



2026:DHC:8468



* IN THE HIGH COURT OF DELHI AT NEW DELHI
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Reserved on: 31st July, 2026

Pronounced on: 29th September, 2026

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CNR No. : DLHC010147202024

+ RFA 210/2024

S. SATINDER PAL SINGH

S/o Late Sardar Attar Singh Nagpal

R/o J3/185, First Floor

Rajouri Garden, Delhi.

.....Appellant

Through: Ms. Archana Gaur, Advocate from
DHCLSC with Petitioner in person.

versus

SMT. MANINDER KAUR

D/o S. Gurucharan Singh Nayyar

W/o S. Satinder Pal Singh

R/o J3/ 157, First Floor,

Rajouri Garden, Delhi.

.....Respondents

Through: Mr. Rahul Malhotra & Ms. Sneha
Agarwal, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

1. The present **Regular First Appeal** under **Section 96 of the Code of Civil Procedure, 1908** (hereinafter, "the CPC"), has been filed by the **Appellant/Defendant, Sh. Satinder Pal Singh** against the **Judgment and Decree dated 21.09.2023**, by which the CS No. 707/2020 for possession and Damages/Mesne and Permanent Injunction filed by the Plaintiff/Respondent, was decreed.

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2. The facts in brief, are that, the **Plaintiff, Smt. Maninder Kaur** was the owner of the property bearing **Municipal No. J-3/185, Rajouri Garden, Delhi** by virtue of a registered **Sale Deed dated 24.01.2006**.
3. The Defendant is the Plaintiff's husband. The Plaintiff pleaded that, owing to differences in their marriage, she began residing at J-3/157, First Floor, Rajouri Garden, Delhi, and permitted the Defendant to occupy the first floor i.e. the suit property, gratuitously. According to her, the Defendant had agreed to vacate it, whenever she demanded the possession.
4. The Plaintiff asserted that, despite repeated requests, the Defendant failed to vacate the suit property and threatened to create third-party interests therein. By **Legal Notice dated 07.10.2020**, she terminated the permission to occupy and called upon him to hand over possession.
5. However, upon failure of the Defendant to vacate, she filed the Suit seeking Possession, *Mesne* Profits at the rate of ₹15,000 per month, with interest at 15% per annum from 01.12.2020 until vacant possession was handed over, and a Permanent Injunction for restraining the Defendant from creating third-party rights in the suit property.
6. The Defendant in his **Written Statement**, raised a *preliminary objection* that the suit was barred by Section 69 of the Indian Partnership Act, 1932, asserting that the suit property had been acquired from the profits of an unregistered partnership business carried on by the parties, under the name and style of "**M/s Nagpal's**". He also alleged concealment of material facts.
7. The Defendant asserted that he and the Plaintiff had constituted an oral partnership on **01.04.1994**, to carry on a ready-made garments business



under the name M/s Nagpal's. The business was conducted from SCO-116, Sector 17-C, Chandigarh, and other addresses, including in Delhi. He claimed that he was the active partner, while the Plaintiff was an inactive partner, *and that the property had been purchased from the undivided profits of their business.*

8. The Defendant further stated that the Plaintiff exited the partnership on 01.05.2008, leaving him to carry on the business as its sole proprietor. He alleged that, although the suit property had been purchased on 24.01.2006 from partnership profits, *the Plaintiff had taken the Sale Deed in her sole name* and concealed that fact from him, until the service of the Legal Notice dated 07.10.2020.

9. According to the Defendant, the Plaintiff was a housewife and an inactive partner, while he was the active partner. He claimed to have contributed his entrepreneurial and management skills, his experience in running a similar ready-made garments showroom and store in Chandigarh; his knowledge of consumer preferences; market trends and salesmanship and his ability to keep the shop stocked with the latest merchandise sourced from manufacturers and wholesalers.

10. The Defendant further explained that he got married to the Plaintiff according to Sikh customs and rights on 07.04.1986 and they had two children from their wedlock. Initially, they resided in the matrimonial home at Chandigarh and later shifted to Delhi. The Defendant further explained that presently, the Plaintiff was residing in the house of her parents, to take care of them in their old age. The marriage between the parties is still subsisting. There is not a single instance of any legal proceeding or



Complaint by the Plaintiff against the Defendant, in regard to the matrimonial relations.

