



2026:DHC:8720



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 31st July. 2026

Pronounced on: 05th October, 2026

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RSA 81/2024, , CM APPL. 23625/2024

Ashok Kumar (Since Deceased Through Lrs)

(a.) Pushpa W/O Late Sh. Ashok Kumar

(b.) Rohit S/O Late Sh. Ashok Kumar

(c.) Anjali D/O Late Sh. Ashok Kumar

All R/o H.No.215, Khasra No.204,

Opposite Ram Chaupal, Village Bajitpur Thakran,

Delhi-110039.

...Appellant

Through: Mr. Neeraj Bhardwaj, Advocate.

versus

1. Nirmala Devi

W/O Late Sh. Balwan Singh

R/O H.No.93, Village Bajitpur Thakran,

Delhi- 110039.

2. Kamla Devi

W/O Sh Birender Singh

R/O H.No.90, Village Bajitpur Thakran,



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Delhi-110039.

...Respondents

Through:

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**, filed under **Section 100 read with Section 151 of the Code of Civil Procedure, 1908**, assails the **Judgment and Decree dated 21.02.2024** passed by the learned Additional District Judge, Delhi in **RCA No. 17/2022**, whereby the Judgment and Decree dated **13.03.2020** passed by the learned Civil Judge, decreeing the Plaintiff's Suit for Possession, **was upheld**.
2. The Plaintiff/ *Nirmala Devi* filed a Suit bearing No.282/2009 seeking Possession, Permanent Injunction, Recovery of Rent Arrears, and *Mesne* Profits/Damages.
3. The brief facts are, that **Defendant No. 1, Ashok Kumar**, was the owner of **property bearing No. 215, situated in Khasra No. 204, Old Lal Dora, Village Bajitpur Thakran, Delhi-110039, measuring 175 sq. yds.** (*hereinafter referred to as the "suit property"*). He sold the suit property to **Defendant No. 2, Smt. Kamla Devi**, *vide* Sale Deed dated 22.08.2006. On the same date, a Rent Agreement 22.08.2006 was executed between them, and Ashok Kumar was inducted as a tenant in the suit property, at a monthly rent of ₹2,000, exclusive of water and electricity charges. Thereafter, *Smt. Kamla Devi sold the suit property to the Plaintiff, Nirmala Devi, vide Sale*



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Deed on 04.12.2008, while Ashok Kumar continued in possession as a tenant, under the Rent Agreement dated 22.08.2006.

4. The Plaintiff stated that Ashok Kumar accepted her as his landlady and agreed to pay rent at the rate of ₹2,000 per month. He paid rent to Kamla Devi, erstwhile owner, up to November, 2006 and had defaulted in payment, thereafter. As he failed to pay rent, the Plaintiff issued a Legal Notice dated 06.02.2009, terminating the tenancy and demanding payment of the arrears and delivery of possession. Despite service of the notice, Ashok Kumar did not comply. The Plaintiff further alleged that, after receiving the Notice, he threatened to create third-party rights in the suit property.

5. The Plaintiff further asserted that the Delhi Rent Control Act, 1958, did not apply to Village Bajitpur Thakran.

6. She accordingly, instituted the Suit seeking possession of the suit property, recovery of ₹6,000 as arrears of rent, mesne profits/damages for its continued occupation, and a permanent injunction restraining the Defendant from creating third-party rights therein. **The Plaintiff subsequently amended the Suit to include a prayer for a Declaration of her ownership of the suit property.**

7. In his **Written Statement**, Defendant No. 1, Ashok Kumar, denied that the Plaintiff was entitled to possession. He stated that, in his reply dated 09.03.2009 to the Plaintiff's Legal Notice, he had informed her that the suit property was in the possession of his brother, Birender Singh, son of Maha Singh. He further claimed that the property was ancestral and had fallen to



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Birender Singh's share, in a family partition, *inter-se* the brothers, namely, Birender Singh, Balwan Singh and Ashok Kumar. Ashok Kumar contended that he had no right to the suit property and that the Suit for Possession was not maintainable, against him.

8. The Defendant further asserted that *Birender Singh was a necessary party*, as he was allegedly the owner and in possession of the suit property, following a family partition. He had informed the Plaintiff about these facts in his **Reply dated 09.03.200** to the Legal Notice, despite which Birender Singh was not impleaded as a party in the Suit.

