



2026:DHC:9207



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

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Reserved on: 01st September, 2026

Pronounced on: 13th October, 2026

Uploaded on: 15th October, 2026

CNR No. DLHC010306382026

+ **RSA 122/2026, CM APPL. 44711/2026**

Mohd. Yamin

S/O Nazaruddin

R/O E-156 (New Hero Honda Service Center),

Main 60 Foota Road,

Near Nav Prakash Public School,

Shaitan Chowk, Sr1 Ram Colony,

Rajiv Nagar, Khajuri, Delhi.

.....Appellant

Through: Mr. Ramesh Kumar, Advocate.

versus

Mohd. Hasam

S/O Nasiruddin

R/O E- 156, (New Hero Honda Service Center),

Main 60 Foota Road,

Near Nav Prakash Public School,

Shaitan Chowk, Sri Ram Colony,

Rajiv Nagar, Khajuri, Delhi.

.....Respondent

Through: Mr.K.C.Dubey, Ms.Uma Tarafdar,

Ms.LenyinTaggu&Mr.Ravi Bhatt,

Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present ***Regular Second Appeal under Section 100 of CPC*** has been filed on behalf of the Appellant/Defendant, Mohd. Yamin against



Judgment dated 16.05.2026 passed in *RCA DJ No.14/2026*, whereby learned District Judge has set aside Judgment dated 08.01.2026 passed by learned JSCC/ASCJ/G. Judge, Delhi and decreed the Suit of the Plaintiff / Respondent and directed Appellant / Defendant to handover the possession of the suit property to the Plaintiff / Respondent and has further granted *mesne profits @ Rs.12,000/- w.e.f. 15.05.2014* and also not to create third-party rights and imposed cost of Rs.1,00,000/-.

2. The Plaintiff / Respondent / Mr. Mohd. Hasam filed the ***Suit bearing CS No. 101/2014 for Mandatory and Permanent Injunction, Recovery, Damages / Mesne Profits.***

3. The **facts in brief**, as stated in the Plaint, are that Plaintiff was a co-owner of the property bearing ***No. E-156, (New Honda Service Center), out of Khasra No.337, Near Nav Prakash Public School, Main 60 Foota Road, Shaitan Chowk, Sri Ram Colony, Rajiv Nagar, Khajuri, Delhi, measuring 100 sq. yards***(hereinafter referred to as the “suit property”).

4. On 23.06.2003, the Plaintiff and the co-owner, **Ms. Hazara Firdus**, purchased the suit property from Sh. Shahid Ahmad for a total consideration of ₹1,00,000/-, vide a registered GPA, an Agreement to Sell, a registered Will and other documents, all dated 24.06.2003. Upon execution of these documents, vacant possession of the suit property was handed over to them, after which they constructed *a shop, two rooms, a kitchen, a toilet and a bathroom* and obtained an electricity connection in the Plaintiff's name in 2006, and began residing in the suit property.

5. After some time, the Plaintiff and his family shifted their residence to their native place, leaving their son, Mr. Nazim, and co-owner, Ms. Hazara



Firdus, in the suit property, following which, Ms. Hazara Firdus obtained a separate commercial electricity connection, in 2011.

6. The Defendant had started selling *biryani* from a *rehri* opposite the suit property. He requested the Plaintiff's son to provide him with accommodation in the suit property, explaining that he had to bring his *rehri* from a distant place, and assured him that he would take care of the suit property.

7. Considering the Defendant's circumstances and on humanitarian grounds, the Plaintiff provided the Defendant and his family with **one room, one kitchen, an open verandah and a bathroom**. The Plaintiff retained the remaining portion of the suit property, *comprising of a shop, one room and a common passage*. The Plaintiff and his family continued to visit the suit property, from their native place.

8. After two years, the Plaintiff asked the Defendant to vacate the suit property, but the Defendant sought further time, stating that his daughter's marriage would be solemnized shortly, but thereafter, failed to vacate despite repeated requests. On 30.03.2013, when the Plaintiff returned from his native place, the Defendant and his family members allegedly abused him by using filthy language and refused to vacate the suit property.

9. The Plaintiff then initiated criminal proceedings against the Defendant and his family members, by filing a **Complaint dated 03.04.2013 with the ACP, P.S. Khajuri Khas, Delhi**, and another **Complaint dated 25.04.2013 with the DCP, Seelampur, Delhi**. In the complaints, the Plaintiff alleged that the Defendant, his family members and associates had prepared false and fabricated sale documents, namely, an **Agreement for Earnest Money and an Affidavit dated 04.04.2006**,



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and an undated Receipt for ₹5,00,000/-and Agreement to Sell dated 18.11.2012.

