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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
 % **Date of decision: 10<sup>th</sup> August, 2026**  
 # **CNR No. DLHC010365022026**  
 + **RFA 807/2026, CM APPL. 52488/2026, CM APPL.52489/2026**

**SMT. MANINDER KAUR @ MEENU @ MUNNI**

W/o Late Sh. Prem Nath Kakkar

R/o H.No. 9/929, Prem Gali,

Gandhi Nagar,

Delhi-110031

.....Appellant

Through: Mr. Rajesh Pathak and Mr. Ishank Gupta, Advocates.

versus

**SMT. VINOD BALA**

d/o Sh. Manohar Lal

Ro H.No. 9/929, Prem Gali,

Gandhi Nagar,

Delhi-110031

....Respondent

Through: None

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T (Oral)**

**RFA 807/2026**

1. Regular First Appeal under Section 96 read with Order XLI Rule 1 read with Section 151 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'the Suit Property'*) has been filed on behalf of the Appellant, Smt. Maninder Kaur against the Judgment and decree dated 28.02.2026, **whereby the Suit of the Plaintiff for Possession, Recovery of**



**Rs.7,60,000/- as arrears of rent and user and occupation charges, has been decreed.**

2. The Plaintiff had filed a ***Civil Suit No. 291/2020*** was filed by the Plaintiff for **Possession, and recovery of Rs.7,60,000/- towards user and occupation charges.**

3. The ***facts in brief***, are that the Plaintiff/Respondent, Ms. Vinod Bala was the owner of the property bearing H.No. IX/929, Prem Gali, Gandhi Nagar, Delhi-31. Mr. Prem Nath Kakkar, husband of the Defendant, was inducted as a tenant in respect of one room, one kitchen and one common bathroom on the Ground Floor of the aforesaid property (*hereinafter referred to as 'the suit property'*) on a monthly rent of Rs.20,000/- per month excluding all charges. It was submitted that the tenancy was oral and was a month-to-month tenancy wherein the rent was payable on 10<sup>th</sup> day of every calendar month.

4. The Plaintiff claimed that some relatives of the Defendant, were tenants in the adjoining rooms but they vacated the rooms and handed over the possession to the landlord. Mr. Prem Nath Kakkar also agreed to vacate the tenanted premises by taking some compensation and had received some advance amount but thereafter, due to laziness on the side of the Plaintiff and upon demise of Mr. Prem Nath Kakkar, the Agreement could not be finalised.

5. After the demise of Mr. Prem Nath Kakkar, the tenancy devolved upon the Defendant, Smt. Maninder Kaur @ Meenu @ Munni, who became a statutory tenant in respect of the suit premises. The Plaintiff requested the Defendant to vacate the tenanted premises, but she avoided on one pretext or the other. Instead, she continued paying the rent to the



Plaintiff after enhancement, according to the market rate of rent.

6. The Plaintiff claimed that the Defendant tried to raise some unauthorised construction in the tenanted premises. Instead of feeling sorry or paying the arrears of rent, she started threatening the Plaintiff for implicating her and her family members in a false criminal case. She even tried to sell the premises to some goons of the area but did not succeed.

7. The Plaintiff issued Legal Notice dated 24.06.2020 for seeking the possession and the arrears of rent. The Defendant gave a false Reply claiming herself to be the owner of the tenanted premises.

8. The Plaintiff thus filed the *Suit for Recovery of Possession, arrears of rent w.e.f. 01.06.2017 till 31.07.2020 along with the interest @15% p.a.*

9. The Suit was contested by the Defendant, who in her **Written Statement**, took the *preliminary objection* that she is in occupation of the suit property as an owner. The Plaintiff has claimed ownership on the basis of the *Relinquishment Deed*, which is in respect of the *Property bearing No. IX/929, Prem Gali No. 2A and 2B, Gandhi Nagar, Delhi*, and not the suit property. By filing this relinquishment Deed, she has created a confusion between the Property to which the Relinquishment Deed dated 17.05.2020 pertained and the suit property.

