



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

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Reserved on: 9th April, 2026

Pronounced on: 05th May 2026

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RFA No. 336/2026, CM APPL. 23100/2026 (stay)

IZHAR HUSSAIN KHAN

S/o Late Sh. Asrar Hussain Khan

R/o 2153, Turkman Gate,

New Delhi -110002

Through: Mr. Syed Hasan Isfahani, Mr. Uday
Singh, Ms. Vandana Singh,
Advocates.

versus

M/s PANNALAL GIRDHARLAL LTD.

Through Its Director

Shivraj Gupta

Registered Office at:

2nd Floor, Kotla Mubarakpur,

South Delhi 110003.

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 96 read with Order XLI Rule 1 and 2 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Appellant against the Judgment and Decree dated 02.12.2022 whereby *the Suit of the Plaintiff for Ejectment, has been decreed* by the learned Additional District Judge-10, Tis Hazari Court, Delhi.



2. The Plaintiff/Respondent, a public Limited Company had filed a *Civil Suit bearing No. 161/2006*, , through Mr. S.C. Khandelwal, Director, for seeking Possession of the Property bearing No. 2153 to 2157, Turkman Gate, Delhi (hereinafter referred to as suit property).
3. The Plaintiff, stated that it is in the business of manufacture of Copper Wires and Zari Goods at its factory located at the Suit Property, which is constructed over a plot of 1800 square yards. The Plaintiff had been inducted as a tenant, since 01.01.1974 by Mr. Bal Krishan Dass, HUF, the owner of the Suit Property.
4. Subsequently, the dispute arose *inter se* the coparceners of Mr. Bal Krishan Das, HUF. One of its coparceners i.e. Mr. Hariskishan Gupta filed a Suit bearing CS(OS) No. 1/1984, titled *Sh. Hari Krishan Gupta vs. M/s Pannalal Girdharilal Pvt. Ltd. & Ors.*, for Declaration, against the Plaintiff and other members of Mr. Balkishan Dass, HUF challenging the tenancy of the Plaintiff in the Suit premises created by Mr. Balkrishan Das, HUF.
5. In the interim, an Application under Order 39 Rule 1 & 2 CPC was filed on 03.01.1984 wherein the Plaintiff herein was restrained from transferring the Suit Property or creating third party rights by way of tenancy or otherwise, in favour of any other person. The Plaintiff through his Counsel, undertook not to create any third-party rights. The Plaintiff continued to be a lawful tenant in the Suit premises, since 01.01.1974. His Machinery and Plant, as well as, records, fixtures, furniture etc. are lying in the Suit premises.
6. The Plaintiff had to stop his manufacturing activities of copper wire and Zari goods, in the Suit premises, pursuant to the Order of the Supreme



Court of India imposing restrictions on carrying manufacturing activities in the walled city of Delhi.

7. While the Plaintiff stopped the manufacturing activities, but his machinery etc. and other moveable goods, are still lying in the Suit Property. For the safety and security of the factory and its assets, the Plaintiff kept the Defendant as a caretaker on 30.09.1995, to take care of the premises.

8. The Defendant was an employee of the Plaintiff's sister concern i.e. Victor Cable Industries Ltd. and was working as a Bank Assistant in the said Company. The Victor Cable Industries Ltd., however, has no concern whatsoever with the Suit Premises. The Defendant was given a room at the entrance on the Ground Floor of the Administrative Block of the Suit Premises, to live therein for the said purpose.

9. The Defendant, who was an employee of the Victor Cable Industries Ltd., unauthorisedly stopped coming to the Office of the Company on his own since April, 1998 and was, therefore, removed from the services on the ground of unauthorised absence and misconduct, for not following the instructions of his employer in May, 1997.

10. *The Defendant thereafter, filed a Suit for Permanent Injunction against Mr. Shivraj Gupta, Director of Victor Cable Industries Ltd., on false and frivolous averments, contentions and allegations that in lieu of higher house rent allowance, the Victor Cable Industries Ltd. had put him in the occupation of Suit Premises to live therein since October, 1995 and he had been occupying and living in the Suit premises, since he was working with the Victor Cable Industries Ltd. However, he was not paid his salary since March, 1997 nor was his services legally terminated and Mr. Shivraj Gupta*



was intending to dispossess him from the Suit premises by force and by extending threats.