10. The Plaintiff averred that the initial police investigation revealed that the Bayana Agreement and Affidavit dated 04.04.2006, had been forged by the Defendant, as they were prepared on stamp papers of ₹50/- and ₹10/- issued by the Delhi Treasury in 2012, despite bearing the date as 04.04.2006. **FIR No. 322/2013** under **Sections 420, 468, 471, 120B and 34 of the IPC** was registered against the Defendant and his family members, on 25.06.2013. A Report dated 20.11.2013 from the Finger Print Bureau, Delhi, and FSL Report dated 14.03.2014, were obtained.

11. The Plaintiff further stated that, relying on the disputed documents, the Defendant had filed **Suit No. 53/2013** before the learned ADJ, Karkardooma Courts, Delhi, seeking **Specific Performance of the alleged Agreement to Sell dated 18.11.2012.**

12. The Plaintiff maintained that he was the owner of the suit property and that the Defendant was in illegal occupation and had failed to vacate it, despite repeated requests. Accordingly, the Plaintiff issued a **Legal Notice dated 09.04.2014**, calling upon the Defendant to vacate the suit property and pay the arrears of electricity charges. As the Defendant failed to comply, **the Plaintiff filed the present suit.**

13. The Defendant, **in his Written Statement**, raised a *preliminary objection* that the Plaintiff had concealed material facts and brought the suit with ulterior motives. The Defendant claimed that his inquiries had revealed that the suit property was on Government land and that the Plaintiff had no right or title in it. He also objected that the DDA had not been impleaded as a party.



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14. The Defendant further contended that the GPA, Agreement to Sell and other documents relied upon by the Plaintiff, did not confer ownership rights. He alleged that no Khasra No. 337 existed in the records for Khajuri Khas and that the Plaintiff had fraudulently dealt with Government land, causing loss to the Government exchequer. He also alleged that the Plaintiff, in conspiracy with his daughter, had involved the Defendant and his family in false criminal proceedings. It is further asserted that the Plaintiff has shown *value of the suit property as Rs.1,00,000/-, when in fact, it is more than Rs.15,00,000/-*.

15. On **merits**, the Defendant stated that in April 2006, the Plaintiff had offered to sell the suit property to him, for ₹11,00,000/-. According to the Defendant, sale documents were executed on 04.04.2006, and he paid the Plaintiff ₹6,25,000/-. The possession of the suit property was handed over to him, except for a shop and a room in the front, which the Plaintiff retained, on the understanding that he would hand over the remaining portion after vacating it.

16. The Plaintiff also handed over the previous chain of title documents. On examining them, the Defendant came to know that the Plaintiff's daughter, Ms. Hazara Firdus, was a co-owner. The Plaintiff allegedly assured him that he had paid the entire purchase price and that his daughter would have no objection to the sale and would join in executing the sale documents.

17. The Defendant claimed that, for the next six years, he kept asking the Plaintiff to accept the balance sale consideration, execute the necessary documents and hand over possession of the remaining portion of the suit property. The Plaintiff allegedly avoided doing so, on one pretext or another.



In November 2012, the Plaintiff allegedly approached the Defendant again, offered to execute the sale documents and undertook to hand over the remaining portion of the suit property, but demanded an increased sale consideration.

18. The Defendant claimed that he agreed to increase the sale consideration from ₹11,00,000/- to ₹15,00,000/-. The parties allegedly agreed that the earlier payment of ₹6,25,000/- would be adjusted and that the Defendant would pay a further ₹5,00,000/-, leaving ₹3,75,000/- payable upon execution of the sale documents and delivery of vacant possession of the remaining portion, by 31.03.2013.

19. The Defendant stated that, pursuant to this arrangement, another set of sale documents, including an Agreement to Sell dated 18.11.2012, was executed and he paid ₹5,00,000/- towards the sale consideration against a Receipt. The Defendant alleged that, after the Plaintiff failed to perform his part of the agreement, he sent a Legal Notice dated 30.03.2013, to the Plaintiff.

20. The Defendant further claimed that, on the same day, the Plaintiff and certain unidentified persons forcibly entered the suit premises, assaulted the Defendant and his family, and attempted to dispossess them. The Defendant stated that he called the PCR and that police personnel took the Plaintiff and his associates to the police station, but the local police declined to record his complaint.

21. The Defendant further stated that he had filed a *Criminal Complaint* against the Plaintiff and his associates, which was pending before the ACMM, Delhi. He maintained that he remained ready and willing to



perform his part of the contract, while the Plaintiff was avoiding performance.

22. **The Defendant submitted that the Suit of the Plaintiff, was liable to be dismissed.**

23. **The Plaintiffin his Replication** to the Defendant's Written Statement, reaffirmed the averments made in the Plaint.

24. **Issues were framed on 18.12.2014, 17.03.2017 and 28.10.2017.** To simplify and clarify them, the **learned Civil Judge grouped the issues framed on those dates, as follows:**

“(i) Whether the plaintiff is entitled to a decree of possession as prayed? OPP.