10. It was asserted that *there is no relationship of landlord and tenant between the parties* and the Defendant has no liability to pay any rent. A false and fabricated Legal Notice was served upon the Defendant with an intent to harass, torture and grab the Property of the Defendant, who has been residing in the suit property since her marriage with Mr. Prem Nath Kakkar. The father-in-law and the mother-in-law were also residing in the suit property since before 1970.



11. The father-in-law died in 1987 while the mother-in-law died in 1998 in the suit property. The MTNL landline Telephone number has also been installed in the suit premises since 1996, in the name of the mother-in-law. The BSES bills are existing since January, 1990 in the name of the father-in-law. The Bank Account of Mr. Prem Nath Kakkar, has the address of the suit premises since 1988 and the Account of the mother-in-law, has the same address, since 1973 at Punjab National Bank. The son of the Defendant was born in 1994, in the suit property.

12. The Defendant had made a Complaint dated 05.07.2014 and 16.11.2018 to the SHO, Police Station Gandhi Nagar and to Commissioner Delhi Police Headquarter on 04.11.2009 against the Plaintiff and her family members for harassing, torturing and grabbing the Property of the Defendant.

13. **On merits**, it is denied that the *Plaintiff is the owner/landlord of the suit premises*. It is claimed that no documents of title/ownership have been filed by the Plaintiff, in support of her ownership. It is denied that initially, the tenancy was created in the name of Mr. Prem Nath Kakkar, the husband of the Defendant and after his demise, the tenancy devolved upon the Defendant *and she became the statutory tenant*. All the averments made in the Plaint, are denied and it is asserted that the Defendant is in occupation of the suit premises as the owner.

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

15. **Issues were framed on 16.02.2022, which are as under:**

- i. *Whether the Appellant/Defendant is the owner of the suit property? OPD*



*ii. Whether the Respondent/Plaintiff is entitled for the relief of possession of the suit property as prayed for? OPP*

*iii. Whether the Respondent/Plaintiff is entitled for the relief of recovery of arrears of rent along with interest as prayed for? OPP*

*iv. Relief.*

16. The **Plaintiff, Smt. Vinod** examined herself as **PW-1** and proved the documents Ex.PW-1/1 to Ex.PW-1/8 in support of her case. PW-2, Mr. Mukesh corroborated the testimony of the Plaintiff.

17. The **Defendant examined herself as DW-1** and tendered her evidence by way of affidavit, Ex.DW-1/A, relying upon the death certificates of her father-in-law, Sh. Krishan Lal Kakkar, and her mother-in-law, Smt. Chander Mani (Mark A and Mark B), the MTNL landline bill dated 01.09.1996 (Mark C), the BSES electricity bill dated 23.11.2020 (Ex.DW-1/1), the PNB bank passbook (Ex.DW-1/2), the birth certificate of her son (Mark D), the complaint dated 05.07.2014 to SHO, PS Gandhi Nagar (Mark E), the complaint dated 04.11.2009 to the Police Commissioner (Ex.DW-1/3), the complaint dated 16.11.2018 to SHO, PS Gandhi Nagar (Ex.DW-1/4), and the Reply dated 16.07.2020 to the legal notice, along with the postal receipt and track report (Mark F).

18. **DW-2, Mr. Santosh Kumar Sharma** deposed on his evidence affidavit, Ex.DW2/A, that he is a neighbour of the Defendant, running an electrical shop in the vicinity for the last 30-35 years, and that the husband of the Defendant was his childhood friend; that the Defendant was never a tenant in the suit property, in which she has been continuously residing since her marriage; that the Defendant's husband and other matrimonial family



members have also been residing therein for about 30 years; and that the Suit Property was never given on rent to the Defendant, who resides therein as owner.

19. **DW-3, Smt. Sheela Jain** deposed on her evidence affidavit, Ex.DW3/A, that she has known the Defendant since 1994 and was earlier her neighbour; that the Defendant was never a tenant in the Suit Property, in which she has been continuously residing since her marriage; that the Defendant's husband and matrimonial family members were also residing therein for about 30 years as owners of the property; and that the Defendant resides in the Suit Property as owner, and the property was never given to her on rent by anyone.