11. The Defendant asserted that the Plaintiff was in a fiduciary relationship with him, both as his wife and as his business partner, and that she had diverted partnership funds, for purchasing the suit property in her individual name.

12. The Defendant further, asserted that at the time of purchase of the suit property, he was deeply absorbed in the business, which was highly competitive and demanded constant attention and efforts. She assured the Defendant that the suit property has been purchased in their joint name and promised to show the Sale Deed, when it was made available after its registration. The Defendant because of his love, affection and implicit trust in the Plaintiff, accepted the assurances as a matter of course and took no interest in the matter.

13. **On merits**, the same, defence as stated in the preliminary objections, has been reiterated. It is denied that he was a licensee or in permissive occupation of the suit property, but reasserted that he is the lawful joint owner of the suit property. He therefore, denied any liability to pay the occupancy charges or the *mesne* profits at the rate of Rs.15,000/- per month and specifically denied that the suit property could be let out at the rate of Rs.15,000/- per month. *It was thus, asserted that the Suit of the Plaintiff is liable to be dismissed.*

14. The **Plaintiff in the Replication**, reaffirmed the assertions made in the Plaint and denied the allegations made in the Written Statement.

15. The **issues were framed on 23.08.2022**, as under:



“1. Whether the plaintiff is entitled for decree of possession, as prayed for? OPP

2. Whether the plaintiff is entitled for decree of damages/mesne profits, as prayed for? OPP.

3. Whether the plaintiff is entitled for decree of permanent injunction, as prayed for? OPP.

4. Whether the suit of the plaintiff is barred by Section 69 of Partnership Act? OPD.

5. Whether the plaintiff has purchased the property out of the joint funds of the partnership business exclusively in her own name? OPD.

6. Relief.”

16. The Plaintiff examined herself as **PW-1** and filed her Affidavit of Evidence **Ex.PW-1/A**. She proved the copy of Transfer Agreement dated 01.05.2008, copy of letters, representations, Judgement, Decree Sheet, Franchisee Termination Agreement dated 15.07.2004, copy of Sale Deed & Demand Notice, etc. as **Ex.PW-1/1 to Ex.PW-1/10**.

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

18. **DW-2, Shri Harkawal Singh, Defendant’s nephew**, corroborated the testimony of the Defendant.

19. Learned District Judge, **on appreciation of the evidence**, observed that the Plaintiff, in her evidence, had explained that she had purchased the suit property from her savings prior to their marriage and also by selling the jewellery and taking Rs.2,00,000/- from her father. She also produced the **Agreement dated 01.05.2008** Ex.PW-1/1 executed between the parties,



Letters Ex.PW-1/2 and Ex.PW-1/3 sent to **M/s Levi Strauss India Private Limited** and **M/s Basic Clothings**, over the franchise of Plaintiff's Firm, wherein it was mentioned that the Plaintiff was the **sole proprietor** of M/s Nagpal's.

20. The learned Trial Court observed that the Defendant had produced no documentary evidence to establish that he was a partner in **M/s Nagpal's** or that it was a partnership between the parties. The documents relied upon by the Plaintiff, including the correspondence with the franchisees, arbitration proceedings initiated under Sections 14 and 17 of Indian Arbitration Act, 1940; the copy of the Judgement Ex.PW-1/ 5 and Decree Ex.PW-1/ 6 and the Franchisee Termination Agreement, described her as the sole proprietor. The Court also noted that the Defendant had not put any question or suggestion to the Plaintiff, challenging the veracity of those documents.

21. The testimony of DW-2, also did not establish that there was a joint family business run by the Plaintiff and the Defendant. It was further noted that the Defendant in his cross-examination, had admitted that the rent of the adjoining Property was Rs.15,000/- per month.