(ii) Whether the plaintiff is entitled for mandatory injunction to handover the peaceful and vacant possession of the suit property? OPP.

(iii) Whether the plaintiff is entitled to a decree of damages as prayed? OPP.

(iv) Whether the plaintiff is entitled to damages/mesne profit @ Rs. 1500/- per day from the date of filing of the suit till the handing over of vacant physical possession of suit property to the plaintiff? OPP.

(v) Whether the plaintiff is entitled to a decree of permanent injunction as prayed? OPP.

(vi) Whether the plaintiff is entitled to a relief of permanent injunction as prayed? OPP.

(vii) Whether the plaintiff is entitled to a decree of arrears of rent as prayed? OPP.



(viii) *Whether the suit of the plaintiff is liable to be dismissed for non-joinder of necessary parties? OPD.*

(ix) *Whether the plaintiff has valued the suit properly for the purpose of court fees and jurisdiction? OPD.*

(x) *Whether the plaintiff is entitled for recovery of arrears of electricity charges Rs. 45,000/- and future electricity charges in the handing over of possession of the suit property till the handing over of vacant physical possession of suit property to the plaintiff? OPP.*

(xi) *Whether the defendant is entitled for protection u/s 53A of Transfer of Property Act? OPD.*

(xii) *Relief ?”*

25. In support of his case, the Plaintiff examined **PW-1, Sh. Chandan Lal, Reader to the Sub-Registrar-IV, Seelampur, Delhi** who produced the summoned record, including the GPA executed by Sh. Shahid Ahmad in favour of Mohd. Hasan and Smt. Hazra and registered on 24.06.2003, **Ex. PW-1/1**, and the Will registered on the same date, **Ex. PW-1/2**.

26. **PW-2, Sh. Subhash Chand, APO, Division Karawal Nagar, BSES, Delhi**, produced the bill summary and payment records for the electricity connection in Ms. Hazra's name, covering the period from 13.09.2011 to 07.12.2017, **Ex. PW-2/1, collectively**. He also produced the bill summary and payment records for the connection in the Plaintiff's name, **Ex. PW-2/2**, and the disconnection notice, **Ex. PW-2/3**. He deposed that the Plaintiff's connection was disconnected on **25.06.2014** for non-payment of bills.

27. **PW-3, Sh. Rajiv Ranjan, Senior Assistant, Treasury Office, Office of the Divisional Commissioner, Tis Hazari, Delhi** produced the office



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copy of a letter dated 23.05.2013, **Ex. PW-3/1**, and treasury records showing that stamp paper No. 52AA-137778, of ₹10 denomination, was issued to stamp vendor Madhu Sadana on 12.09.2012, **Ex. PW-3/2**, while stamp paper No. AA-5631621, of ₹50 denomination, was issued to her on 22.03.2012, **Ex. PW-3/3**.

28. **PW-4, Sh. Veer Singh, Office Assistant, SDM, Kotwali, Delhi** produced a letter dated 08.10.2013 from the SDM's office stating that the entries bearing serial Nos. 6511 and 6512, shown on the reverse of the stamp papers as dated 04.04.2006, did not exist in the stamp vendor's records for that date, **Ex. PW-4/1**. He also produced copies of the relevant stamp vendor register, **Ex. PW-4/2**.

29. **PW-5, Sh. Mohd. Shahid Ahmad**, the erstwhile owner, testified that he had sold the suit property to the Plaintiff and Smt. Hazra Firdaus on 23.06.2003 and handed over possession to them. He identified the GPA and Will already exhibited as **Ex. PW-1/1 and Ex. PW-1/2**, respectively, and the photocopies of the Agreement to Sell, **Mark 5A**, receipt, **Mark 5B**, affidavit, **Mark 5C**, and possession letter, **Mark 5D**, each dated 23.06.2003.

30. **PW-6, Sh. Dilbar Singh, Judicial Assistant, Record Room (Sessions), Karkardooma Courts, Delhi**, produced the judicial record of Suit No. 53/2013, titled *Yameen v. Hasam*, instituted on 09.04.2013 for specific performance under Sections 9 and 10 of the Specific Relief Act. The record bore Goswara No. 62/August/2015.

31. **PW-7, Sh. Ravindra Singh Yadav, Inspector/Fingerprint Expert, Finger Print Bureau, Crime Branch, Delhi Police, P.S. Kamla Market, New Delhi**, produced the Report comparing the questioned thumb



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impressions with the specimen thumb impressions in FIR No. 322/2013, **Ex. PW-7/1**, and the Memorandum dated 20.11.2013, **Ex. PW-7/2**.

