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

% ***Reserved on:15 th September, 2026***
Pronounced on: 28th September 2026
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\# ***CNR No. DLHC010435542026***

\+ **RFA 1008/2026, CM APPL. 62482/2026, CM APPL.62483/2026**

SIDDHANTH MENDIRATTA
S/o Late Sh. Ved Prakash Mendiratta
R/o 19/23A, Tilak Nagar,
New Delhi-110018. .....Appellant
Through: Mr. Sahil Kakkar, Advocate.

versus

1. **MADHU CHAWLA**
W/o Sh. Sanjay Chawla

2. **SANJAY CHAWLA**
S/o Sh. C.M. Chawla

Both Residents of:
A1/251, Janakpuri, New Delhi-110058. .....Respondent
Through: None

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Section 96 read with Order XLI read with Section 151 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 23.04.2026 whereby the Suit of the Plaintiffs/Respondents

bearing CS DJ ADJ 803/2019 for Recovery of Possession, Arrears of Rent, Electricity Charges, Damages and Mesne Profits**, has been decreed.**

2. ***The Plaintiffs in the Suit asserted that***, being the joint owners, let out the suit shop admeasuring 238.38 sq. feet to the Defendant as a tenant in 2014 @ Rs.25,500 /- per month, excluding water and electricity charges. The tenancy was extended from time to time, after expiry of the initial tenancy period.

3. A fresh Rent Agreement was executed on 22.08.2018 in respect of the suit premises at a monthly rent of Rs.29000/- per month, excluding water and electricity charges, for a period of 11 months from 01.09.2018 to 31.07.2019. It was explained that the Rent Agreement was stated to have been executed for a period of five years when, in fact, it was for 11 months.

4. The Plaintiffs asserted that after the expiry of tenancy on 31.07.2019, they were not interested in extending the tenancy further. Consequently, a Legal Notice dated 07.09.2019 was served upon the Defendant, thereby terminating the tenancy with immediate effect and also seeking vacant and peaceful possession of the suit property along with the arrears of rent, within seven days from the date of receipt. The Defendant failed to vacate the Suit Premises; instead, he gave a false Reply, which was received by the Plaintiffs on 23.09.2019.

5. The Plaintiffs asserted that the Defendant owns a Shop bearing No. 30 admeasuring 10X5 sq. ft. in the same premises situated exactly behind the suit shop, for which he is drawing a rent of Rs.19,500/- per month. However, surprisingly, in his Reply dated 19.09.2019, he asserted the rate of rent of the Suit Shop to be Rs.2,900/- per month, which reflected that the

Defendant wanted to grab the suit property and did not want to vacate the suit premises.

6. The Plaintiffs asserted that the Defendant had not paid *the rent for three months, i.e., from July to September, 2019*. He had also breached the terms of the Lease Agreement. It was further asserted that when the Plaintiffs had sought rent for July to September, 2019, the Defendant had responded that the Plaintiffs already had a security deposit of Rs.51,000/- with them, which may be adjusted towards the rent.

7. The Plaintiffs asserted that no interest-free security deposit of Rs. 51,000/- was received by them, nor was it agreed that the said amount shall be returned to the Defendant at the time of vacating and handing over the Suit Premises to the Plaintiffs.

8. *The Plaintiffs thus filed the Suit for Recovery of Possession, Arrears of Rent of Rs.87,000/-, Mesne Profits/Damages @Rs.2,000/- per day w.e.f. 17.09.2019, till the date of filing of the Suit and thereafter, till the possession was handed over by the Defendants.*

9. **Defendant, in his Written Statement**, took *the preliminary objection* that the Plaintiffs had not come to the Court *with clean hands* and that the *Suit was a gross abuse of the process of the Court*. The true facts had not been narrated by the Plaintiffs, which resulted in the filing of a fake and frivolous Suit. The Defendants also asserted that the rate of rent was Rs.2,900/- per month and the *Suit was barred under the Delhi Rent Control Act.*

10. The Defendant explained that he had been inducted into the suit premises for Rs.10,00,000/- having been given towards the mortgage of the

suit property between November, 2016 and March, 2017. The rate of rent was, therefore, fixed at Rs.2,900/- per month.