22. It was **thus, held** that the Plaintiff being the owner of the suit property, *is entitled to recovery of possession from the Defendant*. Also, the Mesne Profits were granted at a rate of Rs. 15,000/- per month. The **Permanent Injunction** was also granted restraining the Defendant from creating third-party rights in the suit property. The Suit of the Plaintiff was decreed, *vide Judgment and Decree dated 19.01.2024*.

23. The Defendant thereafter, filed *Review Petition Misc. DJ No. 782/2023*. The learned Trial Court condoned the delay in filing the Review



Petition, but dismissed it on merits, *vide* Order dated 19.01.2024.

24. ***Aggrieved, the present Regular First Appeal has been preferred by the Defendant/Appellant.***

25. The **grounds of challenge** are, that the true facts and circumstances of the case have been considered in a *casual and perfunctory manner*, overlooking the cardinal fact of the relationship *inter-se* the parties. The learned Court was swayed by the Sale Deed in favour of the Plaintiff, even though it was obviously the cumulative income of both the parties, that enabled the purchase of the suit property.

26. It was further asserted that the Decree of Possession has been passed erroneously, on the basis of presumptive hypothesis, relying upon the documents in the name of the Plaintiff as the sole proprietor. It has been overlooked that business in fact, was a joint partnership amongst the brothers and wives together and with passage of time, the family members dissolved the partnership business, which was being run in the name and style of M/s Nagpal's.

27. Subsequently, the same business was started by the Appellant in the name of his wife and he was the active member, who was carrying out the business since then, which have not been appreciated by the learned Court.

28. The contradictions in the statement of the Plaintiff have also not been appreciated. When the questions were put about the source of revenue which enabled her to purchase the suit property, Plaintiff feigned ignorance on the plea that she had no remembrance about them.

29. Further, it has not been appreciated that when the questions were put to the Plaintiff, as to the capacity in which the Appellant had been staying in



the suit property, she admitted *that he was staying as a married spouse and not as a licensee*.

30. Lastly, the valuable papers were within the possession of the Respondent, which had never been brought to the notice of the Court, for appreciation of the major fact of the source of income generated by the Plaintiff, to purchase the suit property.

31. *The Appellant accordingly seeks setting aside of the decree for possession, mesne profits and permanent injunction.*

Submissions heard and record perused.

32. It is admitted case that the Appellant and the Respondent got married according to Sikh customs and rites, on 07.04.1986. It is also not disputed that they resided together, until the Respondent moved to her parents' house in 2008.

33. It is further not disputed that the Sale Deed dated 24.01.2006 is exclusively in the name of the Plaintiff/Respondent. The Defendant's case was that the parties carried on an unregistered partnership business under the name and style of *M/s Nagpal's*, and that he was the active partner and contributed his experience and expertise and that the Plaintiff was a sleeping partner.

34. The Defendant further asserted that the Plaintiff exited from the alleged partnership on **01.05.2008**, after which he carried on the business as its sole proprietor. In the Review Petition, however, he asserted that the Plaintiff was the sole proprietor but that he had, in fact, managed the



business, a stand totally *different from his pleaded case that the parties were partners.*

35. In his Review Petition, the Appellant set out a further account of the business history. He claimed that the family business was initially carried on under the name “**Mayur’s**” and later as M/s Nagpal’s from Shop No. 116, Sector 17-C, Chandigarh, which was leased in the name of his elder brother, Shri Maninder Pal Singh.

36. The Appellant further claimed that, after the Bank of Baroda initiated recovery proceedings against M/s Mayur’s, of which he was a personal guarantor, the Firm’s constitution was **changed** and the business continued as M/s Nagpal’s. He also stated that, following attachment of the property, ownership of the business was **transferred** to his uncle, Shri Gurvinder Singh Nagpal, as sole proprietor.

