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

*Date of decision: 21<sup>st</sup> September, 2021*

+ **RSA 66/2021 & CM APPLs.30468/2021, 30470/2021 & 30471/2021**

SH SURAJ ARORA

..... Appellant

Through: Mr. Sanjeev Sagar and Ms. Nazia  
Parveen, Advocates with Appellant in  
person (M: 9278693021)

versus

SMT TARANJEET CHAWLA

..... Respondent

Through: Mr. Manish Gandhi, Mr. Hemant  
Verma, Mr. Madhusodan Singh and  
Mr. Shripal Upadhyay, Advocates  
(M: 9971772226) along with Mr.  
Rajinder Chawla, in person

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**PRATHIBA M. SINGH, J.(Oral)**

1. This hearing has been done through hybrid mode.
2. The present second appeal arises out of the impugned order dated 2<sup>nd</sup> February, 2021 passed by Ld. ADJ, West District, Tis Hazari Court, New Delhi (*hereinafter* “Appellate Court”) in **RCA No. 161/2019** titled **Suraj Arora v. Taranjeet Chawla**. By the impugned order, the Appellate Court upheld the Judgment and decree dated 18<sup>th</sup> November, 2019 passed by Id. Civil Judge-01, (West), Tis Hazari Courts, Delhi (*hereinafter* “Trial Court”) in **CS SCJ No. 611070/2016/14** titled **Smt. Taranjeet Chawla v. Suraj Arora**. The Trial Court had decreed the suit for recovery of possession and for recovery of arrears of rent and mesne profits in favour of Smt. Taranjeet Chawla, the landlady/Respondent herein (*hereinafter* “Plaintiff”).

3. The background of the case is that the tenant/Appellant herein (*hereinafter* “*Defendant*”), Mr. Suraj Arora, had taken the property bearing No. WZ-48, out of Khasra No.26, admeasuring 75 sq. yds. situated at Tatarpur Village, Main Najafgarh Road, New Delhi – 110027 (*hereinafter* “*suit property*”) on rent from the erstwhile landlords of the suit property in the year 1989. The original rent fixed for the suit property was Rs. 300/- per month which was enhanced to Rs. 600/- per month w.e.f. March, 1991. The last paid rent to the erstwhile landlord is stated to be Rs. 968/- per month for the period from April, 2012 to June, 2012. Thereafter, the suit property which was earlier under the joint ownership of the erstwhile landlords, was purchased by the Plaintiff, vide Sale Deed dated 17<sup>th</sup> August, 2012 which was registered on 10<sup>th</sup> September, 2012. An ‘Agreement for Enhancement of Rent’ (*hereinafter* “*Enhancement Agreement*”) was executed on 2<sup>nd</sup> September 2012 between the new owner and the Defendant, by which the rent was fixed as Rs. 12780/-. The Defendant continued as the tenant in respect of the suit property, even after the purchase of the suit property by the Plaintiff. However, the tenancy was terminated vide Legal Notice dated 26<sup>th</sup> November, 2013, on account of default in payment of the monthly rent of Rs.12,780/- from October, 2013 onwards. The Defendant replied to the said Legal Notice, vide Reply dated 26<sup>th</sup> November, 2013, claiming that the rent of the suit property was Rs. 1,065/- per month, and not Rs. 12,780/- per month. The Defendant also stated that he had already paid two years’ rent at the rate of Rs. 12,780/- per annum, for the period from July, 2012-June, 2013 and July, 2013-June, 2014.

4. Accordingly, on 22<sup>nd</sup> January, 2014, the Plaintiff instituted the suit before the Trial Court seeking the reliefs of recovery of possession and for

recovery of arrears of rent and mesne profits in respect of the suit property, on the strength of the Enhancement Agreement dated 2<sup>nd</sup> September, 2012. The Plaintiff averred that the said Enhancement Agreement having been entered into by the Defendant and having not paid the monthly rent, the tenancy was terminated. Evidence was led in the matter, and vide Judgment and decree dated 18<sup>th</sup> November, 2019, the Trial Court decreed the suit in the following terms:

*“In view of the aforementioned findings and observations, the suit of the plaintiff is decreed on following terms:*

- 1. Defendant is directed to hand over the possession of the suit property i.e. Ground Floor, admeasuring 10-1/2x30 (feet) along with basement admeasuring 10-1/2x30 (feet) within one month of passing of this order.*
- 2. Plaintiff is entitled to arrears of rent for the month of October, November and December, 2013, at the rate of Rs.12,780/- p.m.*
- 3. Plaintiff is entitled to mesne profits @ Rs.12,780/- w.e.f. January, 2014 till vacation of the suit property.*
- 4. Plaintiff is entitled to interest @ 8% p.a. on the arrears of rent and mesne profits from January, 2014 till the vacation of the suit property by the defendant.”*

5. The said Judgment and decree dated 18<sup>th</sup> November, 2019 was challenged in appeal by the Defendant. The said appeal was dismissed by the Appellate Court, vide Judgment dated 2<sup>nd</sup> February, 2021.