9. It was further stated that Balwan Singh, who is the brother of Defendant, and the Plaintiff at the instance of Balwan Singh, has filed the present suit to harass the Defendant.

10. The Defendant further explained that he had taken a personal loan from Birender Singh, husband of Kamala Devi (the erstwhile owner), and for the purpose of security, had signed some papers. The loan was later on, repaid to Shri Birender Singh. The Defendant claimed that he never executed any Sale Deed and also did not sign any Rent Agreement, as alleged; both these documents are forged and fabricated.

11. Defendant No. 1 also claimed that the Suit was barred by *the Delhi Land Reforms Act, 1954, and the provisions of the Specific Relief Act*.

12. **On merits**, he reiterated his denial of the Plaintiff's claim and reiterated the defences set out in his preliminary objections, and sought dismissal of the Suit.



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13. The **Plaintiff in the Replication** reiterated her assertions in the Plaint and denied the allegations made in the Written Statement.

14. **Defendant No. 2, Smt. Kamla Devi**, was impleaded in the Suit on 24.02.2011. She did not appear and was proceeded *ex parte* on 02.01.2012.

15. Thereafter, **Shri Birender Singh, also referred to in the record as Virender Singh**, was impleaded as Defendant No. 3, *vide* Order dated 22.05.2015. He neither appeared nor filed a Written Statement, and his defence was struck off on 10.12.2015. He died during the pendency of the Suit. Although his legal representatives were served, they did not appear in the Suit.

16. On the pleadings, the **issues were framed vide Order dated 10.11.2014** as under:

- “(i) Whether the plaintiff is entitled to the decree of eviction and subsequently the relief of possession of the suit property? (OPP)
- (ii) Whether the plaintiff is entitled to the recovery of Rs.6000/-? (OPP)
- (iii) Whether the plaintiff is entitled to the relief of permanent injunction? (OPP)
- (iv) Whether the plaintiff is entitled to the relief of mesne profit, if yes, at what rate and for what period? (OPD)
- (v) Whether the plaintiff is entitled to the relief of declaration, as prayed for? (OPP)



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(vi) *Whether the suit of the plaintiff is bad for non-joinder of necessary*

parties? (OPD)

(vii) *Whether the suit of the plaintiff is barred under Section 185 DLR Act? (OPD)*

(viii) *Relief.”*

17. In support of her case, the Plaintiff examined herself as **PW-1** and tendered her affidavit in evidence as Ex. PW-1/A. She relied on the site plan (Ex. PW-1/1), the Sale Deeds dated 04.12.2008 and 22.08.2006 (Ex. PW-1/2 and Ex. PW-1/3, respectively), the Rent Agreement dated 22.08.2006 (Ex. PW-1/4), the Legal Notice dated 06.02.2009 (Ex. PW-1/5), the postal receipt (Ex. PW-1/6), and the UPC receipt (Ex. PW-1/7). Document Ex. PW-1/8 was de-exhibited.

18. **PW-2, Hukum Singh, LDC from the office of the Sub-Registrar VI-B, Narela, Alipur, Delhi**, produced the summoned record relating to the Sale Deeds dated 04.12.2008 and 22.08.2006, Ex. PW1/2 and PW1/3 and confirmed that they were true and correct copies of the documents in the Sub-Registrar's record.

19. **PW-3, Rajesh, son of Balwan Singh**, tendered his affidavit in evidence as Ex. PW-3/A and relied on the site plan and Sale Deed dated 04.12.2008, already exhibited as Ex. PW-1/1 and Ex. PW-1/2, respectively.

20. **PW-4, Prabhu Nath Singh, Kanungo, from the office of the SDM, Narela**, produced the summoned record relating to the Certificate dated



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28.08.2006 issued by the Revenue Assistant, Narela, in favour of Ashok Kumar, son of Maha Singh, concerning Khasra No. 204 in Village Bajitpur Thakran, Tehsil Narela, Delhi. He also produced the Status Report signed by the SDM, Ex. PW-4/1, and the Dispatch Register, Ex. PW-4/2 (OSR).