37. According to the Appellant, in 1990 the family sold property bearing No. E-249–250, Ramesh Nagar, Delhi, and invested the proceeds in the business. He claimed that this investment revived the business and led to the establishment of M/s Nagpal’s as a partnership between the Plaintiff and his elder brother, Shri Maninder Pal Singh. The Plaintiff, being the Appellant’s wife, and Smt. Supreet Kaur, being Shri Maninder Pal Singh’s wife, were stated to have executed a **Partnership Deed dated 11.07.1990.**

38. The Appellant further stated that a fire broke out at the business premises of M/s Nagpal’s in 1992 and that, following persistent business losses, *Shri Maninder Pal Singh decided to exit the business.* The partnership between Smt. Supreet Kaur and the Plaintiff was accordingly,



dissolved, and the *business came to be carried on in the name of Smt. Maninder Kaur, the Appellant's wife*. The Appellant also explained that, due to the pending recovery proceedings, the family business was not operated in his name.

39. In the arbitration proceedings between M/s Nagpal's and National Insurance concerning the fire, the Appellant appeared as the Plaintiff's Special Power of Attorney holder. He claimed that the Plaintiff was only the nominal head of the business, while he operated it using his expertise and experience.

40. The Appellant's narration of facts in the Review Petition, explained the entire Business history, but ultimately, it is not denied that the Plaintiff was the sole proprietor of M/s Nagpal's, though his only claim was *that he operated the business*.

41. Likewise, **DW-2, Sh. Harkawal Singh**, the Defendant's nephew, deposed about the alleged joint family business and stated *that the garment business carried on in the name of M/s Nagpal's had fallen to the Defendant's share after DW-2's father relinquished his rights in the Defendant's favour*. This account travelled beyond the pleadings, further, in his Written Statement, the Defendant pleaded that he and the Plaintiff had formed an oral partnership on 01.04.1994 and that the suit property had been purchased from its profits.

42. Further, DW-2 was the Defendant's nephew and an interested witness whose testimony was likely to support the Defendant. His account was also unsupported by documentary evidence establishing the alleged joint family business or the relinquishment on which he relied. The learned Trial Court



therefore, rightly found that DW-2's testimony could not establish the Defendant's case.

43. Further, no documentary evidence was produced to show that M/s Nagpal's was a joint family business or that the Defendant had any share in it when the suit property was purchased. The evidence, instead, showed that M/s Nagpal's was then the ***Plaintiff's sole proprietorship***. The Defendant therefore **failed** to establish that he was a partner in the business or had a share in its income.

44. Even if the suit property was purchased from funds generated by M/s Nagpal's, that fact, by itself, would not establish the Defendant's co-ownership, particularly when he had failed to prove any proprietary share in the business or its funds. His contribution of expertise to its operation could not, without more, confer such a share. ***The learned Trial Court therefore rightly rejected his claim to joint ownership and decreed the suit for possession in favour of the Plaintiff.***

45. The ***second issue concerns the award of mesne profits at the rate of ₹15,000 per month.*** The Appellant's principal contention is that he resided in the suit property as the Plaintiff's spouse and in his own right, and was not a licensee.

46. The fact, that the Appellant was the Plaintiff's spouse, ***did not entitle him*** to continue occupying the suit property, against her wishes. Once the Plaintiff terminated his permissive occupation by serving a Legal Notice, the Appellant had ***no right to remain in possession and became liable to pay mesne profits***, for his continued use and occupation of the suit property.

47. The *learned District Judge referred* to the Appellant's admission in



cross-examination that the adjoining property fetched rent of ₹15,000 per month. ***The Court therefore, rightly relied on his admission in assessing mesne profits at that rate.***

48. Having found the Plaintiff to be the exclusive owner of the suit property, the ***learned District Judge also rightly granted a Permanent Injunction*** restraining the Defendant from creating third-party rights in it.

49. It may be noted that the present Regular First Appeal also refers to the Order dated 21.09.2023, which is stated to have been the subject of the Appellant's Review Petition. The challenge to the dismissal of a Review Petition does not lie under Section 96 of the CPC. Accordingly, no opinion is expressed on the challenge to the Review Petition.

Conclusion:

50. From the aforesaid discussion, it is established that there is **no infirmity** in the impugned Judgment and Decree dated 19.01.2024.

51. The Appeal is accordingly, **dismissed**. The pending Applications are disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

SEPTEMBER 29, 2026/R