32. **PW-8, Sh. Virender Singh, Assistant Director (Documents), FSL, Rohini**, was summoned to depose with respect to FSL Report No. FSL/2013/D-9117 dated 14.03.2014 in FIR No. 322/2013. He stated that the report had already been delivered to the IO/SHO, P.S. Khajuri Khas, through an authorised messenger. *His further examination-in-chief was deferred because the original documents and the original receipt showing their delivery to the police were not on the court file.*

33. **PW-9, SI Geeta, Sub-Inspector, Crime Branch, Kamla Market, Delhi**, produced the internet-generated information Report dated 16.11.2017 concerning the Complaint made by the Plaintiff about documents reported lost in Delhi, along with a certificate under **Section 65B of the Indian Evidence Act, 1872**. These documents were exhibited collectively as **Ex. PW-9, collectively**.

34. **PW-10, Sh. Mohd. Hasam, the Plaintiff**, tendered his evidence by affidavit, **Ex. PW-10/1**, and relied on the site plan, **Ex. PW-10/A**; the GPA and Will, **Ex. PW-1/1 and Ex. PW-1/2**; the Agreement to Sell, affidavit, receipt and possession letter, **Mark A, collectively**; electricity bills, **Mark B, collectively**; and the FIR, **Mark C**. He also relied on the record of Suit No. 53/2013, **Ex. PW-10/H**; the Fingerprint Bureau report and memorandum, **Ex. PW-7/1 and Ex. PW-7/2**, respectively; the disconnection notice, **Ex. PW-2/3**; the legal notice and postal documents, **Ex. PW-10/L to Ex. PW-10/P**; and the lost-document report, **Ex. PW-9, collectively**.



35. **PW-11, Smt. Hajra Firdaus**, the Plaintiff's daughter and co-owner of the suit property, tendered her evidence by affidavit, **Ex. PW-11/A**, and corroborated the testimony of the Plaintiff.

36. The Defendant, **Sh. Mohd. Yamin**, examined himself as **DW-1** and tendered his evidence by affidavit, **Ex. DW-1/A**, reiterating the case set out in his Written Statement.

37. **DW-2, Sh. Hem Raj, JJA, Record Room, North-East, Karkardooma Courts**, produced the record of Suit No. 233/2014, filed by Mohd. Yamin against BSES Yamuna Power Ltd., with Mohd. Hasam and Ms. Hazara, as pro forma defendants. The Order sheet dated 15.12.2015 and Mohd. Yamin's statement in that Suit was **Ex. DW-2/A, (coll)**.

38. **DW-3, Sh. Rishabh Gotra, JJA, Record Room, North-East, Karkardooma Courts**, produced the summoned record of CS No. 353/2014, *Mohd. Yamin v. Mohd. Hasam*. It included the Agreement to Sell dated 18.11.2012 and the receipt for ₹5,00,000, exhibited together as **Ex. DW-3/1, OSR**.

39. **DW-4, Inspector Shailendra Kumar Singh, the IO in FIR No. 322/2013**, testified that he had collected the disputed documents, viz. Agreement to Sell dated 18.11.2012 and the Receipt for ₹5,00,000, **Ex. DW-3/1** from the court record and sent them for expert examination.

40. **DW-5, Sh. Anwar**, tendered his evidence by affidavit, **Ex. DW-5/A**, and admitted his signatures at points A and B on Agreement to Sell dated 18.11.2012 and the Receipt for ₹5,00,000, **Ex. DW-3/1, collectively**.

41. The learned Civil Judge, **upon assessing the pleadings and evidence on record**, relied on the testimony of **PW-5, Mohd. Shahid Ahmad**, from whom the Plaintiff claimed to have purchased the suit property through



documents dated 23.06.2003. However, PW-5 **could not identify** the person from whom he had purchased the property or produce documents relating to its prior ownership. In view of the Defendant's specific plea that the suit property was Government/DDA land, and the Plaintiff's failure to implead the DDA, the Ld. Civil Judge held that the Plaintiff had **not established his title** to the suit property, through the documents relied upon by him. It was further held that the Plaintiff had **failed to prove a licensor–licensee relationship** or that the Defendant's possession was unauthorized. The Plaintiff was therefore, held not entitled to a decree of Mandatory Injunction or to damages/*mesne* profits. **Accordingly, the learned Civil Judge dismissed the suit vide Judgment dated 08.01.2026.**

42. ***Aggrieved by the Judgment dated 08.01.2026, the Plaintiff preferred RCA DJ No. 14/2026.***

43. The **learned District Judge**, upon reappreciating the evidence, held that the Plaintiff's claim to possession did not depend on establishing absolute ownership. Even if the documents relied upon by the Plaintiff did not establish ownership, the testimony of PW-10, PW-11 and PW-5, read with the Defendant's admissions, established that the Plaintiff had been in prior possession and that the Defendant had entered the suit property through him.