21. On behalf of Defendant No. 1, **DW-1, Rohit**, son of deceased Ashok Kumar, tendered his affidavit in evidence as Ex. DW-1/1. He relied on the reply to the Legal Notice, exhibited as Ex. DW-1/2, and its postal receipt, exhibited as Ex. DW-1/3.

22. **DW-2, Smt. Pushpa**, widow of deceased Ashok Kumar, tendered her affidavit in evidence as Ex. DW-2/1 and relied on the documents already exhibited by DW-1.

23. **The learned Civil Judge** considered the Sale Deeds dated 22.08.2006 and 04.12.2008, Ex. PW-1/3 and Ex. PW-1/2, respectively. These documents recorded the transfer of the suit property from Ashok Kumar to Kamla Devi, and thereafter, from Kamla Devi to the Plaintiff. The Rent Agreement dated 22.08.2006, Ex. PW-1/4 proved the induction of Ashok Kumar as a tenant by Kamla Devi. It was held that Ashok Kumar, having been a tenant of the previous landlady, continued as a tenant under the Plaintiff after she purchased the suit property. *However, the Court declined to declare the Plaintiff the absolute owner, as she had not proved the earlier chain of title.*

24. The Defendant's plea that the suit property was ancestral and had fallen to the share of his brother, Birender Singh, was not accepted, in the light of the evidence of DW-1, Rohit, son of Ashok Kumar, who admitted



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that he was residing in the suit property. He also admitted that the suit property belonged to his grandfather and was transferred to his father, Ashok Kumar, and thereafter, came into his mother's hands. He denied that the property had been partitioned or that his uncle, Birender Singh, had ever possessed it.

25. DW-2, Pushpa, widow of Ashok Kumar, claimed that her husband had exchanged the suit property with his brother, Birender Singh, after a partition. She admitted, however, that no document recording the partition or exchange had been executed. *The defence was held to be not supported by evidence and inconsistent with DW-1's testimony.* On the basis of the Rent Agreement and the evidence on record, the Ld. Civil Judge held that Ashok Kumar was a tenant and was estopped under Section 116 of the Indian Evidence Act, 1872, from denying that relationship.

26. The Court rejected the Defendant's objections regarding non-joinder of necessary parties and the alleged bar under the Delhi Land Reforms Act, as he had led no evidence to establish either objection.

27. The Ld. Civil Judge thus, **decreed the Suit for Possession, and ₹6,000 p.m. as arrears of rent and also granted Permanent Injunction restraining the Defendants from creating third-party rights in the suit property. The mesne profits were awarded @ ₹2,000 per month, the rate specified in the Rent Agreement, from the date of institution of the Suit until possession was handed over. However,** the Plaintiff was declined the declaration of ownership.



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28. Aggrieved, **Defendant had filed a Regular First Appeal bearing RCA DJ No. 17 of 2022**, wherein the findings of the learned Civil Judge were challenged essentially on the ground that the suit property was ancestral and that Defendant Ashok Kumar had no right to sell the property to Smt. Kamala Devi, who in turn sold it to the Plaintiff, vide a registered Sale Deed. It was claimed that the possession of the suit property was with his brother Birender Singh, since it was an ancestral property and had come to his share on partition.

29. The **learned ADJ**, on appreciation of the evidence, concurred with the findings of Ld. Civil Judge and **dismissed the Appeal**.

30. Aggrieved, the present **Second Regular Appeal has been filed**.

31. The **grounds of challenge**, are that the Plaintiff's principal relief was a declaration of ownership and that the claims for possession and other reliefs, were consequential. Since the Declaration had been declined, it was contended that the other reliefs could not have been granted. The Sale Deeds were also challenged, pointing to the difference in consideration: which was **₹75,000** under the first Sale Deed dated 22.08.2006 and **₹14,35,000** under the Sale Deed dated 04.12.2008. Moreover, the valuation of the suit property, placed the Suit beyond the pecuniary jurisdiction of the learned Civil Judge.

32. The Appellants further argued that Ashok Kumar had never paid rent to the Plaintiff; no Rent Agreement had been executed between them; and the Sale Deed dated 04.12.2008 did not refer to a continuing tenancy. It was



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also asserted that Ashok Kumar had not been informed of the sale of the property to the Plaintiff.

