



2026:DHC:8016



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

%

Reserved on: 06th August, 2026

Pronounced on: 18th September, 2026

Uploaded on: 18th September, 2026

CNR No. : DLHC010061532025

+ **RFA 127/2025, CM APPL. 8454/2025 & CM APPL. 30556/2025**

1. **MR.RUFFEN JOSEPH**

S/o Late Shri P.A. Joseph

R/o 33-A, LIG Flats, Masjid Moth-1,

Greater Kailash-1, New Delhi

2. **MR.FRANKY JOSEPH**

S/o Late Shri P.A. Joseph

R/o 33-A, LIG Flats, Masjid Moth-1,

Greater Kailash-1, New Delhi

....Appellants

Through: Ms. Simran Rao, Advocate

versus

SUKHBIR SINGH

S/o Late Sh. Jaggu Singh

R/o J-1/330, DDA Flats,

Kalkaji, New Delhi.

.....Respondents

Through: Mr. Raj Kumar, Advocate, Ms.
Vandana Sachdeva and Ms. Vidushi
Sah, 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 First Appeal under Section 96 read with Order XLI of the CPC (hereinafter referred to as 'CPC') has been preferred by the Defendants/Appellants *against the Judgment and decree dated 07.09.2024 passed by the learned ADJ-06, Saket Courts, New Delhi, whereby the suit of the Plaintiff has been **decreed for possession of the suit property**, along with a **Permanent Injunction** restraining the Defendants from alienating or creating third-party interest therein; **arrears of rent amounting to Rs. 3,30,000/-, and mesne profits from September 2018, till handing over of possession.***
2. The Plaintiff/Respondent had filed a **Suit bearing No. CS DJ 1719/2018** for possession, Arrears of Rent and mesne profits in respect of property bearing No. 33A, LIG Flats, Masjid Moth-1, Greater Kailash-I, New Delhi (*hereinafter referred to as the 'suit property'*)
3. **Brief facts as stated in the Plaint are** that the Plaintiff, Mr. Sukhbir Singh, was allotted the suit property by the Delhi Development Authority (DDA) under the leasehold rights, in the year 1980. He thereafter applied for the installation of electricity and water connections, *vide* Application dated 22.01.1981, to the erstwhile 'DESU', now known as 'BSES'.
4. The suit property was let out to Late Sh. P.A. Joseph, for residential purposes, on a license fee of Rs.660/- per month, excluding electricity and water charges, *vide* Agreement of Licence dated 05.02.1981, initially for a period of 11 months. The said Agreement was extended from time to time, and the licence fee was enhanced periodically, as per mutual understanding between the parties.
5. After the death of Late Sh. P.A. Joseph, the tenancy was orally extended to his legal heirs/Defendants, who agreed to continue paying rent



on the same terms, and it was agreed that if they fail to pay the monthly rent for two consecutive months, they would be liable to be evicted from the Suit Property.

6. The rent was enhanced, in October 2016, to Rs.15,000/- per month, excluding water and electricity charges. However, *since November 2016, the Defendants (who are the legal heirs of the deceased tenant) have stopped paying rent.* It is further stated that the Plaintiff had made repeated demands for the rent, but the Defendants avoided payment on one pretext or another, and on 20.06.2018, they finally refused to pay any amount.

7. On enquiry with the electricity department, the Plaintiff discovered that the electricity connection had been transferred into the name of Late P.A. Joseph, without his consent, authority, or knowledge.

8. It is further stated that on 25.07.2018, the Defendants threatened the Plaintiff with dire consequences when he requested them to vacate the suit property. The Plaintiff also lodged a Criminal Complaint against the Defendants under Section 156 (3) Cr.P.C. for illegal possession, criminal trespass, and preparation of false documents, on which the police took no action.

9. The Plaintiff was thereafter constrained to issue a Legal Notice dated 13.08.2018 terminating the tenancy and asking the Defendants to vacate the suit property within 15 days, which, despite service, was not complied with. On 30.08.2018, the Plaintiff, from reliable sources, learnt that the Defendants were attempting to create third-party interest by alienating the suit property.

10. The Plaintiff accordingly *filed the Suit for Possession; Recovery of Arrears of Rent* amounting to Rs. 3,30,000/- from October 2016;



Permanent Injunction for restraining the Defendants from creating any third-party interest in the suit property, and ***mesne profits at Rs. 18,000/- per month*** from September 2018, till handing over of possession.

