



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

% *Reserved on: 22nd January, 2026*

Pronounced on: 25th April, 2026

+ **CM APPL. 9549/2026 to file RSA 72/2025 &**

CM APPL. 24785/2025 in RSA 64/2024:

ANIL

S/O Late Sh. Ram Niwas

R/O WZ-41, Khasra No.130,

Kumhar Wali Gali, Shakurpur, Delhi.

.....Appellant

Through: Mr. Umang Mittal, Advocate.

versus

1. ANITA GUPTA

W/O Sh. Rakesh Gupta

R/O H.No.M-333, Shakurpur, Delhi.

2. NIRMALA DEVI

W/O Not Known

R/O WZ-70, Khasra No.130,

Kumhar Wali Gali, Shakurpur, Delhi.

3. ANITA RANI

W/O Late Sanjay Kumar

R/O WZ-70, Khasra No.130,

Kumhar Wali Gali, Shakurpur, Delhi.

.....Respondents

Through: Ms. Meenakshi Gupta, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. An Application under *Order I Rule 10 read with Section 146 and Section 151 of the Code of Civil Procedure 1908 (hereinafter referred to as 'CPC')*, has been filed on behalf of the Applicant / Sh. Anil son of Late Sh.



Ram Niwas, to be *impleaded as party* in the array of parties as a Respondent in Appeal No. **RSA 64/2024**, filed by Nirmala Devi and Anita Rani against Anita Gupta, being a necessary party to the present proceedings.

2. Likewise, *Leave to Appeal* has been filed *vide* Application dated 17.04.2025, to seek leave to challenge the judgement through **RSA 72/2025**, *inter se* the Respondents, in which the Appellant was not made a party to. Both are decided together, as they involve same challenge.

3. ***The factual matrix involved in both the Applications, is that the Applicant / Sh. Anil*** has claimed that he had purchased the Suit Property for valid sale consideration of Rs.3,00,000/- from Appellant No.2 / Smt. Anita Rani, wife of Sh. Sanjay Kumar, *vide* Agreement to Sell, *etc.*, dated 14.12.2007.

4. The Appellant states that he was neither a party nor was brought on record by either of the original parties to Suit bearing No.410/2007 tiled “*Smt. Anita Gupta vs. Mrs. Nirmala Devi and Ors.*” which was instituted on 16.08.2007 and decided on 27.04.2013.

5. The Respondent No.3 / Defendant No.2 / Anita Rani in the main Suit, after the institution of the Suit in respect of Suit Property bearing No.WZ-41, Khasra No.130, Kumhar Wali Gali, Shakurpur, Delhi, admeasuring 36 sq. yards (*hereinafter referred to as ‘Suit Property’*), had sold the Suit Property to the Appellant herein for a sale consideration of Rs.3 Lakhs from Appellant No.2 / Anita Rani, wife of Sanjay Kumar, *vide* Agreement to Sell, Possession Letter, *etc.*, dated 14.12.2007 and as such, he had stepped into her shoes and become the representative-in-interest. He has claimed that he is a necessary party and is entitled to file the Appeal.



6. The Appellant has asserted that he was a *bona fide* purchaser, owner and in possession of the Suit Property having purchased it from Smt. Anita Rani / Respondent No.2. It was further asserted that he was handed over possession of the Suit Property by Anita Rani / Respondent No.3 and thereby, the transaction was irrevocable and binding upon both the parties.

7. After the purchase of the Suit Property in December 2007, Appellant and his family have been continuously and un-interruptedly residing peacefully in the Suit Property, and his possession is peaceful, open, continuous, actual and undisturbed for the last 17 years since 14.12.2007, to the exclusion of others, which is within the knowledge of the Respondents as well.

8. The Appellant Anil had taken a loan from his friends and near relatives to purchase the Suit Property, somewhere in January / February 2013. He constructed / renovated the Suit Property, for which he again had borrowed huge amount of money.

9. It is submitted in the Appeal that Appellant Anil Kumar, who was not party in the proceedings before the learned Civil Court or District Judge, despite the purchase of Suit Property *vide* Sale / Transfer documents dated 14.12.2007, which include Agreement to Sell, GPA, Possession Letter, *etc.*

10. He, being the *bona fide* purchaser, should have been brought on record by the Respondents / Appellants, under *Order XXII Rule 13 CPC* or *Section 146 CPC* by the Respondents / Appellants. He has sufficient interest, which is prejudicially affected by the impugned Judgment and Decree.

11. To his shock and surprise, on 02.04.2024, the Court Bailiff reached the Suit Property for taking possession and to hand over the same to Respondent No.1 / Anita Gupta, in compliance of Order dated 21.02.2024 of



the Executing Court in Execution Number 1090/2019 titled as Anita Gupta vs. Nirmala Devi and Others. Since it was found that the Appellant and his family were found residing there, the Possession could not be taken.