20. **DW-4, Mithilesh Kumari @ Mithilesh Rastogi** deposed on her evidence affidavit, Ex.DW4/A, that she is a neighbour of the Defendant; that the Defendant was never a tenant in the Suit Property, in which she has been continuously residing since her marriage; that the Defendant's husband and the remaining members of the matrimonial family have also been residing in the Suit Property for about 30 years as owners; and that the Suit Property was never given on rent to the Defendant by anyone, who resides therein as owner.

21. The **learned District Judge on appreciation of the evidence**, observed that mere long possession of the Defendant, which was corroborated by her various documents, namely, the electricity, water bills, Account books, was not sufficient to confer any ownership upon the Defendant. She had failed to produce any document of ownership in her favour. Moreover, she admitted in her cross-examination as also the other witnesses examined by her, that her in-laws and other relatives were



occupying different rooms and some have vacated. Also, the First Floor is in possession of Mr. Mukesh, brother of the Plaintiff thereby, acknowledging the Plaintiff's family presence and control over the certain part of the Property in question.

22. Furthermore, in her testimony, defendant was unable to establish that a long continuous possession was hostile to that of the owner, to even make out a plea of adverse possession. There is no clear and unequivocal assertion of hostile title either in the pleadings or in the evidence. Thus, the *consideration of plea of adverse possession, was also not proved.*

23. The Defendant had asserted that the Relinquishment Deed, Ex.PW-1/2 was in respect of Gali No. 2-A & B, while the Suit Property is described as Gali No. 2 and, therefore, the Relinquishment deed is not sufficient to establish the title of the Property. However, the admissions made by DW-2 in the cross-examination that the Property is of two side open whereby one side is Gali No. 2-A and the other is Gali No. 2-B and that there is no 'Gali No. 2' existing in Gandhi Nagar, was held sufficient to establish the title in favour of the Plaintiff. In the absence of any competing title of documents in favour of the Defendant, ***it was held that the Defendant was unable to prove that she was living in the Property as an owner.***

24. Insofar as, the ownership of the Plaintiff was concerned, it was stated that she had produced a complete chain of registered title documents in her favour which remained unrebutted. Thus, as the owner of the suit property, she was entitled to the decree of possession.

25. It was **thus, held that the Plaintiff was entitled to decree of possession.** In respect of the arrears of rent, it was held that the Plaintiff's consistent assertion of monthly rent being Rs.20,000/- per month, coupled



with Defendant's failure to lead any evidence to suggest a contrary prevailing market rate for similar properties in the vicinity, and considering the staggering increase in rental values in urban areas of Delhi, *the Mesne Profits were adjudicated as Rs.12,000/- per month from 01.06.2017 till the delivery of vacant possession* The Suit of the Plaintiff was accordingly decreed for Possession and Mesne Profits.

26. Aggrieved, the Defendant/Appellant has filed **the present Regular First Appeal.**

27. The **grounds of challenge** are that the entire foundation of the Plaintiff, was based on oral tenancy at Rs.20,000/- per month, but there was no documentary proof of rent or of the tenancy. PW-2 admitted in cross-examination that no transaction of Rs.20,000/- ever took place in his presence thereby, completely demolishing the case of the tenancy.

28. Even though the Plaintiff's case of tenancy and rate of rent was disbelieved, a new ground of permissive possession was created, which was neither pleaded nor proved by the Plaintiff; thereby, travelling beyond the pleadings and setting up an entirely new case, which is not permissible in law. It is well settled that a party cannot be allowed to succeed on a case not pleaded nor can the Court grant relief on the foundation not laid in the pleadings. Reliance is placed on Bachhaj Nahar v. Nilima Mandal, (2008) 17 SCC 491 and Trojan & Col. vs. Nagappa Chettiar, AIR 1953 SC 235.