44. Furthermore, it was found that the testimony of PW-3 **Sh.Sh. Rajiv Ranjan** and PW-4, **Sh.Sh. Veer Singh** read with that of PW-7, **Sh.Sh. Ravindra Singh Yadav** established that the Agreement to Sell and Affidavit dated 04.04.2006 were forged and that this finding did not depend on the FSL Report, which had not been proved. The Ld. District Judge treated the Agreement to Sell and Receipt dated 18.11.2012 relied by the Defendant, as



tainted and highly suspicious, as they were founded on the 2006 documents and also noted that Suit No. 53/2013, filed by the Defendant for Specific Performance, had been consigned to the Record Room *sine die* and was not being pursued.

45. As to the Defendant's plea that the suit property belonged to the DDA, the learned District Judge held that the DDA was not a necessary party because the Plaintiff sought possession from the Defendant, who had entered the property through the Plaintiff and claimed title through documents allegedly executed by him. Having found the Defendant's documents forged or tainted, it was held that he was a licensee, and under Section 116 of the Indian Evidence Act, was estopped from denying the Plaintiff's title. **It was concluded that the Plaintiff had established prior possessory rights and was entitled to recover possession.**

46. The learned District Judge **awarded the Plaintiff mesne profits at ₹12,000/- per month from 15.05.2014**, when the summons was served on the Defendant, until delivery of possession. The Defendant was also **restrained from creating third-party interests in the suit property** and directed to pay costs, including further costs of ₹1,00,000/-. The claims for electricity arrears and legal notice charges, were declined. **Accordingly, the Judgment dated 08.01.2026 was set aside and the Suit was decreed to the extent of the reliefs granted.**

47. ***Aggrieved by the impugned Judgment dated 16.05.2026, the Defendant, Mohd. Yamin, filed the present Regular Second Appeal.***

48. The **grounds of challenge**, are that the learned District Judge misappreciated the pleadings and evidence, failed to consider the reasoning of



the learned Trial Court, and reversed its findings on the basis of surmises and conjectures.

49. The Appellant/Defendant contended that the Plaintiff's GPA, Agreement to Sell and other documents, did not confer ownership of the suit property. Further, the Plaintiff's Application to amend the plaint, to seek a Declaration that the documents dated 04.04.2006 and 18.11.2012 were null and void, had been dismissed by Order dated 23.12.2021, and that the Plaintiff did not challenge that Order in the first appeal. According to the Defendant, the dispute over title therefore remained, the DDA and the Plaintiff's co-owner were necessary parties, and the Suit could not be decreed without a Declaration of title.

50. The Defendant further submitted that the learned District Judge exceeded the scope of the trial by deciding the genuineness of the disputed documents, when no specific issue had been framed on that question and the Plaintiff's amendment Application had been dismissed.

51. Further, the finding that he was a licensee and was estopped under Section 116 of the Indian Evidence Act from denying the Plaintiff's title, is challenged. It is contended that the Plaintiff had failed to prove the *licensor–licensee relationship* and could not maintain a suit for possession by way of Mandatory Injunction, without establishing the title.

52. The Defendant further contended that the award of mesne profits at ₹12,000/- per month was unsupported by evidence, and that the Plaintiff had not proved his claim for electricity charges.

53. The Defendant additionally raised a procedural objection that the first Appeal was defective, because it was not accompanied by an opening sheet.



54. Accordingly, the Defendant has sought setting aside of the impugned Judgment and restoration of the learned Trial Court's Judgment dismissing the Suit.

Submissions heard and record perused.

55. The controversy centers on the nature of the Defendant's possession in the suit property. The first and foremost fact to be established is the title of the Plaintiff in the suit property.

56. **PW-10, the Plaintiff**, reiterated that he and his daughter, Smt. Hajra Firdaus, had purchased the suit property from Sh. Shahid Ahmad on 23.06.2003. He relied on the GPA and Will, registered on 24.06.2003 and exhibited as **Ex. PW-1/1 and Ex. PW-1/2**, respectively, and on the Agreement to Sell, Receipt, Affidavit and Possession Letter, all dated 23.06.2003 and collectively marked as **Mark A**.

57. **The testimony** of the Plaintiff was fully corroborated by **PW-5, Sh. Mohd. Shahid Ahmad**, the erstwhile owner, who deposed that he sold the suit property to the Plaintiff and Smt. Hazra Firdaus on 23.06.2003 and handed over possession to them. He identified the GPA and Will, **Ex. PW-1/1 and Ex. PW-1/2**, registered on 24.06.2003, as well as the photocopies of the Agreement to Sell, **Mark 5A**, receipt, **Mark 5B**, affidavit, **Mark 5C**, and possession letter, **Mark 5D**, executed in their favour. He specifically testified, *"I have handed over the vacant possession of the abovesaid property to the abovesaid purchaser namely Mohd. Hasam and Smt. Hazra Firdaus."* He denied the suggestion in his cross-examination, that he had not executed the Agreement to Sell, Receipt, Affidavit and Possession Letter dated 23.06.2003. His inability to recall the name of his predecessor from



whom he had purchased the suit property, does not discredit this direct testimony about the sale and delivery of possession.