11. *It was denied that any security of Rs.51,000/- was paid by him.* The Defendant claimed that the Plaintiffs had been harassing and pressurising him to hand over the vacant possession of the tenanted premises, without refunding the security amount of Rs.10,00,000/-. He also disconnected the electricity, in collusion with the BSES officials. On 22.08.2019, the Plaintiffs illegally put locks on the tenanted premises, and possession was restored only when the PCR was called and the neighbours intervened.

12. The *Defendant denied that he was inducted as a tenant @Rs.29,000/- per month for a period of 11 months*; rather, he asserted that the rent/maintenance charges of the tenanted premises were Rs.2,900/- as the premises had been taken against the mortgage amount of Rs.10,00,000/-.

13. It was further denied that the Defendant was in arrears of rent w.e.f. July 2019 to September 2019. It was asserted that the Defendant has been paying the rent/maintenance charges to the Plaintiffs regularly. Still, when the Defendant demanded return of Rs.10,00,000/-, the Plaintiffs filed the present Suit. *It was thus submitted that the Suit is without merit and is liable to be dismissed.*

14. The ***Issues on the pleadings were framed on 07.04.2022,*** as under:-

> *I) Whether plaintiff is entitled for the decree of arrear of rent along with interest in his favour and against the defendants, as prayed for?(OPP)*
>
> *(II) Whether plaintiff is entitled for the decree of recovery of arrear of electricity charges, damages/mesne profits along*

with interest in his favour and against the defendants, prayed for ?(OPP)

(III) Relief.

15. **PW-1, Smt. Madhu Chawla**, the Plaintiff herself, tendered her evidence by way of Affidavit as Ex.PW-1/A. The Agreement to Sell dated 14.04.2014, along with the possession letter and receipt, are Ex.PW-1/2 to Ex.PW-1/4. The Rent Agreement dated 22.08.2018 is Ex. PW-1/5. The Legal Notice and the Receipts are exhibited as Ex.PW-1/6 to Ex.PW-1/11. The Rent Agreement dated 24.04.2014 is exhibited as Ex.PW-1/12.

16. **The Defendant examined DW-1, Mr. Nitin Kumar Kanojia,** Branch Manager, Bank of Baroda, Tilak Nagar, New Delhi, who produced the Bank Statements for the period 01.02.2017 to 31.03.2017 as Ex.DW-1/A.

17. **DW-2 is the Defendant**, who, in his Affidavit of evidence Ex.DW-2/A, deposed on similar lines as the defence taken in the Written Statement.

18. **DW-3, Mr. Sunil Bharti**, Chief Manager, Punjab National Bank, Tilak Nagar, New Delhi, exhibited the certified copy of the Statement of Account in the name of Unique Computers and Mr. Siddhant Mendiratta as Ex.DW-3/A.

19. **DW-4, Mr. Madan Lal Gupta**, Notary Public, exhibited the Certificate dated 26.09.2022 issued under his signature as Ex.DW-4/X1.

20. **DW-5, Smt. Aruna Mendiratta** corroborated the testimony of the Defendant in her Affidavit of evidence, Ex.DW-5/A.

21. **DW-6, Ms. Priyanka Kapoor**, also corroborated the defence of the Defendant in her Affidavit of evidence Ex.DW-6/A.

22. **The learned District Judge**, on appreciation of the evidence, observed that the Defendant had admitted himself to be the tenant in the suit premises since 2014. In the Lease Deed of 2014, the rate of rent was mentioned as Rs.25,500/-. He also admitted execution of another Rent Agreement executed in the year 2018, for 11 months. The Plaintiffs had claimed that a fresh Lease Deed was executed in the year 2018 to enhance the rent to Rs.29,000/-, while the Defendant asserted that the rent was reduced to Rs.2,900/-, since a sum of Rs.10,00,000/- in cash towards the security/mortgage had allegedly been paid by him.