11. The Defendants No. 2 & 3 (Defendant No. 1 having died during the pendency of the suit) in their joint Written Statement, took the *preliminary objection* that the Plaintiff had concealed true and material facts from the Court, and that the *Suit was barred under Section 50 of the DRC Act*, as the *rent of the suit property was Rs. 660/-, which was regularly paid in cash to the Plaintiff till September, 2018, and thereafter by Money Order, duly received, though never acknowledged by receipt.*

12. It was further pleaded that the Plaintiff had caused unnecessary harassment and torture to Defendant No. 1, on account of which he had passed away. The Defendants claimed that they were not aware that the Plaintiff was the owner of the suit property, having occupied it *since it was handed over on rent, in the year 1981.* The Defendant No. 2, Mr. Ruffen Joseph, was a minor at the time of the letting, and Defendant No. 3, Mr. Franky Joseph, was born thereafter.

13. The Defendants have further averred that they had no other property to reside in, having lived in the property since childhood, their parents having resided there for more than 37 years, without subletting it to anyone.

14. It was contended that the tenancy was liable to be extended on the same terms as the original Agreement dated 05.02.1981. It was denied that there was ever any Agreement that failure to pay rent for two consecutive months would render the Defendants liable to eviction.

15. It was further denied that the Defendants had any knowledge of the transfer of the electricity connection to their father's name, which, according



to them, has been done by the BSES of its own accord, without any act on the part of their father.

16. The Plaintiff/Respondent, in his rejoinder, denied all the contentions raised therein and reiterated the version set out in the Plaint. He stated that owing to the cordial relationship between Late Mr. Joseph and the Plaintiff, Late Mr. Joseph had dispensed with the requirement of taking monthly receipts in or about the year 1986. It was averred that the Defendants had never demanded rent receipts from the Plaintiff.

17. The Issues on the pleadings were initially framed on 07.03.2020 as under:

“1. Whether plaintiff is entitled for possession of property bearing no. 33A, LIG Flats, Masjid Moth, GK-I, New Delhi? OPP

2. Whether plaintiff is entitled for recovery of Rs. 3,30,000/- towards the arrears of rent? OPP

3. Whether plaintiff is entitled for permanent injunction restraining defendant from creating third-party interest? OPP

4. Whether the plaintiff is for mesne profits? If yes, at what rate and for what period? OPP

5. Whether DRC Act applies to the area and, if so, whether the suit is barred by Section 50 DRC Act? OPD

6. Relief.

18. The Issues on the pleadings were again framed on 19.12.2020 due to the oversight of the Ld. Judge, as under:

“1. Whether plaintiff is entitled for possession of property bearing no. 33A, LIG Flats, Masjid Moth, GK-I, New Delhi? OPP



2. *Whether plaintiff is entitled for recovery of Rs. 3,30,000/- towards the arrears of rent? OPP*
3. *Whether the plaintiff is for mesne profits? if yes, at what rate and for what period? OPP*
4. *Whether the last paid rate of rent was Rs. 15,000/- per month? OPD*
5. *Whether the last paid rate of rent was Rs. 660/- per month? OPD*
6. *Whether the suit is barred by Section 50 DRC Act? OPD*
7. *Relief.”*

19. The **Plaintiff examined himself as PW-I** and tendered his evidence by way of Affidavit, exhibiting the Allotment Letter of the suit property as Ex.PW-1/B(colly), the Agreement of License dated 05.02.1981 as Ex. PW-1/E, and the Legal Notice dated 13.08.2018 as Ex. PW-1/G, along with other documents as Ex.PW-1/A to 1/K. No cross-examination of PW-1 was conducted on behalf of the Defendants.

20. **The Defendants also did not lead any evidence.**

21. The ***Learned District Judge, vide Impugned Judgment***, held that the essential ingredients required to be established in a suit for ejectment, namely, the relationship of landlord and tenant between the parties, the rate of rent and the maintainability of the Suit before the Civil Court, and valid termination of the tenancy, stood duly proved on the record.

22. It was held that the landlord-tenant relationship between the parties was not disputed, and that the Agreement of License dated 05.02.1981, Ex. PW-1/E, established the initial rate of rent at Rs. 660/- per month. It was



further held that the testimony of PW-1 regarding enhancement of the rent to Rs. 15,000/- per month remained unrebutted; no cross-examination having been conducted and no evidence having been led on behalf of the Defendants.

23. Accordingly, the rent was held to exceed the threshold of Rs. 3,500/- per month, as prescribed under Section 50 of the Delhi Rent Control Act (hereinafter referred to as 'DRC Act'), for its applicability. Therefore, the bar of Section 50 of the DRC Act was held to be inapplicable.