11. *Mr. Shivraj Gupta in the said Suit, filed his Written Statement,* stating that the Suit Property did not belong to Victor Cable Industries Ltd. and it had no concern with the Suit Property. Therefore, there was no question of the Company having put the Defendant in occupation of the Suit premises. It was stated that the Plaintiff Company was the legal tenant in the Suit Premises since 01.01.1974 and the entire Suit premises were in their legal occupation and possession.

12. The Suit premises were also a subject matter of *Suit No. 1/1984 filed by Mr. Harikishan Gupta against M/s Pannalal Girdharlal Ltd. and vide Order dated 03.01.1984,* the Court had restrained the Plaintiff from creating thidr party rights in the Suit premises. It was reaffirmed that the Defendant had been kept only as a caretaker by the Plaintiff, to look after the premises. However, in the said Suit, *the learned Civil Judge restrained Mr. Shivraj Gupta from dispossessing the Defendant, without following the process of law till the pendency of the Suit and the Order was upheld by the learned Additional Civil Judge.*

13. The Plaintiff claimed that the Defendant, who was a caretaker, had been misusing the premises for his illegal gain, by allowing the local residents to use the premises for marriages and other functions, besides letting some undesirable elements to live in the premises with him. Despite repeated requests of the Plaintiff to the Defendant, to stop the misuse of the premises, the Defendant did not pay any heed to the request of the Plaintiff.



14. The Plaintiff issued Letter dated 01.08.2006 intimating the Defendant that he was no longer intended to keep the Defendant as a caretaker and asked him to vacate the premises within seven days of receipt of Notice.

15. The Notice was duly served upon the Defendant through UPC, but he intentionally and deliberately refused to accept the Letter sent through Registered A.D. and Speed Post, which was returned with the remarks “REFUSED”. The Defendant instead of leaving the Premises, sold some assets of the Plaintiff i.e. some steel girders and other iron material lying in the premises and also removed the Plaintiff’s Board from the premises. A *Complaint dated 10.08.2006 was made to the Police authorities.*

16. The Plaintiff claimed that he has been visiting the Suit premises and on inspection has found his Plant, Machinery and valuable records and documents lying in the Suit Premises. However, after the Notice dated 01.08.2006, the Defendant became dishonest and has not allowed the Plaintiff’s Directors/representatives, to enter the Suit premises and has been creating all sorts of obstacles and hindrances in their ingress and egress to the Suit premises.

17. The Plaintiff deputed Mr. R.K. Pandey his authorised representative to carry out the inspection of the premises, but he was not allowed inside for inspection.

18. The Plaintiff thereafter, called Local Police to intervene, but it took an indifferent attitude and did not take any steps. **The Plaintiff thus, sought Recovery of Possession from the Defendant.**

19. The **Defendant in his Written Statement took the preliminary objection** that he was in possession and occupation of the Suit Property since September 1995 and the claim of the Plaintiff for Possession was



misconceived. It was claimed that the Plaintiff was misrepresenting that the Defendant was a care taker in the Suit Property and wants to show his possession, which is a sheer lie. M/s Victor Cable Industries Ltd., who was not a party to the present Suit, had put the Defendant in occupation of the Suit Property, against the rent allowance admissible to him. The Plaintiff was not a privy to the transaction and had nothing to do with the Defendant, at any point of time.

20. The Defendant asserted that he is not in the possession of the Property bearing No.2154, 2155, 2156 & 2157, which are in possession of other person since long time. *The Defendant claimed that the Suit was bad for non-joinder of necessary parties as M/s Victor Cable Industries Ltd., had not been impleaded as a party.*

21. The Defendant further claimed that the Plaintiff was not the owner of the Suit Property in question and hence, was not entitled to any relief. The Plaintiff by virtue of another Suit filed by the Defendant *herein* against Mr. Shiv Raj Gupta, Executive Director of M/s Victor Cable Industries Ltd., as well as, the Director of the Plaintiff *herein* knew about the possession of the Suit Property of the Defendant, but had never objected to the same in the past more than 10 years. The Suit suffers from delay and laches and is not maintainable.

