 13 CPC. It was observed that even as per the own case of the Appellant/Defendant, he had acquired knowledge of the *ex parte* decree in March, 2025, however, the Application



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under Order IX Rule 13 CPC came to be filed only on 09.06.2025 and there was no satisfactory explanation for the intervening delay.

25. The learned First Appellate Court further observed that the tenancy was determinable in law and that service of summons in the Suit itself amounted to notice under Section 106 of the Transfer of Property Act, 1882. It also upheld the damages/mesne profits @ Rs.8,000/- per month.

26. Accordingly, the learned First Appellate Court dismissed RCA DJ No. 4/2026 *vide* Judgment and Decree dated 23.03.2026, and upheld the *ex parte* Judgment and Decree dated 09.01.2025. The Order dated 09.01.2026, passed in Misc. SCJ No. 86/2025 dismissing the Application under OIX Rule 13, was also upheld.

27. Aggrieved by the aforesaid Judgment and Decree dated 23.03.2026 of the learned First Appellate Court, the present **Regular Second Appeal has been preferred by the Appellant/Defendant.**

28. The *grounds of challenge* is that the very foundation of the *ex parte* proceedings, namely, the alleged service of summons upon the Appellant/Defendant, was under serious dispute and could not have been accepted merely on the basis of the Process Server report, particularly in view of the specific plea that the Appellant/Defendant is an illiterate person and was unaware of the nature of the documents upon which his thumb impression had allegedly been obtained.

29. It was further contended on behalf of the Appellant/Defendant that the application under Order IX Rule 13 CPC deserved liberal consideration, particularly when the Appellant/Defendant had approached the Court seeking an opportunity to contest the matter on merits and had raised a *bona fide* dispute regarding service of summons.



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30. It was further submitted that the learned First Appellate Court failed to appreciate that despite directions issued by the learned Trial Court for effecting service through electronic mode, the Plaintiff/Respondent did not effect such service; instead it sought dasti service, which circumstance itself cast a serious doubt upon the alleged due service of summons upon the Appellant/Defendant.

31. It was also contended that the institution of the Suit itself had not been duly authorized in accordance with law, inasmuch as only extracts of the alleged Board Resolution had been produced; neither the original Minutes Book nor the complete Resolution authorizing institution of the Suit, had been proved on record.

32. Learned counsel for the Appellant/Defendant lastly, contended that the decree for damages/mesne profits @ Rs.8,000/- per month had been upheld, without there being any independent evidence regarding prevailing market rent of similarly situated properties and without any inquiry, as contemplated in law.

Submissions heard and Record perused.

33. The scope of interference in a Regular Second Appeal under Section 100 CPC is confined only to substantial questions of law. It is well settled that concurrent findings of fact recorded by the Courts below are not liable to be interfered, unless the same are shown to be perverse, contrary to the material on record or suffering from patent illegality.

34. The *principal challenge* raised on behalf of the Appellant/Defendant pertains to the alleged non-service of summons in the Suit and the consequent *ex parte* proceedings initiated against him. First and foremost, Appeal is not maintainable against the Order in respect of OIX Rule 13



CPC. Even then, perusal of the Trial Court record reflects that summons in the Suit were served upon the Appellant/Defendant on 23.11.2022 and the process server report bears the thumb impression of the Appellant/Defendant. Significantly, the Appellant/Defendant has not disputed the thumb impression appearing thereon and has merely raised vague pleas that the same may have been affixed under some misconception.

35. The learned First Appellate Court has rightly observed that *mere bald assertions that the thumb impression may have been obtained under some mistaken belief, without any supporting material, cannot be sufficient to dislodge the presumption arising from the official acts performed in discharge of duty.*

36. **On the merits of the Appeal**, in order to succeed in a Suit for possession the Plaintiff is essentially required to establish three foundational facts, namely; *firstly*, the existence of a landlord-tenant relationship between the parties; *secondly*, that the rate of rent/use and occupation charges was beyond the threshold prescribed under Section 3(c) of the Delhi Rent Control Act, 1958; and *thirdly*, that the tenancy stood validly terminated, in accordance with law.

37. The Appellant/Defendant has himself admitted before the learned First Appellate Court, that he had been a tenant in respect of the Suit Property for about 20 years and had been regularly visiting the office of the Plaintiff/Respondent, for deposit of rent. Thus, there admittedly, existed a long-standing landlord-tenant relationship between them.

38. Additionally, the Order dated 12.01.2017 passed in the earlier eviction proceedings under Section 14(1)(a) of the Delhi Rent Control Act, proved as



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Ex. PW-2/1, also records the status of the Appellant/Defendant as tenant in respect of the Suit Property.

39. Furthermore, nothing has been placed on record by the Appellant/Defendant to demonstrate that the rate of rent/use and occupation charges in respect of the Suit Property was below Rs.3,500/- per month so as to attract the protection of the Delhi Rent Control Act, 1958. Rather, the record reflects that the applicable charges had already been enhanced beyond the statutory threshold.

40. *Lastly*, the tenancy stood terminated *vide* Notice dated 04.12.2013. Even otherwise, it is well settled that service of summons in a Suit for possession itself constitutes sufficient notice under Section 106 of the Transfer of Property Act, 1882, as has been held in the case of *Nopany Investments (P) Ltd. v. Santokh Singh (HUF)*,(2008) 2 SCC 728, wherein the Supreme Court categorically held that the filing of an eviction suit under the general law operates as a notice to quit upon the tenant.

41. The Appellant had raised the technical objection regarding non-proof of authorization in favour of Shri Perminder Singh. However, the Plaintiff/Respondent had proved the *certified copy of the Board Resolution as Ex. PW-1/1 authorizing institution of proceedings on behalf of the Company*.

42. Thus, the learned Courts below committed no illegality or perversity in decreeing the suit in favour of the Plaintiff/Respondent, and the impugned findings warrant no interference by this Court.

43. The contention regarding damages/*mesne* profits also does not merit acceptance. The learned Trial Court, upon considering the location of the Suit Property at Sujana Singh Park, New Delhi, held that damages/*mesne*



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profits @ Rs.8,000/- per month were neither unreasonable nor exorbitant. The said finding was affirmed by the learned First Appellate Court. No material has been placed on record by the Appellant/Defendant to demonstrate any perversity in the said findings.

44. The aforesaid discussion, makes it evident that the challenge is only to the findings of facts and no substantial question of law arises for consideration, in the present Second Appeal.

45. There is no infirmity, illegality or perversity in the impugned Judgment and Decree dated 23.03.2026 passed by the learned First Appellate Court, warranting interference under Section 100 CPC.

46. The present Regular Second Appeal along with pending applications, if any, is accordingly, dismissed.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 01, 2026/RS