23. **The Learned District Judge further observed** that there was admittedly a Lease Deed of 2014, executed between the parties, which made the Defendant a tenant of the suit property. He had asserted that he paid Rs.10,00,000/- in cash towards the mortgage of the suit property, but had been unable to prove the payment of this amount to the Plaintiffs.

24. It was thus held that the Defendant was a tenant at a monthly rent @ Rs.25,500/- and continued to be so at the given rate. After the expiry of the tenancy period of 11 months, he became a tenant by sufferance or on a month-to-month basis, in terms of Section 106 of the Transfer of Property Act.

25. *The Defendant **was thus, held** liable to pay the rent @Rs.25,500/- till the date of termination of the tenancy vide Legal Notice dated 07.09.2019*, Ex.PW-1/6.

26. It was **further held** that the Defendant had admitted in his cross-examination that some Lease Deed was executed in the year 2018; though, he failed to produce it, the same was produced by the Plaintiffs and

exhibited as Ex.PW-1/5. Though the Defendant denied his signature on this Lease Deed, no cogent evidence was produced to show that this Lease Deed Ex.PW-1/5 was a forged or fabricated document. He was also unable to prove that he had been paying rent @Rs.2,900/- per month.

27. *Therefore, it was held that* ***the arrears of rent were payable from the date of execution of the Lease Deed till 31.10.2019.*** *Thereafter, the Defendant was liable to pay damages at which the rent was payable with an increase of 15% in the monthly rent, to be calculated for every three years of unauthorised occupation of the* ***Suit Property till possession is handed over to the Plaintiffs. Mesne Profits were accordingly granted to the Plaintiffs and the Suit was decreed.***

28. Aggrieved by the said Judgment, the Defendant/Appellant has preferred **the present Appeal.**

29. The **grounds of challenge** are that the Suit of the Plaintiffs has been decreed on the basis of alleged Rent Agreement dated 22.08.2018, Ex.PW-1/5, despite its specific denial by the Appellant.

30. It has not been considered that the alleged claim of rate of rent being Rs.29,000/- per month was founded upon this Rent Agreement and therefore, the initial burden was on the Plaintiffs to establish the execution, genuineness and the contents of this document through cogent and legally admissible evidence.

31. It has been erroneously held that this Rent Agreement duly stood executed merely because the DW-4, the Notary Public, identified his signature on the last page of the document.

32. It has not been considered that the Appellant had categorically denied his signature on the Rent Agreement and therefore, there was no cogent, legally admissible evidence to establish that the alleged Rent Agreement bore the signatures of the Defendant. The notarisation by the Notary Public has been erroneously treated as proof of execution of the Rent Agreement by the Appellant.

33. Reliance is placed on *Bank of India vs. Alibhoy Mohammed & Ors.* wherein it was held that Section 67 refers to the documents other than those which are required to be attested by law. It states that where the signature of a person alleged to have signed the document must be proved by producing evidence to the extent that the signatures purporting to be that of the executed are, in fact, in his handwriting, as has been laid down by the Apex Court in *Venkantachala vs. Thimmajamma and Ors.*

34. The contents of the document must also be proved first, and the genuineness of the document must also be proved, unless they are admitted by the other party. The term ‘execution’ is not defined in any statute; it means completion, i.e., the last act or acts which complete a document, known in English law as “signing, sealing and delivering”. The ordinary meaning of executing a document is signing it as a consenting party thereto.”

35. Therefore, *in terms of Section 67 of the Evidence Act, the document must be proved to have the signatures of the person alleged to have signed it.* Mere production of the document is not proof of its authorship or execution.