22. The Defendant claimed that he had been working with M/s Victor Cable Industries Ltd. even in April, 1997. It is beyond one's reasonable apprehension that how could he be put in occupation of the suit Property by the Plaintiff and appointed as a caretaker on a back date i.e. October, 1995, as alleged by the Plaintiff. The Defendant thus, claimed that the Plaintiff has not approached the Court with clean hands.



23. The Defendant further asserted that the Director of the Plaintiff Company was the Executive Director of M/s Victor Cable Industries Ltd., as admitted by Mr. Shiv Raj Gupta in his Written Statement in the Injunction Suit filed by the Defendant. It was claimed in all probability, the Plaintiff wanted to take advantage and play with the rights of the Defendant, by creating confusion about these two identities. The Defendant thus, asserted that the Suit was liable to be dismissed.

24. The Plaintiff **in his Replication**, reaffirmed the assertions made in the Plaint and denied the averments made in the Written Statement.

25. The **Issues were framed on 29.05.2014**, which are as under:-

“Issue No.1:

Whether the Plaintiff is entitled for a decree of ejectment, in its favour and against the defendant, in respect of suit premises, bearing No.2153-2157, Turkman Gate, Delhi as shown in the site plan, annexed with the plaint, whereby directing the defendant to leave and vacate the suit premises? OPP

Issue No.2:

Whether the suit of the Plaintiff is bad for non-joinder of the parties? OPD

Issue No.3:

Whether the Plaintiff has no cause of action to file the present suit? OPD

Issue No. 4:

Whether the suit of the Plaintiff has not been properly valued? OPD

Issue No.5:



Relief if any.”

26. **The Plaintiff examined PW-1**, Mr. Shiv Raj Gupta, who deposed on the similar lines as the Plaintiff. He proved the documents Ex.PW-1/1 to PW-1/25. He also produced the Attendance Register of the Directors of the Company, which was exhibited as Ex.PW-1/A-2.

27. **The Defendant examined himself as DW-1** and reaffirmed his defence as taken in the Written Statement.

28. **The learned District Judge on appreciation of the evidence, concluded** that the tenancy of the Plaintiff under the HUF, was not challenged nor was there any serious challenge to the Defendant having been kept as a caretaker in the Suit Property on 30.09.1995. In fact, the Defendant admitted of being the caretaker of the Suit premises, which was the key averment in the Plaintiff. In regard to the objection of non-joinder of M/s Victor Cable Industries Ltd., it was held that though, the Defendant was an employee of M/s Victor Cable Industries Ltd. but he had been put in the Suit premises by the Plaintiff. Therefore, the Suit was not bad for non-joinder of necessary party. **The Suit of the Plaintiff was decreed and the Defendant was directed to hand over the vacant possession of the Suit Property to the Plaintiff, within 45 days.**

29. Aggrieved, the Defendant/Appellant has preferred the present Appeal. ***The grounds of challenge are*** that the learned Trial Court has failed to consider the pendency of the Civil Suit bearing CS(OS) No. 1/1984, which has been decided by this Court on 14.07.2010 holding that the Respondent *herein* is not a tenant in the Suit premises and thus, has no locus to file the present Suit. RFA (OS) No. 101/2010 and RFA (OS) No. 13/2011 against the Judgment dated 14.07.2010 has also been disposed of *vide* Order dated



29.11.2018 by this Court and in both the Orders, this Court has given a categorical finding that *the Plaintiff was never a lawful tenant in the Suit Property.*

30. Furthermore, in the Judgment dated 14.07.2010, this Court had categorially observed that it was a fit case for lifting the corporate veil for holding that the said company was a sham, an alter ego, not created for the purpose of trading or carrying on business. Its effect has been to deny the Plaintiff his legitimate rights in respect of the suit property. It was thus, held that the tenancy was not created validly. It was further held that the Balkrishan Dass being authorized to create the tenancy, this was also decided in favour of the Plaintiff (Appellant).