6. Mr. Sanjeev Sagar, Id. Counsel appearing for the Defendant, raises various issues in the present second appeal. Broadly, the submissions made by Mr. Sagar, Id. Counsel are as under:

- i) That the Enhancement Agreement dated 2<sup>nd</sup> September, 2012

was a fabricated and forged document, and the Defendant had never executed it, despite the signature on the same having been admitted by the Defendant.

ii) The amount of Rs.12,780/- was the annual rent, and not the monthly rent as it constituted the total annual rent at the rate of Rs.1065/- per month.

iii) The owner had no right in the property on the date when the Enhancement Agreement was executed as the sale deed was registered only on 10<sup>th</sup> September 2012.

iv) The Legal Notice dated 14<sup>th</sup> December, 2013 issued by the Plaintiff recalling the tenancy did not mention the Enhancement Agreement.

v) That the Special Power of Attorney (*hereinafter* “SPA”) issued in favour of the husband was not signed by the Plaintiff.

vi) The witnesses who deposed on behalf of the Plaintiff had made contradictory statements in their depositions.

vii) The original Enhancement Agreement which was filed before the Trial Court was lost, and the Agreement was reconstructed on 19<sup>th</sup> December, 2018 by the Trial Court.

viii) Mr. Sagar also emphasises that although the various orders passed by this Court in the petitions filed by the Defendant may have arrived at certain findings, once the final judgment is passed, the said orders would merge into the final judgment and would have no bearing upon the present judgment.

ix) On the substantial question of law that arises in this appeal, he submits that even though the signature may have been admitted by the

Defendant, merely admitting the signature does not lead to the contents of the documents being proved. In this regard, the following judgments are relied upon by the Defendant:

- i) ***D.D.A. and Ors. v. Ram Kaur and Ors. [RFA 409/2004 decided on 20<sup>th</sup> April, 2017]***
- ii) ***Nityananda Dutta v. Caledonian Insurance Co. [(1968) ILR 1 Cal 442]***
- iii) ***N.M. Ramachandraiah & Ors. v. The State of Karnataka, Department of Revenue and Ors. [AIR 2007 Kant 164]***
- iv) ***Ramji Dayawala and Sons (P) Ltd. v. Invest Import [AIR 1981 SC 2085]; and***
- v) ***Bhima Tima Dhotre v. The Pioneer Chemical Co. [1967 SCC OnLine Bom 114]***

7. Mr. Gandhi, Id. Counsel appearing for the Plaintiff, submits that the Defendant is guilty of grossly abusing the process of the Court. The suit was instituted on 22<sup>nd</sup> January, 2014, pleadings were completed and trial was concluded on 1<sup>st</sup> October, 2014. However, despite the fact that the trial had proceeded expeditiously, the Defendant kept filing one application after another to delay the final arguments. A total of five applications and six CM (Main) petitions were filed by the Defendant before the Court, repeatedly seeking permission to lead evidence, additional evidence, recording of evidence and examination of the Enhancement Agreement through the CFSL, etc.

8. Mr. Gandhi, Id. Counsel further submits that between the years 2014 and 2017, the Defendant did not permit the final arguments to be heard in

this matter. It was after the repeated dismissal of the Defendant's applications and petitions and the imposition of costs upon the Defendant in respect of the same, that the final arguments were heard by the Trial Court in November, 2019 and the Judgment dated 18<sup>th</sup> November, 2019 came to be passed by the Trial Court. Thus, for a period of five years, the Defendant continued to enjoy the suit property at a lower rent and delayed the passing of the decree. Before the Appellate Court as well, vide order dated 17<sup>th</sup> December, 2019, the Defendant was directed to deposit a sum of Rs. 5 lakhs as a condition for granting stay of the Trial Court's decree. Even the said order dated 17<sup>th</sup> December, 2019 of the Appellate Court was challenged in **CM(M) No. 12/2020** and **CM(M) No. 121/2020**, which were both dismissed as withdrawn, vide order dated 10<sup>th</sup> January, 2020 and order dated 31<sup>st</sup> January, 2020 respectively. The costs of Rs. 5 lakhs in terms of the Appellate Court's order dated 17<sup>th</sup> December, 2019 was deposited by the Defendant only thereafter.