33. The Appellants submitted that Kamla Devi had never served Ashok Kumar with a notice for non-payment of rent, which undermined the alleged landlord–tenant relationship. Further, the validity of the Sale Deeds was challenged, alleging fraud. It was submitted that the evidence of DW-1 and DW-2 had not been properly appreciated. It was emphasised that Ashok Kumar was the Plaintiff’s brother-in-law and the Suit had been filed at the instance of the Plaintiff’s husband, Balwan Singh, who was Ashok Kumar’s brother. The Appellants have thus, sought the setting aside of the impugned Judgment and Decree.

Submissions heard and record perused.

34. It is the case of the plaintiff that Sh. Ashok Kumar was the erstwhile owner, who sold the suit property to Smt. Kamla Devi, *vide* Sale Deed dated 22.08.2006, Ex. PW-1/3. On the same date, under the Rent Agreement, Ex. PW-1/4, Kamla Devi inducted Ashok Kumar as a tenant in the suit property, at a monthly rent of ₹2,000. Kamla Devi thereafter, executed a Sale Deed dated 04.12.2008, Ex. PW-1/2 in favour of the Plaintiff.

35. The Sale Deeds and Rent Agreement, as proved by the Plaintiff, established that *Ashok Kumar, Defendant No.1 after selling the suit property to Kamla Devi, became her tenant vide Rent Agreement Ex. PW-1/4. DW-2, Pushpa, wife of Ashok Kumar, admitted Ashok Kumar’s signatures on the Rent Agreement, thereby establishing its genuineness.*



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36. Further, the suit property was sold by Smt. Kamla Devi to Nirmala Devi, the Plaintiff, who became the owner, and Defendant No.1 became her tenant by law, and entitled to seek possession. The Appellants' contention that no landlord-tenant relationship existed between the Plaintiff and Ashok Kumar because they had not executed a rent agreement between themselves, was rejected.

37. The defence of the Defendant No.1, Ashok Kumar was that the suit property was ancestral and had fallen to the share of his brother, Birender Singh, in a family partition. DW-1, Rohit, son of Ashok Kumar, in his testimony, deposed that he was residing in the suit property and that it had belonged to his grandfather; then passed to his father, and after his father's death, came to his mother, Smt. Pushpa. *He also deposed that Birender Singh, his paternal uncle, was not then residing in the suit property, but lived seven or eight houses away.* He further stated, that *he knew the facts in his affidavit from his mother, other family members and villagers; he had no personal knowledge of them and had no revenue or title documents relating to the property. **He was also unaware of any documents recording a partition.***

38. Thus, from the testimony of the DW-1, it emerged that Late Sh. Ashok Kumar was in occupation of the suit property, and after him, his family has continued in possession. His testimony also did not establish the factum of the suit property being ancestral or there ever being a Partition *inter se* him and his two brothers, or that Birender was ever in possession of the suit property.



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39. The Appellant had also examined DW-2, Pushpa, wife of late Ashok Kumar, who deposed that Sh. Ashok Kumar had exchanged the suit property with Birender Singh after a partition, *but admitted that no document recording the partition or exchange had been executed.* The learned Civil Judge found that the defence was unsupported by documentary evidence and inconsistent with DW-1's testimony. *The First Appellate Court affirmed those findings.*

40. The two Ld. Courts rightly relied on the Rent Agreement between Ashok Kumar and Kamla Devi and the subsequent Sale Deed in favour of the Plaintiff, to hold that Ashok Kumar continued as a tenant in the suit premises, under the Plaintiff and was estopped under Section 116 of the Indian Evidence Act, 1872, from denying the title of the Plaintiff as the landlord.

41. The Appellants' challenge thus, rests on the assertion that the concurrent findings on the tenancy and the alleged family partition, were erroneous.

42. However, the learned Trial Court's decree for possession was based on the proven tenancy and the Plaintiff becoming a landlord, as transferee of the landlady's interest by virtue of the Sale Deed dated **04.12.2008**, executed in her favour by the erstwhile Owner, Kamla Devi who had admittedly inducted Sh. Ashok Kumar as the tenant.

43. No substantial question of law arises for consideration, in the present Appeal, which is **hereby, dismissed.**



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44. The pending Application(s) are disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 05, 2026
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