29. It is claimed that it has not been appreciated that once the tenancy stood unproved, the entire burden squarely rested on the Plaintiff, to establish a clear legal sustainable title to the suit property, which was erroneously shifted upon the Defendant by holding that she has failed to prove her ownership, which is contrary to Section 101 to 103 of the



Evidence Act, 1872.

30. The settled principle that the Plaintiff must succeed on the strength of her own case and not on the weakness of the defence, as consistently been held by the Hon'ble Supreme Court of India in the case of Union of India vs. Vasavi Co-operative Housing Society Ltd., (2014) 2 SCC 269 and Rangammal vs. Kuppuswami, (2011) 12 SCC 220.

31. The case has been decided in favour of the Plaintiff, on the basis of better title merely relying on certain documents, without appreciating that the Relinquishment Deed pertained to Prem Gali No. 2-A and 2-B, while the Suit Property has been described as IX/929, Prem Gali No. 2, thereby creating a fundamental defect in the identity of the suit property. This aspect had been specifically pleaded and substantiated by the Defendant, but has not been considered by the learned Trial Court.

32. Likewise, DW-2 had categorically deposed about the suit property being two sided open between Gali No. 2-A and 2-B and that there is no separate Gali No. 2, thereby directly supporting the defence of the Defendant that the Relinquishment Deed did not match the suit property.

33. The Site Plan filed by the Plaintiff, did not contain proper dimensions, area or demarcation and these deficiencies were inconsistencies in the lay out plan, as proved by the defence witnesses.

34. PW-2 had categorically stated in his cross-examination that no Rent Agreement was executed. No Rent Receipts were issued and no transaction of Rs.20,000/- towards rent ever took place in his presence but his testimony has been overlooked and not appreciated.

35. It has also not been appreciated that the Plaintiff had admitted in cross-examination that no rent receipts were issued and no proof of



payment, through bank transfer was proved.

36. The Appellant had been able to establish the long continuous possession supported by electricity bills, MTNL records, bank passbooks and Aadhaar documents etc, despite which it has been erroneously held that the Defendant did not prove the ownership, without considering all the documents.

37. The Defendant had clearly deposed that she had been residing in the suit property since her marriage in 1992 and that the family had been residing since prior generations and her testimony had remained completely unshaken in cross-examination, establishing her settled possession.

38. DW-4, Smt. Mithilesh Kumari @ Mithilesh Rastogi had also corroborated that the Defendant and her family had been residing in the Suit Property for last more than 30 years and that *she had not seen any ownership documents, thereby weakening the case of the Plaintiff.*

39. DW-3, Smt. Sheela Jain in her cross-examination, had made inconsistent and uncertain statements regarding number of rooms, possession and ownership, which clearly shows that Plaintiff has not been able to establish any identifiable tenanted portion, despite which the Suit for Possession has been decreed.

40. The *Mesne Profits @Rs.12,000/- per month* have been granted, purely on conjecture and by invoking judicial notice, despite there being no evidence of rent or the comparable rent, which the properties in the vicinity, could fetch. The determination of Mesne Profits is wholly arbitrary, without any evidentiary basis and contrary to the settled principles governing assessment of Mesne Profits.

41. It is erroneously concluded that the possession of the Defendant, was



permissive despite admitted absence of any licence agreement, acknowledgment of the Plaintiff's title or payment of rent, which has been consistently denied by the Defendant/Appellant. There were various complaints made in 2009, 2014 and 2018 by the Appellant clearly establishing her possession in the Suit Property.

42. While the Respondent's case was inconsistent in so much as claiming tenancy on one hand and on the other hand, relying on title documents thereby raising contradictory pleadings, on which no relief could have been granted.

43. The Plaintiff/Appellant had never taken the defence of adverse possession, but of ownership with settled possession and the erroneous observations in regard to the adverse possession, has been made.