36. There is a distinction between proof of notarisation and proof of execution of the underlying document. The mere fact that DW-4, the Notary Public, identified his own signature on the last page could, at best, relate to his own signature, and could not establish that the Appellant had signed the document and accepted its contents, particularly when the Appellant had denied his signatures.

37. The learned Trial Court was required to examine the evidence in regard to the alleged signature of the Appellant, independently and in accordance with Section 67 of the Indian Evidence Act.

38. Furthermore, when the Plaintiffs relied on the Rent Agreement, Ex.PW-1/5, to establish the alleged rate of rent as Rs.29,000/- per month, they could not prove their case, through any positive evidence merely because the Defendant was unable to prove his alternative defence of alleged payment of Rs.10,00,000/-. The onus remained on the Plaintiffs to prove the rate of rent and execution of the Rent Agreement. The Court erred in treating the Defendant's failure to prove payment of Rs.10,00,000/- as proof of the Plaintiffs' case.

39. The Certificate dated 26.09.2022 issued by DW-4, the Notary Public, and a subsequent Certificate dated 22.08.2023, take materially different positions. The Notary Public, whose signature appears on the document, has issued two contrary statements; in one, he stated that the Rent Agreement did not bear his signature and was not notarised by him, while in the other, he claimed that the document was notarised by him. Such contradictory statements make the testimony of DW-4 unreliable.

40. Furthermore, he has also admitted that not every page of the Agreement bears his seal and signature, and he had failed to produce the Notary Register entry to prove the notarisation of the document. It could not, therefore, be treated as a genuine or reliable document.

41. The learned Trial Court selectively relied upon those portions of the testimony of DW-4 which were favourable to the Plaintiffs, to conclude that the documents stood proved. Such selective appreciation of evidence has resulted in a material miscarriage of justice.

42. Reference is made to *Radhakrishna Nagesh vs. State of Andhra Pradesh,* (2012) 13 SCC 333 wherein it was held that the statement of a witness must be read in its entirety and the cumulative effect of the complete evidence must be considered rather than the piece of evidence in isolation.

43. Reliance is also placed on *Mallappa & Ors. vs. State of Karnataka*, (2024) 3 SCC 544, wherein the Hon'ble Supreme Court of India reiterated that the appreciation of evidence must be comprehensive and inclusive of all oral and documentary evidence. Partial or selective appreciation of the evidence may result in miscarriage of justice, which in itself is a ground for challenge.

44. The rate of rent was erroneously determined based on the Rent Agreement Ex.PW-1/5, without appreciating that it stipulated a term of tenancy of five years, which made it compulsorily registrable under Section 17(1)(d) of the Registration Act, 1908. This document was admittedly unregistered, and therefore, could not have been considered in evidence to prove the terms of the lease or the rate of rent. The unregistered document

has been treated as substantive evidence of the contractual terms without first determining the legal admissibility for that purpose.

45. The Plaintiffs have been permitted to seek enforcement of the terms of a legally defective and unregistered Rent Agreement, without considering whether they had themselves complied with the obligations necessary for giving legal effect to the alleged contractual arrangement, including the obligation to have the Lease Deed registered. Under Section 16 of the Specific Relief Act, 1963, a party seeking enforcement of a Contract must show that he has performed his own obligations.

46. The Rent Agreement was also required to be duly stamped, without first determining the admissibility of this Rent Agreement and the liability to pay the stamp duty. The document has been accepted to determine the liability of the Defendant.

47. Moreover, the enhancement of *Mesne Profits* by 15% every three years has been granted without any cogent evidence that the market value of the Suit Property increases by 15% every three years. While Courts may take judicial notice of a general increase in rent, they must adopt a rational and evidentiary basis for doing so, which is wanting in the present case.

48. The requirement of *Section 2(12) CPC and Order XX Rule 12 CPC in determining the Mesne Profits has not been considered*. Mesne Profits are not a contractual penalty or an amount that the landlord may choose to claim, but the profit which the person in wrongful possession actually received or might have received with due diligence. No such assessment has been undertaken by the learned Trial Court while granting Mesne Profits. It

is thus submitted that the impugned Judgment and decree is liable to be set aside.