31. It is further claimed that the Appellant in the Written Statement never admitted that he had been kept as a caretaker and had specifically denied the same in Paragraph 7 of his Written Statement. In Paragraph 4(a) of the Written Statement, he had also challenged the ownership of the Plaintiff in the Suit land.

32. The Plaintiff had filed a ***Review Application***, which was dismissed *vide* Order dated 04.02.2026 in complete disregard to the Judgment dated 14.07.2010 and that *RFA (OS) 13/2011 challenging the Order, has been disposed of on the basis of Settlement as the Plaintiff had given an undertaking that he would not claim any right as a tenant in the Suit Property.*

33. It has not been appreciated that the Plaintiff/Respondent had admitted that the Defendant/Appellant was an employee of M/s Victor Cable Industries Ltd. and therefore, there was no question of he being kept as an employee of another Company, as a caretaker. It has not been considered



that the Plaintiff in order to grab the Property of another Company, through Balkrishan Das, had got the tenancy of the Suit premises even though, he was not authorised to create the tenancy.

34. He has falsely claimed that the Company records were kept in the Suit premises, but from the Company Master Data, the Registered address is shown to be different from the Suit premises.

35. It has also not been appreciated that PW-1, Mr. Shiv Raj Gupta was not authorised by the Company, to file the Suit or enter in the witness box, as Resolution dated 25.08.2006 of Board of Directors, Ex.PW-1/16 was not authenticated by Minutes of Meeting of the Board of Directors.

36. It has also not been considered that the Court had no pecuniary jurisdiction. Furthermore, when the Appellant was put in possession in the Suit Property by M/s Victor Cable Industries Ltd., thus, the Suit by the Plaintiff to seek Possession, was not maintainable. It is, therefore, submitted that the impugned Judgment and Decree is liable to be set-aside.

Submissions heard and the record perused.

37. The case of the Plaintiff was that he was tenant in the Suit premises under Balkrishan Dass, who was the owner of the Property since 01.01.1974. The Plaintiff Company, which was running its factory from the premises, had closed the factory pursuant to the Order of this Court dated 03.01.1984. It was further stated that the Plaintiff had stopped its manufacturing activities though, the plant machinery, company records, etc. were kept in the Suit premises. For the security and safety of the factory, as well as, the assets, the Defendant/Appellant was kept in the premises as a caretaker w.e.f. 30.09.1995. However, eventually, he started misusing the Property and also misappropriating the assets of the Plaintiff Company kept



in the factory premises on account of which, Notice dated 01.08.2006 was served terminating his permission to continue in the premises and was asked to vacate the premises. When the Appellant failed to hand over the vacant possession, the Plaintiff filed the Suit for Recovery of Possession.

38. The *entire defence of the Appellant* rested on the claim that the **Plaintiff was not a tenant of Balkrishan, HUF and therefore, could not have inducted or permitted the Appellant, to stay in the premises.** The Defendant had relied upon the litigation *vide* Suit bearing CS(OS) No. 1/1984 titled as *Shri Harikrishan Gupta vs. M/s Pannalal Girdharlal Pvt. Ltd. & Others*. The said Suit got dismissed on 14.07.2010.

39. The perusal of the Judgment shows that it was an *inter se* dispute between M/S Pannalal and Girdharlal and the other family members. One family member, Mr. Harikishan Gupta was challenging the tenancy of the Plaintiff in the Suit premises under Balkrishan, HUF, by asserting various grounds of *inter se* disputes between the family members and M/S Pannalal and the Plaintiff, which had been formed by some of the family members.

40. There may have been *inter se* disputes and it may have been held that the tenancy claimed by the Plaintiff in the Suit premises, was not validly created, but the fact remains that the issue herein was not the validity of the tenancy of the Plaintiff, but whether he was in possession and had admitted the Defendant, to stay in the Suit premises. There is no denial of the Defendant having been inducted in the Suit premises. Whatever may have been the *inter se* disputes amongst the family members, that is not a relevant ground to challenge the possession of the plaintiff/ respondent, in the present Suit.