58. Moreover, no other person has claimed a better title than the Plaintiff, in the suit property.

59. **PW-1, Sh. Chandan Lal**, from the office of the Sub-Registrar, produced the summoned records and proved that the registered GPA and Will, **Ex. PW-1/1 and Ex. PW-1/2**, respectively, both dated 24.06.2003, executed by Sh. Shahid Ahmad in favour of the Plaintiff and his daughter, Smt. Hajra Firdaus.

60. **PW-2, Sh. Subhash Chand**, from BSES, produced the bill summaries and payment records for electricity connections installed in the names of Smt. Hazra and the Plaintiff, **Ex. PW-2/1 and Ex. PW-2/2**, respectively, in the suit premises.

61. **PW-11, Smt. Hajra Firdaus**, the Plaintiff's daughter and co-owner, also corroborated the Plaintiff's testimony, about being the co-owner in the suit property.

62. The learned Civil Judge had doubted the Plaintiff's claim, because PW-5 could not recall the name of the person from whom he had purchased the property. That lapse, however, does not outweigh PW-5's direct testimony, his identification of the documents executed in favour of the Plaintiff and his daughter, and his confirmation that he handed possession to them. **DW-5, Anwar, also acknowledged the Plaintiff's ownership.** On the evidence as a whole, ***the learned District Judge rightly held that the Plaintiff had established his proprietary right to the suit property.***



63. **Secondly**, it is pertinent to examine the Defendant's own pleadings and testimony, as regards to the Plaintiff's ownership and the source and extent of the Defendant's possession.

64. The Defendant in his affidavit, Ex. DW-1/A, stated that *"the plaintiff was not the sole and exclusive owner of the suit property in question but in fact, the daughter namely Ms. Hazara was the co-owner of the same along with the plaintiff herein."*

65. Furthermore, in his cross-examination dated 16.09.2025, he stated:

*"I cannot say if Hasam and Hazra are the owners of the suit property, it is **Hasam who is the owner of the suit property.** After many days, I got to know that Hajra is also owner with Hasam of the suit property.....I never met Hazra (Vol I purchased the suit property from Hasam)."*

66. It is evident from the Defendant's evidence affidavit, **Ex. DW-1/A**, and his cross-examination that he acknowledged the Plaintiff's ownership and stated that he later learnt that the Plaintiff's daughter was also a co-owner. The Plaintiff relied upon the registered GPA and Will, **Ex. PW-1/1 and Ex. PW-1/2**, respectively. Even if Smt. Hazara, the Plaintiff's daughter, was also a co-owner, the Plaintiff, as a co-owner, had locus to maintain the suit for recovery of possession and damages.

67. Furthermore, the Defendant, in his Written Statement, claimed that the Plaintiff had approached him, represented himself to be the owner of the property and offered to sell it to him for ₹11 lakh, on 04.04.2006. The Defendant claimed to have accepted the offer, paid ₹6.25 lakh that day and



received vacant possession of the property, except for one shop and one room at the front. He further claimed that he continued to approach the Plaintiff and his daughter until November, 2012 for execution of the documents, which were allegedly executed on 18.11.2012.

68. These alleged documents of ownership would be considered subsequently, but from the case of the Appellant/Defendant himself it has been amply established ***that the Plaintiff and his daughter were owners of the suit property and, therefore, entitled to seek the removal of the Defendant from the suit property.***

69. The Appellant has further contended that **the suit property is situated on DDA land** and the Plaintiff was an encroacher, who cannot claim ownership in regard to the Govt. Land.

70. However, the Defendant **has adduced no evidence** to support his assertion that the suit property is Government land. In any event, the present suit concerns the rights of the parties to this suit and *does not seek a declaration of title, binding on the DDA*. The Defendant does not claim to have obtained possession from the DDA, **he traces his entry to the Plaintiff**. The mere assertion that the DDA holds title to the property does not, by itself, confer on the Defendant a right to retain possession against the Plaintiff. The adjudication of the parties' *inter se* rights will neither determine the DDA's title nor bind it, since the DDA is not a party to these proceedings.