12. The objections by Respondent No.2 and Respondent No.3 in Execution Civil No.1090/2019 were dismissed on 21.02.2024 and Warrants of Possession in respect of the Suit Property were issued.

13. It was for the first time that the Appellant was informed about the pendency of the *Execution Petition Civil No.10190/2019*. After extensive efforts, Counsel for the Appellant was able to get the details of the pending Execution and he obtained the certified copies on 05.05.2024, from the Judicial record. The Appellant Anil then came to know about the Judgement dated 24.12.2018 and Decree dated 26.03.2019 in RCA No.5113/2016.

14. Appellant, pertaining to and thereafter, became aware of the actual proceedings held in the past, as regard to the disputes between the original parties in the Suit, *qua* the ownership and possession of the Suit Property. He was not aware of the on-going litigation *inter se* the Respondents and there was no occasion for him to have sought participation while the Suit was pending, either before this Court or before the Trial Court.

15. Appellant has claimed that he was not a party in the original Suit bearing No.410/2007 and pertinently, he was not even impleaded as party under *Order XXII Rule 10 CPC*, as the subsequent purchaser of the Suit Property from Anita Rani. His Application for impleadment in RCA No.5113/2016 was dismissed *vide* Order dated 04.12.2023. Respondent No.2 and Respondent No.3 therein, disclosed about execution of the registered Sale Deed dated 30.01.2004 by Sanjay Kumar in favour of



Respondent No.3 Anita Rani, which was prior to the Sale Deed executed in favour of Respondent No.1 Anita Gupta.

16. The Appellant then filed third party objections under *Order XXI Rule 58 read with Rule 97-101/297, 101 and Section 151 CPC*, in the Execution Petition on 17.05.2024, which is pending adjudication.

17. He has also filed an Application under *Order IX Rule 13 CPC* along with an Application under *Order XII Rule 10 CPC* and a Stay Application in RCA No.5113/2016.

18. The Appellant has also filed **Suit** bearing No. CS DJ 747/2024 for *Declaration, Permanent and Mandatory Injunction and Specific Performance* against the Respondents on 22.08.2024 which is pending adjudication. An Interim Stay has been granted *vide* Order dated 05.11.2024.

19. The **Appellant Anil** thus, seeks Leave of the Court to file the present Regular Second Appeal No. **RSA 72/2025** under *Section 100 read with Sections 146 and 151 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'CPC')* against Judgment dated 24.12.2018 and Decree dated 26.03.2019, whereby **Suit** of the **Plaintiff / Respondent Anita Gupta**, has been **decreed**.

20. Also, the Appellant seeks to be impleaded as a party in **RSA 64/2024** pending *inter se* the Respondents, and to contest the Appeal.

Submissions heard and record perused.

21. In order to appreciate the case of the Appellant, it would be pertinent to understand the background of the Suit and the Appeal, in which the Appellant intends to be impleaded as party and seeks leave to challenge the Judgment of learned ADJ dated 27.04.2013 in the Regular First Appeal.



22. The **facts in brief** as narrated in the Plaint, were that Plaintiff / Smt. Anita Gupta had purchased a property admeasuring 36, square yards, bearing No.WZ-41, situated in Kahsra No.130, Kumhar Wali Gali, Shakar Pur, Delhi, (*hereinafter referred to as 'Suit Property'*) from late Sh. Sanjay Kumar, son of Defendant No.1 / Smt. Nirmala Devi and husband of Defendant No.2 / Anita Rani, for a sale consideration of Rs.1,15,000/-, *vide* Sale Deed dated 27.04.2004, which was duly registered.

23. However, on the same day, late Sh. Sanjay Kumar requested the Plaintiff and sought time to hand over the vacant and peaceful possession of the Suit Property, as he could not make arrangement of alternate accommodation for his family members. The Plaintiff, therefore permitted Sanjay Kumar to continue to be in the Suit Premises, on humanitarian grounds.

24. The Plaintiff, Anita Gupta claimed that thereafter, she made several requests to make Sanjay Kumar as well as to the Defendants to hand over the vacant physical possession of the Suit Property, but they failed to do so. In January 2006, when Plaintiff demanded the charges for user and occupation, Sanjay Kumar requested for some more time to pay the amount up to July/August 2006. But unfortunately, Sanjay Kumar expired in the month of April, 2006 and was survived by Defendant No.1 and 2, i.e. his mother and wife.

25. Plaintiff further alleged that she made several requests for the possession, but the Defendants failed to pay any heed. She issued a Legal Notice dated 22.06.2007 to the Defendants to pay a sum of Rs.4,000/- per month w.e.f. 27.04.20004 and requested for the vacant possession.