44. **The Judgment is, therefore, liable to be set-aside.**

#### **Submissions heard and the record perused.**

45. The Plaintiff has filed the Suit for Possession. The Plaintiff, Ms. Vinod Bala, in order to prove the title, had proved the Sale Deed dated 26.06.1982, Ex.PW-1/5, which had been executed by one Mr. Ramji Lal, through his attorney, Smt. Sushila Devi w/o Mr. Om Prakash, *in favour of Mr. Om Prakash s/o Mr. Nand Kishore*, in respect of House bearing Municipal No. IX/929 admeasuring 30' x 60' on 200 Square Yards, Gali No. 2-B/9/929, Plot No. 61 (Old No. 488/24-A) at *Prem Gali No. 2, Gandhi Nagar, Delhi, out of Khasra No. 406/360 area of Village Seelampur, Ilaqa Shahdara, Delhi.*

46. In the said Sale Deed, it was explained that *Mr. Ramji Lal* was the absolute owner by virtue of the Will dated 30.05.1976, executed by Ms.



Sona Wati, his mother, who died on 02.06.1976. It was further explained that Ms. Sona Wati had purchased the land on 07.07.1952 vide registered Sale Deed dated 05.08.1952, executed by *Mr. Kishan Chand s/o Mr. Ganeshi Lal*. After purchasing the land, Ms. Sona Wati had constructed the house at her cost.

47. The Plaintiff had also proved the *Sale Deed dated 17.05.1984, Ex.PW-1/6, which had been executed by Mr. Om Prakash s/o Mr. Nand Kishore*, in favour of *Mr. Manohar Lal Banga s/o Mr. Ganga Ram*, in respect of the suit property wherein it was indicated that the vendor had purchased the suit property from Mr. Ramji Lal vide Sale Deed dated 26.06.1982.

48. The Plaintiff further proved the Relinquishment Deed dated 17.05.2020, Ex.PW-1/2, executed in favour of the Plaintiff by legal heirs of Sh. Manohar Lal, namely Ms. Kamlesh d/o Mr. Manohar Lal, Mr. Mukesh s/o Mr. Manohar Lal, Mr. Lalit Kumar Malhotra s/o Mr. Bhagat Ram Malhotra, Mr. Deepak Malhotra s/o Mr. Lalit Kumar Malhotra and Mr. Ankur Malhotra s/o Mr. Lalit Kumar Malhotra, in favour of the Plaintiff.

49. The only challenge raised by the Defendant to the said Relinquishment Deed, is the mentioning of the suit property therein. The Property therein is described as 428/24-A (Old) & New No. IX/929, admeasuring 200 Sq. Yds. i.e. 167.22 Sq. Mtrs., having its dimension as 30' x 60' along with the whole structure and the terrace rights bearing Plot No. 61, out of Khasra No. 406/360, situated at **Prem Gali No. 2-A & B**, abadi known as Gandhi Nagar, in the area of Village Seelampur, Illaqa Shahdara, Delhi-110031.

50. It is quite evident from this Relinquishment Deed that all the legal



heirs had executed the Relinquishment Deed in favour of the Plaintiff. Insofar as, the description of the Property is concerned, it is the same as in the preceding Sale Deeds. Insofar as, *Gali No. 2-A & B is mentioned*, it cannot be overlooked that the Property has exchanged hands since 1982 till 2020, when the Relinquishment Deed has been executed. Essentially, the entire dimensions and description of the suit property, is identical to what has been described in the Sale Deeds. While the Gali number may have changed, but the fact remains that the suit property is the same as mentioned in the two Sale Deeds and has devolved upon the Plaintiff.

51. The documents proved by the Plaintiff, i.e. two Sale Deeds and the Relinquishment Deed, clearly established that they pertained to the same Property. Though the Appellant had tried to take the benefit of the Gali Number being mentioned as 2 instead of 2-A and B, *but from the entire description, it is clearly evident that the suit property is one and the same in respect of which the Plaintiff has acquired absolute ownership.*

52. The **next aspect for consideration**, is whether the Defendant has been able to establish any legal right title, to continue in the Suit Premises.

53. The case of the Appellant is that her family members have been residing in the suit premises since long and she came to reside in the family in 1992, after her marriage and since then, has been continuously and peacefully residing in the suit premises.