71. In the present case, the Defendant traces his possession to the Plaintiff, whether as an occupant or an alleged purchaser. His claim is therefore, derived from the Plaintiff, and he cannot defeat the Plaintiff's title merely by denying it. To resist recovery of possession, the Defendant had to



establish a superior legal title in himself or his predecessor, or prior possession capable of raising a presumption of ownership, in his favour. **The Defendant has established neither a superior legal title nor prior possession, and his challenge to the Plaintiff's title therefore, fails.**

72. The **next aspect for consideration is the Defendant's status in the suit property.** The Plaintiff, in his testimony as **PW-10**, deposed that the Defendant had approached his son, Nazim, seeking accommodation for himself and his family. On his request, the Defendant was permitted to occupy one room, a kitchen, an open verandah and a bathroom as a licensee. The shop, one room and the common passage remained in the Plaintiff's possession. The Defendant admitted that these portions remained with the Plaintiff.

73. Furthermore, the Defendant, in his testimony as **DW-1**, claimed that the Plaintiff handed over possession to him on 04.04.2006, under an Agreement to Sell. He asserted that the Plaintiff, being in dire need of money, agreed to sell the property for ₹11 lakh, of which the Defendant paid ₹6.25 lakh in cash. ***The Defendant's sole defense is that he entered the suit premises under an Agreement to Sell dated 04.04.2006; however, he produced no evidence to corroborate his claim that he paid ₹6.25 lakh to the Plaintiff on that date.***

74. Furthermore, it is pertinent to mention that **PW-3, Sh. Rajiv Ranjan**, from the Treasury Office, proved that stamp paper No. AA5631621, of ₹50 denomination, was issued to stamp vendor Madhu Sadana on 22.03.2012, and stamp paper No. 52AA137778, of ₹10 denomination, was issued to her on 12.09.2012.



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75. **PW-4, Sh. Veer Singh**, from **the SDM Office, Kotwali**, produced the communication dated 08.10.2013, **Ex. PW-4/1**, and the relevant stamp-vendor records, **Ex. PW-4/2**. *He proved that the purported entries bearing serial numbers 6511 and 6512, dated 04.04.2006 and appearing on the reverse of the stamp papers, did not exist in the corresponding records.* The stamp papers were issued only in 2012 and could not have been used to execute documents in 2006.

76. The Agreement to Sell and Receipt purportedly dated 04.04.2006 are shown to have been executed on the stamp paper purchased in in 2012. The documents being forged subsequently, in 2012 is established from the evidence produced by the Plaintiff. **The Defendant's claim that he obtained possession under those documents is patently false, since the alleged documents of 04.04.2006, on the basis of which he claimed to have entered into the suit property, are proved to be created subsequently in 2012. The Plaintiff's account that the Defendant was permitted to occupy part of the property as a licensee, stands established.**

77. The Defendant further claimed that, after repeatedly asking the Plaintiff to execute sale documents, the parties executed an **Agreement to Sell and Receipt dated 18.11.2012 Ex. DW-3/1 (OSR)**. These documents recorded a revised sale consideration of ₹15 lakh; adjusted the alleged earlier payment of ₹6.25 lakh, and recorded a further cash payment of ₹5 lakh and stated that ₹3.75 lakh remained payable by 31.03.2013, the date fixed for execution of the sale documents. The Defendant alleged that the Plaintiff had misrepresented himself, as the exclusive owner.

78. It is pertinent to mention that **the Agreement to Sell and Receipt dated 18.11.2012 were, in fact, not produced by the Defendant, but by DW-3,**



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Sh. Rishabh Gotra, JJA, Record Room, North-East, Karkardooma Courts, from the judicial record of **CS No. 353/2014, Mohd. Yamin v. Mohd. Hasam**, the Defendant's Suit for Specific Performance. The Agreement to Sell and Receipt dated 18.11.2012 were exhibited together, as **Ex. DW-3/1**. The fact that the stamp papers were issued in 2012 is consistent with the stated date of these documents.

79. During the investigation of **FIR No. 322/2013 at P.S. Khajuri Khas**, the disputed Agreement to Sell and Receipt dated **18.11.2012** were seized and sent for forensic examination. **PW-7, Sh. Ravindra Singh Yadav**, proved the Fingerprint Bureau report, **Ex. PW-7/1**, which found that the questioned thumb impressions on the Agreement for Earnest Money and affidavit dated **04.04.2006** not those of the Plaintiff. No question challenging the authenticity of this Report was put to PW-7, in the cross-examination.

80. The Fingerprint Bureau report, duly proved through PW-7, establishes that the questioned thumb impressions were not that of the Plaintiff. The Defendant also failed to explain how or where the alleged cash payment of ₹5 lakh recorded in the Receipt was made to the Plaintiff.

81. **PW-8, Sh. Virender Singh**, was summoned to prove the FSL report concerning the questioned signatures on the documents dated **04.04.2006 and 18.11.2012**. He could not complete his testimony because the original documents and the original receipt showing their deposit with the police were not available in the court file.

82. The finding that the 2012 documents were forged does not rest on his incomplete testimony. **The appreciation of the entire evidence,**



establishes that the Agreement to Sell and Receipt dated 18.11.2012, were forged and fabricated.