24. **The Learned District Judge vide Impugned Judgment** decreed the Suit of the Plaintiff for possession and restrained the Defendants from creating third party rights in the Suit Property. Further, the arrears of rent from November 2016 till termination of tenancy vide Legal Notice dated 13.08.2018 in the sum of Rs.3,30,000/- was awarded in addition to Mesne Profits commencing from September 2018 with a 15% increase annually till the handing over of the possession was granted to the Plaintiff.

25. Aggrieved, the **Defendants/Appellants have preferred the present Appeal.**

26. **The grounds of challenge are** that the Rent Agreement dated 05.02.1981, Ex.PW-1/E admittedly fixed the rent of the suit property at Rs. 660/- per month, and this figure was reiterated by the Plaintiff himself in his own affidavit of evidence as PW-1. *Therefore, the rent being less than Rs.3,500/-, the tenancy was protected by the DRC Act*, with the consequence that the jurisdiction of the Civil Court to entertain a suit for possession stood barred under Section 50 thereof.

27. Further, it was contended that the Learned Trial Court erred in placing reliance upon the bare oral testimony of the Plaintiff as to enhancement of



rent, in the face of the written Rent Agreement and the Plaintiff's own admission on affidavit. *Sections 91 and 92 of the Indian Evidence Act, 1872* preclude the reception of oral evidence to contradict, vary, add to, or subtract from the terms of a written instrument, and no evidence of any oral Agreement to the contrary could therefore have been admitted or acted upon.

28. Therefore, the onus of proving the alleged enhancement, including the date thereof, any receipt or acknowledgment of payment at the enhanced rate, lay upon the Plaintiff, who had not led any evidence, whether documentary or otherwise, in discharge of that onus.

29. It was lastly contended that under the DRC Act, the Transfer of Property Act, 1882 has no application, and no tenancy from month to month could accordingly have arisen between the Plaintiff and the legal heirs of Late P.A. Joseph, merely upon his demise.

30. The tenancy under the DRC Act being heritable, stood validly continued in favour of the Defendants on the same terms as the original Agreement dated 05.02.1981; no termination having been effected during the lifetime of Late P.A. Joseph.

31. It is contended that the admitted rent of the suit property is Rs. 660/- per month, and Plaintiff having failed to prove otherwise, the Suit was liable to fail on this short ground alone.

32. The Appellants, in the Written Submissions, while largely reiterating the averments made in the Written Statement regarding the rate of rent and the absence of any document evidencing its enhancement, additionally submitted that *Section 8 of the DRC Act* mandates issuance of a Written Notice before any lawful increase of rent.



33. It was submitted that in the complete absence of such Notice, the enhancement claimed by the Respondent could not be said to have taken lawful effect, irrespective of whether it was mutually agreed between the parties. Reliance was placed on Gian Devi Anand v. Jeevan Kumar & Others, (1985) 2 SCC 683.

34. **The Respondent, in the Written Submissions**, while largely reiterating the averments made in the Complaint regarding the letting of the Suit Property, the periodic enhancement of rent, and the Defendants' default from November, 2016 onward, *additionally submitted that the onus of establishing that the DRC Act extended to the area in which the suit property is situated was upon the Defendants, who had invoked the bar of Section 50 of the DRC Act.*

35. It was submitted that in the complete absence of any Notification under Section 1(2) of the DRC Act placed on record by the Defendants, the said bar could not be said to be attracted, regardless of the rate at which rent was ultimately found payable. Reliance was placed on Mitter Sen Jain v. Shakuntala Devi, (2000) 9 SCC 720, and on Naseem Ahmed v. Deepak Singh, RFA(COMM) 503/2025.

Submissions heard and record perused.

36. It is well settled law that to succeed in a Suit for possession, a plaintiff is essentially required to establish three ingredients, which are: **firstly**, *the existence of a landlord-tenant relationship between the parties*; **secondly**, *that the rate of rent was beyond the threshold prescribed under Section 3(c) of the DRC Act*; and **thirdly**, *that the tenancy stood validly terminated, in accordance with law*. Each of these ingredients falls for consideration in the present Appeal.



37. ***On the first question which arises for consideration***, it is an admitted case that Late Sh. P.A. Joseph was inducted as a tenant for residential purposes, on a license fee of Rs.660/- per month, excluding electricity and water charges, *vide* Agreement of Licence dated 05.02.1981, initially for a period of 11 months. The said Agreement was extended from time to time, and the licence fee was enhanced periodically, as per mutual understanding between the parties.