54. In order to establish her long possession, she had proved the various documents, namely, the House Tax Receipts, Aadhar Card, Gas Bill, Telephone and Electricity Bills, Ex.DW-1/1, her Accounts having the address of the suit premises and also that of her father-in-law and the mother-in-law since 1992 and the Account Book of the mother-in-law, is



exhibited as Ex.DW-1/2 and such like documents.

55. However, as has been rightly observed by the learned District Judge, all these documents do prove her long possession but in no way, do they establish her ownership in the suit property. She has not been able to explain her legal status in the suit premises.

56. DW-1, Smt. Maninder Kaur @ Meenu @ Munni, in her cross-examination admitted that she was not aware if she has been declared as a tenant in the House tax Department or by her father-in-law or by her husband. She admitted that Smt. Neelam, her *nanad* was also residing in the Suit Property for 5 to 10 years, who left the Property about 7-8 years ago as she had built her own house. She was confronted with the Agreement Ex.DW-1/P2, executed by Smt. Neelam. Though, she denied her signatures. Likewise, though, she admitted Mr. Rakesh Kumar was her *Jeth* but denied the signatures of Mr. Rakesh Kumar on Agreement, Ex.DW-1/P1 whereby he also vacated the tenanted premises.

57. It emerged from the testimony of the defendant that her other family members had been occupying different portions of the suit property as tenant, who had vacated it from time to time.

58. Likewise, DW-2, Mr. Santosh Kumar Sharma had deposed that the parents-in-law of the Defendant/Appellant, had been residing in the Suit Property. However, she admitted that she never talked to the father-in-law and the mother-in-law, about the status in which, they were residing in the Suit Property. She also was not aware if Ms. Neelam had handed over the possession of the tenanted room to the Plaintiff. She also stated that she was not aware if the husband of the Defendant, had undertaken to vacate the Suit Premises after taking Rs.1,10,000/.



59. Similarly, DW-3, Ms. Sheela Jain admitted about Mr. Rakesh Kumar, *Jeth*, residing in the premises and vacating the same, though she was not aware of the capacity in which Mr. Rakesh Kumar, was occupying the Property. She admitted that Mr. Kishan Lal and Mr. Chander Mani, parents-in-law of the Defendant, were residing in the Property. However, she was also not able to state if they were occupying the Property as the tenants.

60. Similar was the testimony of DW-4, Ms. Mithilesh Kumari, who had stated that the Defendant and her family, has been residing in the suit property for more than 30 years.

61. What emerges, therefore, from the testimony of the Defendant and her witnesses, is that they were in long possession of the suit property, which was settled and peaceful. However, the Defendant has not been able to show that she was the owner of the suit property.

62. It has been rightly observed that when she has not asserted any ownership rights, there was no question of her settled possession creating any vested right to remain in the suit property. *The doctrine of adverse possession, therefore, was not available to the Defendant.*

63. In the light of aforesaid discussion, it emerges that the ownership of the Plaintiff being established through documents and the Defendant aside from explaining her long possession, has not been able to explain the status in which, she was occupying the suit property.

64. The **learned District Judge rightly observed** that the Plaintiff being the owner of the suit property , was entitled to claim possession from the Appellant. Even if it is accepted that there was no tenancy existed in favour of the Appellant, but definitely she is an unauthorised occupant since she has no right title in the suit property. She has been rightly held to be liable to



vacate the suit premises.

65. Insofar as *the Mesne Profits are concerned*, the learned District Judge has rightly considered the testimony of the Plaintiff, who had claimed Rs.20,000/- per month as Damages, but making an assessment of the locality, the extent of Premises and the rising estate prices, has rightly made an assessment of Damages @Rs.12,000/- per person, which have been rightly granted ,*vide* the impugned Judgment.

66. There is **no merit in the present Appeal, which is hereby dismissed**. The pending Applications are also disposed of, accordingly.

(NEENA BANSAL KRISHNA)  
JUDGE

AUGUST, 10, 2026/RS