83. Moreover, the Defendant had instituted **Suit No. 53/2013**, later numbered **CS No. 353/2014**, for Specific Performance of the alleged Agreement dated 18.11.2012. The Suit was consigned *sine die*, and the Defendant took no steps to revive it. Significantly, FIR No.322/2013 has been registered against the defendant for the forgery of the sale documents. ***The evidence on record, is consistent with the finding that the documents were fabricated.***

84. **In any event, even if the Agreement dated 18.11.2012 were assumed to be genuine, it did not record a completed conveyance.** It stated that ₹3,75,000 remained payable and contemplated execution of a sale deed on or before 31.03.2013, with recourse to the Court, if the Plaintiff failed to execute it. The Defendant admitted in cross-examination, *“It is correct that there is no registered sale deed in my favour regarding suit property.”* **Thus, even as per his own case, ownership was to be acquired through a future conveyance Deed. The Agreement and payments claimed thereunder, did not vest ownership of the suit property, in the Defendant.**

85. In Narandas Karsondas v. S.A. Kamtam, (1977) 3 SCC 247, the Supreme Court held that a contract for sale does not, by itself, create any interest in immovable property. This principle was reiterated in Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656, which held that an agreement to sell, with or without possession, is not a conveyance and does not transfer ownership. **As no registered sale deed was executed**



in the Defendant's favour, the Agreement and the payments claimed under it, did not vest ownership of the suit property in him.

86. Another aspect for consideration is whether the possession of the Defendant is protected under S.53A Transfer of Property Act. In the case of Ameer Minhaj v. Dierdre Elizabeth (Wright) Issar, (2018) 7 SCC 639, the Supreme Court considered whether an unregistered Agreement to Sell executed after Section 17(1A) of the Registration Act, 1908 came into force, could be received in evidence. It was held that such an Agreement must be registered, to have effect for the purposes of Section 53A of the Transfer of Property Act, 1882.

87. The Agreement dated 18.11.2012 was executed after Section 17(1A) came into force and is unregistered. **It therefore cannot, protect the Defendant's possession under Section 53A, even if its execution were assumed.** The Defendant's Suit for Specific Performance, **Suit No. 53/2013, later numbered CS No. 353/2014**, was consigned *sine die* and was not revived. In any event, the Agreement has been found forged and fabricated, on the evidence discussed above. **The Defendant has, therefore, failed to establish either ownership nor a protected right to retain possession under the Agreement.**

88. The finding that the Defendant was permitted to enter the suit property as a licensee, also attracts the second limb of Section 116 of the Indian Evidence Act, 1872.

89. In Bansraj Laltaprasad Mishra v. Stanley Parker Jones, (2006) 3 SCC 91, the Supreme Court held that a person who enters immovable property by the licence of the person in possession cannot deny that the licensor had title to such possession when the licence was granted. **The Defendant is**



accordingly, estopped from denying the Plaintiff's right to possession at the time of his entry.

90. The Suit concerns the parties' respective rights to possession and does not seek a Declaration of the Plaintiff's absolute title against the world. Even if the Plaintiff's daughter was also a co-owner, that does not defeat his claim for possession. The Defendant has established no independent right to remain in the property or to create third-party rights in it.

91. The learned District Judge, in the First Appeal, therefore, rightly held that the Defendant had entered the premises through the Plaintiff and could not defeat the claim for restoration of possession, merely by questioning the Plaintiff's exclusive ownership. The acknowledgment of the daughter's co-ownership, did not detract from the admitted source of the Defendant's possession or establish any independent right in his favour.

92. The learned District Judge thus, rightly directed restoration of possession to the Plaintiff and restrained the Defendant from creating third-party rights in the suit property.

93. The Plaintiff claimed damages or mesne profits at ₹1,500 per day, which the learned District Judge found excessive. In assessing a reasonable amount, the learned District Judge considered the site plan, **Ex. PW-10/A**, and the extent of the Defendant's occupation, which comprised substantially the entire property measuring about 100 square yards, except for a small room and a shop. Having regard to the extent of occupation, the property's location and the upward trend in rentals, the learned District Judge **rightly awarded mesne profits at ₹12,000 per month from 15.05.2014 until delivery of possession.**



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94. The commencement date was properly fixed, as the summons served on that date made clear that the Plaintiff required the Defendant to surrender possession and his continued occupation thereafter was unauthorized. The grant of **mesne profits**, warrants no interference.

Conclusion:

95. In view of the aforesaid discussion, it is held that there is **no merit** in the Second Appeal and essentially **no substantial question of law is raised**. The challenge was only to the findings of fact, which cannot be re-assessed in the Second Appeal.

96. The **Appeal is, accordingly, dismissed**.

97. The pending Applications are also disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 13, 2026/R