38. The defendants have admitted deriving their title in the suit property through their father, but have asserted that they were not aware that the Plaintiff was the owner of the suit property. The Plaintiff, in Paragraph 12 of the plaint, stated that Sh. P.A. Joseph and his family members had been residing in the suit property after execution of the Rent Agreement dated 05.02.1981.

39. This assertion was not denied in the Written Statement, but it was explained that the Defendant No. 2 was a minor at the time of letting out of the tenanted premises, while Defendant No. 3 was born later, ***and the parents were residing in the said tenanted premises.***

40. **The Defendants, throughout the Written Statement,** had admitted their status in the suit property as that of the tenants, having derived it from their father Sh. P.A. Joseph, who has since died. ***The relationship of Landlord-Tenant has thus been rightly held to have been established.***

41. ***The second question which arises for consideration is whether the DRC Act applies to the area in which the suit property is situated; and secondly, whether the rent of the suit property stood enhanced to Rs. 15,000/- per month, as claimed by the Plaintiff, or remained at Rs. 660/- per month, as asserted by the Defendants.***



42. The issues No. 5 and 6 were framed as under:

(v) *Whether the last paid rate of rent was Rs.660/- per month?*

OPD

(vi) *Whether the Suit is barred by Section 50 DRC Act? OPD*

43. Insofar as the rate of rent being more than Rs.3,500/- per month is concerned, the Plaintiff in the testimony had deposed that the rent was last paid at the rate of Rs.15,000/- per month, in October, 2016, which has remained unrebutted and unchallenged. The Defendants neither cross-examined the Plaintiff nor sought recall of the Plaintiff for his cross-examination. The Defendants also failed to adduce any evidence.

44. The Division Bench of this Court in Neeraj Aggarwal v. Ravinder Parkash Punj and Ors., RFA (COMM) 23/2023 decided on 29.10.2025, held that *where no written agreement governs the rate of rent, the Court must have regard to the surrounding circumstances and to **whatever credible evidence is available***. Further, *once the party asserting the higher rent has discharged this initial burden, the onus shifts to the other side to substantiate a contrary, lower figure, and a bald assertion unaccompanied by any evidence is not enough to discharge that onus.*

45. The learned District Judge referred to Vidhyadbar v. Manik Rao, (1999) 3 SCC 573 wherein it was observed *that where a party to the suit does not appear in the witness-box to state his own case on oath and does not offer himself to be cross-examined by the other side, the presumption would arise that the case set up by him is not correct.*

46. Therefore, an adverse inference has to be drawn against the Defendants who neither challenged the testimony of the Plaintiff nor adduced any evidence in regard to the rate of rent. ***It was thus rightly held***



that the rate of rent was Rs.15,000/- per month since October 2016, as deposited by the Plaintiff, and therefore, the bar of Section 50 DRC Act was not applicable.

47. *On the third question of valid termination of tenancy*, the tenancy of the Defendants had been terminated *vide* Legal Notice dated 13.08.2018. The said testimony has remained unrebutted and unchallenged, there being no cross-examination of the Plaintiff. Even otherwise, it is well settled that the filing of a Suit for eviction under the general law itself amounts to a notice to quit upon the tenant. The Supreme Court in M/s Nopany Investments (P) Ltd. v. Santokh Singh (HUF), (2008) 2 SCC 728, has observed that even in the absence of a Notice under Section 106 of the Transfer of Property Act, the institution of the Suit itself constitutes a notice to quit upon the tenant. *Thus, there can be no infirmity in the finding that the tenancy of the Defendants stood validly terminated.*

48. Therefore, the learned District Judge has rightly held the Defendant to be liable to pay the arrears of rent @ Rs.15,000/- per month from November 2016 till the termination of the tenancy *vide* Legal Notice dated 13.08.2018, amounting to Rs.3,30,000/- has been rightly granted to the Plaintiff.

49. Likewise, the Defendants were liable to pay *mesne* profits commencing from September, 2018 with a 15% increase, which is going to be payable from second year onward etc. after the termination of the tenancy and 15% increase of the *mesne* profits will be calculated on the total of *mesne* profits which are payable at the end of the first year, second year, third year etc, respectively till handing over of the possession of the suit property by the Defendants.



2026:DHC:8016



50. It is a well-reasoned judgment and does not merit any interference.

51. In view of the aforesaid discussion, there is no merit in the present Appeal, which is hereby dismissed.

52. Pending Applications, if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 18, 2026
va/n