Submissions heard and Record Perused.

49. The Plaintiffs in their Suit had stated that the Defendant had been inducted as a tenant in the suit shop in the year 2014.

50. The Defendant, in his Written Statement, did not deny these assertions but set up a claim that Rs.10,00,000/- had been given by him as a mortgage amount between November 2016 and 2017, in lieu of the suit shop. He further submitted that he had started paying regular rent/maintenance charges of Rs.2,900/- per month, which he has been regularly paying.

51. The Defendant had, therefore, admitted two facts. *Firstly*, that he had the suit property since 2014 and *secondly*, that he was a tenant, though he asserted that he was paying the rent @ Rs.2,900/- per month. Significantly, in the cross-examination of the Plaintiffs, the Defendant himself gave a suggestion that the First Agreement dated 24.04.2014 was executed between the Plaintiffs and the Defendant. This suggestion corroborated the Plaintiffs' case that the Defendant had been inducted into the suit premises as a tenant on 24.04.2014, *vide* a Rent Agreement.

52. PW-1 further deposed that she has been reflecting the rent from the suit property in his Income-Tax Return, and clarified that the rate of rent reflected therein was Rs.25,500/- under the First Agreement, enhanced to Rs.29,000/- from 2018.

53. She further explained that since the Defendant wanted to avoid payment of GST/Tax, the rent was received in cash and no receipt was issued, and admitted that she had not disclosed this rental income to the Tax

authorities. When confronted as to why this First Agreement dated 24.04.2014 was not produced, it was explained that the same had been filed along with her Application under Section 151 CPC dated 25.08.2022, after the Defendant denied his signatures on the second Agreement dated 22.08.2018.

54. It was suggested to her that the original Agreement dated 24.04.2014 had not been filed, because it contained clause 12 about Arbitration, and that it had been deliberately concealed in order to project the Agreement dated 22.08.2018 as fraudulent; both these suggestions were denied.

55. In the same context, it is relevant to refer to the cross-examination of the Defendant, who admitted that he had taken the premises on rent in the year 2014 @Rs.25,500/- including the maintenance charges. He further admitted that the Rent Agreement was executed for 11 months and was to be increased by 10% per year and that the next Rent Agreement was executed in the year 2015 at the same rate of rent. *A Third Rent Agreement was executed in the year 2017; however, he stated that all these Rent Agreements were prepared by the Plaintiffs.*

56. He also admitted that another Rent Agreement was executed in the year 2018 for 11 months, though he claimed that no rent was agreed between the parties and only building maintenance charges @Rs.2,900/- per month, payable to the builder, were agreed upon.

57. Though the Defendant had taken a stand that he had entered the premises on account of payment of Rs.10,00,000/- towards the mortgage of the suit property, there are clear and unequivocal admissions, both in the suggestions given to the Plaintiffs in cross-examination and in his own

admissions in his cross-examination as DW-2, that he had been inducted into the suit premises in the year 2014 at a rent of Rs.25,000/- per month, with an agreed annual increase of 10%.

58. He also admitted the execution of fresh Rent Agreements in 2015 and 2017, each for 11 months, and the execution of the *Rent Agreement in 2018*, also for 11 months. There could be no better evidence than the admissions of the Defendant himself.

59. Moreover, the Rent Agreement dated 22.08.2018 was proved not only through the testimony of PW-1, but was exhibited as Ex.PW-1/5. In cross-examination, the Defendant denied the execution of this Rent Agreement, asserting that his signatures thereon were forged and fabricated; however, while claiming it to be forged and fabricated, he had admitted the execution of an Agreement in 2018 and no other Rent Agreement, other than Rent Agreement dated 22.08.2018 PW-1/5, has been proved by him.