26. She further asserted that she had come to know through some property dealers that the Defendants were trying to sell the Suit Property and attempting to create third party interests.

27. *Thereafter, Plaintiff filed present suit for Possession, Damages / Occupation Charges @ Rs.4,000/- per month w.e.f. 27.04.2004 along with pendent lite interest @ 24% per annum.*

28. Summons were served upon Defendant No.1 Smt. Nirmala Devi through ordinary mode and upon Defendant No.2, Anita Rani through publication in “*Rashtriya Sahara*” a Hindi daily newspaper dated 04.10.2012. ***However, despite the service, none appeared on behalf of the Defendants, who were proceeded ex-parte on 05.11.2012.***

29. Thereafter, the Plaintiff led *ex-parte* evidence and examined herself as *PW-1* and deposed about the facts, as narrated in the *Plaint*.

30. The ***learned Civil Judge*** while considering the *ex-parte* evidence of the Plaintiff, the Sale Deed dated 27.04.2004 executed by Sh. Sanjay Kumar in favour of Smt. Anita Gupta, and the Legal Notices, held that the Plaintiff was able to prove that she was the owner and was therefore, entitled to the recovery of possession, but noted that the Sale Deed *Ex.PW-1/1* was not proved by examination of any witness from the Office of Sub-Registrar and the attesting Witnesses have also not been examined. ***Consequently, the Suit of the Plaintiff was dismissed, vide judgment dated 27.04.2013.***

31. ***Regular First Appeal bearing RCA No.5113/2016*** was preferred by the Plaintiff / Anita Gupta to challenge the impugned Judgment dated 04.12.2023. The ***learned District Judge*** referred to the Registered Sale Deed dated 27.04.2004 *Ex.PW-1/1* in favour of the Plaintiff.



32. In the present case, the Respondents, Nirmala Devi and Anita Rani, wife of erstwhile owner late Sh. Sanjay Kumar, failed to contest the Suit and rebut the presumption of genuineness, in respect of the Registered Sale Deed. Plaintiff / Anita Gupta, being the Registered Owner of the Suit Property, was thus held to be entitled to recovery of possession. Further, it was noted that the Plaintiff had claimed user and occupation charges @ Rs.4,000/- per month. ***Having regard to the locality, where the property was situated, the user and occupation charges @ Rs.4000/- per month were found to be reasonable and accepted.***

33. The learned District Judge *vide* Judgement dated 24.12.2008 and Decree dated 26.03.2019 held that the Defendants were directed to pay a sum of Rs.4,000/- per month from the date of Notice i.e. 22.06.2007 till the handing over of the possession to the Plaintiff along with interest @ 6% per annum. ***The Judgment of the learned Civil Judge dated 27.04.2013 was reversed and the Suit of Plaintiff Smt. Anita Gupta was decreed.***

34. It is evident that since Nirmala Devi and Anita Rani, had already sold the property to Anil Kumar, Appellant herein, they had no interest left and consequently, failed to contest the Suit. Significantly, Smt. Anita Gupta, who had a valid Sale Deed dated 27.04.2004, duly executed in her favour by Late Sanjay Kumar, filed the suit, which was decreed in her favour. Since the defendants, Nirmala Devi and Anita Rani, failed to contest the Suit, this earlier Sale Deed dated 30.01.2004 executed by Late Sanjay Kumar in favour of his wife, Anita Rani, never came to light and was now produced by the Appellant, Anil on the record.

35. The Appellant Anil has thus, filed present Leave to Appeal on the ground that he is subsequent purchaser, having purchased the Property from



the Appellant Anita Rani and it is his right, which is getting impacted on account of non-prosecution of the Suit or the Appeal by the Appellants herein. He has thus, sought leave to file the Appeal against Judgment of learned District Judge dated 24.12.2008 and Decree dated 26.03.2019.

36. The first aspect for consideration is that Appellant Anil was not a party to the Suit / First Appeal. He being a subsequent purchaser, can only acquire the Title, which vested in Respondent No.2 and Respondent No.3, and cannot claim a better Title.

37. In any case, he has already filed a *Suit for Declaration, Specific Performance, Permanent and Mandatory Injunction against all the respondents*; whatever is his rights, can be agitated in the said Suit. Further, there is no *locus* of the Appellant in this ***Second Regular Appeal***, where only questions of law, are to be adjudicated.

Conclusion:

38. The Impleadment Application of the Applicant in **RSA 64/2024**, preferred by Nirmala Devi and Anita Rani, is accordingly **dismissed**.

39. The Leave to Appeal **RSA 72/2025** is hereby, **dismissed** with liberty to seek remedy before the Appropriate Forum, which he has already availed. **RSA 72/2025** is consequently, disposed of.

40. Pending Applications, if any, also stand **disposed** of.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 25, 2026/RS/R