



% 01.11.2010

Present : Mr.K.L.Rajora, Advocate for the appellant.  
Mr.Rajat Aneja, Advocate for the respondents.

**+C.M.Appl.19449-19450/2010 (for exemption) in**  
**R.S.A.No.198/2010**

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Exemption is allowed subject to just exceptions.

Application is disposed of.

**C.M.19447/2010 (for delay)**

This is an application filed for condonation of 9 days delay in re-filing the appeal. There is no opposition to the application.

For the averments made in the application, it is allowed.

Delay condoned.

Application is disposed of.

**R.S.A.No.198/2010 & C.M.19448/2010 (for stay)**

Vide separate judgment of the even date, the appeal is disposed of.

**INDERMEET KAUR, J.**

**NOVEMBER 01, 2010**

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

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*Date of Judgment : 1<sup>st</sup> November, 2010*

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**R.S.A.No.198/2010 & C.M.19448/2010**

**CHARANJIT SINGH**

.....Appellant

Through: Mr.K.K.Rajora, Advocate.

Versus

**RAJ KUMARI & ANR.**

.....Respondents

Through: Mr.Rajat Aneja with Ms.Shweta  
Singh, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

**INDERMEET KAUR, J.**(Oral)

For orders see R.S.A.No.197/2010.



**INDERMEET KAUR, J.**

**NOVEMBER 01, 2010**

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

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*Date of Judgment : 1<sup>st</sup> November, 2010*

+ **R.S.A.No.197/2010 & C.M.19437/2010**

**CHARANJIT SINGH**

.....Appellant

Through: Mr.K.K.Rajora, Advocate.

Versus

**RAJ KUMARI & ANR.**

.....Respondents

Through: Mr.Rajat Aneja with Ms.Shweta Singh, Advocates.

AND

+ **R.S.A.No.198/2010 & C.M.19448/2010**

**CHARANJIT SINGH**

.....Appellant

Through: Mr.K.K.Rajora, Advocate.

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**RAJ KUMARI & ANR.**

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**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

**INDERMEET KAUR, J.**(Oral)

1. These two appeals have impugned the judgment and decree dated 26.7.2010 which had endorsed the finding of the trial judge dated 11.9.2009. Relevant would it be to state that two appeals have arisen out of two suits filed by the plaintiff namely Raj Kumari and another. The first suit was a suit for possession of the



suit property bearing No.IX/114, Shyam Block, Kailash Nagar, Delhi (hereinafter referred to as 'the suit property'). The second suit was a suit for recovery of arrears of rent/damages.

2. The trial judge had decreed both the suits in favour of the plaintiff vide its judgment dated 11.9.2009. Both these judgments were reaffirmed by the first appellate court on 26.7.2010.

3. Briefly stated the factual matrix of the case is as follows:

I. Plaintiff no.1 Raj Kumari was stated to be the exclusive owner of the suit property. She had purchased it vide a registered sale deed dated 20.12.2003 from Kamal Kishore, her son who was the general attorney holder of his father Sh.Hira Lal; plaintiff no.2.

II. Plaintiff no.2 had purchased the suit property from defendant Charanjit Singh vide documents i.e. an agreement to sell, general power of attorney and will all of which were dated 23.7.2003. On the same day, the parties had also entered into a rent agreement which was to take effect from 25.7.2003. In terms of this rent agreement the defendant would retain possession of the property as a tenant at a monthly rental of Rs.6000/- per month. In terms of the said agreement the plaintiff no.2 delivered possession of the property to the defendant.

III. Defendant did not pay the rent. His tenancy was terminated vide legal notice dated 11.3.2004.

IV. Two suits i.e. a suit for possession and a second suit for recovery of arrears of rent/damages were filed.

V. The defendant in his written statement/counter claim contended that vide subsequent document dated 6.8.2003 he had cancelled the aforementioned documents of 23.7.2003 i.e. the general power of attorney, agreement to sell and receipt. Further the



plaintiff had vide rent agreement dated 23.7.2003 agreed to give a loan of Rs.3 lakhs to the defendant of which only Rs.50,000/- had been paid; balance sum of Rs.2.5 lakhs was yet payable.

VI. Trial judge had framed issues in both the suit as also in the respective counter claims. Four witnesses were examined on behalf of the plaintiff and three witnesses were examined on behalf of the defendant. Trial judge noted that the documents dated 23.7.2003 stood proved; these documents were in fact not disputed by the defendant. The power of attorney executed by plaintiff no.2 in favour of his son Kamal Kishore; the subsequent sale deed executed by Kamal Kishore in favour of his mother plaintiff no.1 was proved as Ex.PW1/2. The defence of the defendant that he had signed these documents in a state of intoxication was disbelieved. The subsequent document i.e. the rent agreement Ex.PW1/10 executed between the parties was also an admitted document. As per this document the defendant had agreed to pay Rs.6000/- per month to the plaintiff to stay in the property as a tenant. Ex.DW1/1 was looked into. By virtue of this document plaintiff had agreed to give Rs.3 lakhs as loan to the defendant which was to be returned in two years. His contention that this amount was not paid was however discarded. Trial judge decreed the suit for possession as also for recovery of arrears of rent/damages.

VII. These fact findings of the trial judge dated 11.9.2009 were confirmed in appeal by the impugned judgment dated 26.7.2010.

4. Counsel for the appellant has urged that the findings in the impugned judgment have incorrectly appreciated the fact that documents executed by the defendant on 23.7.2003 had stood



cancelled on 6.8.2003; further, the terms of the loan transaction Ex.DW1/1 had not been honoured by the plaintiff. In these circumstances, the suit could not have been filed.

5. The substantial questions of law have been formulated by the appellant in the body of the appeal. The same have been read. These are two appeals and separate substantial questions of law have been formulated in the two separate appeals. They are all fact based and border on the question as to whether the notice sent by the plaintiff to the defendant terminating his tenancy was a valid notice; whether plaintiff no.2 could have filed the suit when the property stood transferred to plaintiff no.1.

6. These are second appeals. Only and until a substantial question of law arises, can this court be vested with jurisdiction; questions of law by themselves are not sufficient to clothe this Court with jurisdiction to entertain a second appeal. All submission made before this court are fact based. Documents by virtue of which the plaintiff no.2 had become the owner of the suit property have been delved into i.e. the documents dated 23.7.2003 executed by the defendant in favour of plaintiff which are in fact admitted documents. Plaintiff no.1 had thereafter by virtue of Ex.PW1/2 a sale deed dated 20.12.2003 had become the exclusive owner of the suit property. Present suits had been filed by two plaintiffs i.e. plaintiff no.1 being the owner who had acquired ownership of this property by virtue of this deed Ex.PW1/2 and plaintiff no.2 being her husband in whose favour the documents dated 23.7.2003 had been executed by the defendant. They had jointly filed the suit.

7. No question of law much less any substantial question of law has arisen in both the appeals. Both appeals as also the pending applications being without any merit are dismissed in limine.

**INDERMEET KAUR, J.**

**NOVEMBER 01, 2010**

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