60. The Defendant had also examined *DW-5, Ms. Aruna Mendiratta*, who corroborated in her cross-examination that the Defendant, her son, had taken the suit property on rent in the year 2014 @Rs.25,500/- per month, which continued to be the same in 2016. She also stated that she never executed a receipt for, or gave, any sum of Rs. 4,50,000/-, as claimed in her Affidavit.

61. The Defendant had sought to put up a defence that between 2016 and 2017, he had paid the amount of Rs.10,00,000/- for mortgage of the suit property; however, DW-5 *Ms. Aruna Mendiratta*, mother of the defendant herself, admitted in her cross-examination that she had not paid any money.

62. The learned District Judge had comprehensively considered the evidence of the Defendants, the admissions in the cross-examination and the testimony of DW-6, who had claimed to have given Rs.3,00,000/- to the Defendants as a loan and had ***concluded that the Defendants had miserably failed to prove having given Rs.10,00,000/- to the Plaintiff.***

63. It is also significant to note that while he admitted the execution of the Rent Agreement in 2016-2017 and again in the year 2018, but significantly, has not produced any of the Rent Agreements, nor has he asserted that this covenant of having given Rs.10,00,000/- to the Plaintiff got mentioned in any of these documents.

64. The learned District Judge thus rightly concluded that the Defendants had not proved having given Rs.10,00,000/- to the Plaintiff, which finding has not been challenged by the Appellant.

65. This Court, in *M/s Sahara India v. M.C. Agrawal HUF, 2011 SCC OnLine Del 3715*, had to consider the assessment of mesne profits payable by an erstwhile tenant who continued in occupation after termination of the tenancy. It was observed that the entitlement of a landlord to claim mesne profits is governed by Section 2(12) CPC, and that the mesne profits recoverable against a tenant who continues in occupation after termination of the tenancy is the amount which the premises can fetch if let out on rent during the period of illegal occupation.

66. It was further held that '*what is the rent which the premises can fetch during the period of the illegal occupation by the erstwhile tenant is a fact which can be easily proved in a suit for possession and mesne profits against the tenants by leading evidence with respect to rents of similar premises within the locality; the Court, on considering such evidence, thereafter awards mesne profits to the landlord.'*

67. It was also observed that where the landlord has not led evidence of the rent of similar premises in the locality, the Court may nonetheless take judicial notice of the increase of rent in urban areas by applying Sections 114 and 57 of the Indian Evidence Act, 1872, and award mesne profits at the last-paid contractual rent with an appropriate annual compounded enhancement. In that case, mesne profits were assessed by applying an annual compounded enhancement of 15% over the contractual rent for each year of unauthorised occupation.

68. A similar view was taken by this Court in *M/s Priya Exhibitors (P) Ltd. v. Oriental Bank of Commerce*, CS(OS) No.1012/1996, decided on 09.10.2012, where, in a suit for possession and mesne profits filed by a landlord against a tenant-bank in respect of commercial premises, mesne profits were assessed at the contractual rate of rent with a 15% enhancement over the immediately preceding year's rate for each subsequent year of continued occupation, together with simple interest @12% per annum on the arrears.

69. However, from the evidence of the Plaintiff and the other evidence led by him, it has been proved that the Rent Agreement had been duly executed between the parties. While the learned Trial Court has considered the execution of the Rent Agreement, it relied only upon the Agreement dated 24.04.2014, Ex.PW1/12 wherein the rate of rent was stated to be Rs.25,500/- which was also admitted by the Defendants.

70. The Plaintiff was thus **awarded the rent @Rs.25,500/- for the months of July to September, 2019, amounting to Rs.87,0000/- per month, which was duly proved.**

71. The **Mesne Profits, user and occupation charges** have also been granted at the same rate of rent of Rs.25,500/- with an increase of 15% monthly rent, after every three years for unauthorised occupation till the handing over of the possession.

Conclusion:

72. From the aforesaid discussion, it is established that there is no merit **in the present Appeal, which is hereby, dismissed**. Pending Applications, if any, are also disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

September 28,2026 /RS