41. Also, it may be observed that RFA (OS) No. 101/2010 was filed against the Judgment dated 14.07.2010 wherein the Plaintiff and his family members entered into a Settlement and the RFA was accordingly disposed of.

42. In the present Suit, the controversy is limited to whether the Defendant/Appellant was inducted and permitted by the Plaintiff, to reside in the premises and not about the validity of the tenancy, which was created in favour of the Plaintiff under Balkrishan, HUF. The contention of the Appellant in this regard, is totally untenable.

43. The **second defence** taken by the Appellant was that he had been given the premises for user and occupation by M/s Victor Cable Industries Ltd. and not by the Plaintiff. He was an employee of M/s Victor Cable Industries Ltd., a fact which has admitted by the Plaintiff as well. The Appellant claimed that he had been given the premises for occupation by M/s Victor Cable Industries Ltd., in lieu of the rent allowance and he had been inducted in the suit premises by the Company and not by the Plaintiff, as was asserted by them.

44. While the Defendant had questioned the locus of the Plaintiff on the ground that he being an employee of M/s Victor Cable Industries Ltd., had not been inducted by the Plaintiff, but there is no cogent evidence whatsoever led by the Appellant, to show that he was allotted the premises for residence by M/s Victor Cable Industries Ltd., as has also been admitted by him in his evidence.

45. It is significant to note that the Plaintiff and M/s Victor Cable Industries Ltd., may have been sister concern but yet there were two independent entities. The Plaintiff in his testimony had categorically



deposed that he being an employee of a sister concern, was kept in the premises as a caretaker for taking care and security of the factory premises, which were not in use. Merely because he was an employee of the sister concern, does not disentitle the Plaintiff for keeping him in the premises as a caretaker. This is also explained by the submission of the Appellant himself had asserted that M/s Victor Cable Industries Ltd. was the alter ego of the Plaintiff and the Directors of the two, were the same.

46. In this regard, it is pertinent to refer to the cross-examination of the Defendant/Appellant wherein he admitted that he had attended hearings before PF Authorities on behalf of the Plaintiff and his attendance was also marked. His own admissions show that he was taking care of the affairs of the Plaintiff and his claim that he had not been inducted by the Plaintiff, is belied by his own admissions.

47. Another aspect of significance is that his services admittedly were terminated from M/s Victor Cable Industries Ltd. in May, 1997 *vide* Letter Ex.PW-1/18. The Appellant significantly admits that his electricity to the premises was disconnected. He denied the suggestion that it was disconnected by Mr. Hari Krishan Gupta. Pertinently, the Defendant claimed that he did not apply for any electricity connection, but was taking it from the neighbours.

48. The Defendant had also filed a Suit No. 168/2017 in respect of the electricity connection. A suggestion was given to him that he had fraudulently obtained the electricity connection by stating that the Suit property belong to one, Mr. Suhaib Ahmed and he was a tenant under him in the Suit property.



49. He further admitted that the *Suit bearing No. 25/2006 filed against him by Mr. Shiv Raj Gupta*, had been decided against him. He had preferred an Appeal though, avoided stating the status of the Appeal. He expressed his ignorance about the documents submitted in BSES, by claiming that they had not been submitted by him.

50. The Appellant also admitted that he had filed a **Suit No. 168/2017 against BSES for getting the electricity connection though, the Suit got dismissed.**

51. The overwhelming admissions and omissions in the testimony of the Appellant, established that he had been inducted as a caretaker by the Plaintiff in the Suit premises and the permission got terminated *vide* Letter dated 01.08.2006 after which, he became an unauthorised occupant and was liable to vacate the premises.

52. In the light of the aforesaid discussion, it is held that the learned District Judge has comprehensively appreciated the evidence and has decreed the Suit in favour of the Plaintiff/Respondent.

53. There is **no merit in the present Appeal**, which is hereby, dismissed.

54. The pending Application also stands disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 05, 2026/RS