9. The submission of Mr. Gandhi, Id. Counsel, is that no question of law arises in the present second appeal. He further submits that the Plaintiff's ownership of the suit property is admitted by the Defendant in the written statement filed by the Defendant before the Trial Court. Paragraph 1 of the Plaint clearly sets out the facts relating to the Plaintiff's ownership of the suit property, which is not denied by the Defendant. In his written statement, the Defendant has only pleaded that the contents of paragraph 1 of the Plaint are a matter of record. Insofar as the SPA is concerned, the defect in respect of the said SPA was cured, and in any event the Plaintiff, being a lady, had executed the SPA in favour of her own husband. Thus, the plea of defect in the SPA is without any basis. Finally, it is submitted that the Defendant has

not only signed the Enhancement Agreement, but has also paid a sum of Rs. 12,780/- by cash at the time of the said Agreement towards rent for the month of September, 2012.

10. He further brings to the notice of the Court two cheques issued in July, 2013 and September, 2013. He submits that the Trial Court has clearly noted the fact that the explanation given by the Defendant that the sum of Rs. 12,780/- is the equivalent of the annual rent is not made out inasmuch as the Plaintiff was not even the owner of the suit property in July, 2012 whereas the first cheque is stated to have been issued by the Defendant in July, 2013 for the period of 12 months from July, 2012 to June, 2013. It was only thereafter i.e., in August, 2012 that the Plaintiff purchased the suit property. The explanation that the first cheque of July 2013 was for the previous twelve months was, thus, rejected by the Trial Court and the said finding in respect of the cheques is also upheld by the Appellate Court.

11. Finally, he submits that the Sale Deed in respect of the suit property was executed on 17<sup>th</sup> August, 2012. Thus, the Enhancement Agreement being signed between the parties on 2<sup>nd</sup> September, 2012 i.e., prior to the Sale Deed being registered on 10<sup>th</sup> September, 2012 would not in any way assist the Defendant in this matter. The Plaintiff had purchased the suit property on 17<sup>th</sup> August, 2012 itself. Only the registration of the Sale Deed dated 17<sup>th</sup> August, 2012 took place on 10<sup>th</sup> September, 2012. Thus, he submits that the present second appeal is liable to be dismissed as no substantial question of law arises in the matter.

12. Heard ld. counsels for the parties. The present second appeal was listed for hearing yesterday i.e., on 20<sup>th</sup> September, 2021. At the end of the hearing, considering that there was a possibility of an amicable resolution of the dispute between the parties, ld. Counsel for the parties had sought an adjournment

and the parties were directed to be present in Court. However, at the opening of the arguments today i.e., 21<sup>st</sup> September, 2021, Id. Counsel for the Defendant has made a submission that the Defendant does not wish to settle. The Defendant, Mr. Suraj Arora, was present in Court when his counsel submitted that he does not wish to resolve the matter.

13. The entire issue in this appeal revolves around the Agreement for Enhancement of Rent dated 2<sup>nd</sup> September, 2012 which was Exhibit PW-1/C. The original of the Agreement was apparently not found on the trial court and the same was reconstructed. Due to the varying stands taken by the Defendant at the different stages of the litigation and to ascertain if a substantial question of law as argued actually arises, or not, the Court put a query to him as to whether he had signed the said Agreement. On a categorical question being put to the Defendant as to the signature and his name appearing on the Agreement for Enhancement of Rent dated 2<sup>nd</sup> September 2012, he replied as under:

“मैंने साइन नहीं किया लेकिन मुझे हैरानी है कि मेरे सिग्रेचर कैसे आ गए हैं”

14. Insofar as the proceedings before the Trial Court are concerned, it is a matter of record which is clear from the order sheets placed before the Court that the suit was instituted on 22<sup>nd</sup> January, 2014 and the Trial Court had concluded the cross-examination on 1st October, 2014. The issues which were framed by the Trial Court are as under:

“ISSUE NO.1 – Whether the plaintiff is entitled to decree of possession as prayed for? OPP  
ISSUE NO.2 – Whether plaintiff is entitled to arrears of rent as prayed for?”

- ISSUE NO.3 – OPP  
Whether the plaintiff is entitled  
to mesne profit, if any. If so, at  
what rate and for what period?*
- ISSUE NO.4 – OPP  
Whether the plaintiff is entitled  
to interest, if any. If so, at what  
rate and for what period? OPP*
- ISSUE NO. 5 – OPP  
Whether the suit is barred  
under Section 50 of Delhi Rent  
Control Act? OPD*
- ISSUE NO. 6 – Relief.”*

15. It is noticeable that no issues were framed even by the Trial Court in respect of the genuineness and validity of the Enhancement Agreement. After the conclusion of evidence, the Trial Court had listed the matter for final arguments. At that stage, two applications under Order XVIII Rule 17 and under Section 151 CPC were moved by the Defendant seeking recall of himself as a witness as also for leading additional evidence respectively. These two applications were dismissed by the Trial Court, vide order dated 25<sup>th</sup> April, 2015. Against the said order dated 25<sup>th</sup> April, 2015, **CRP 78/2015** and **CRP 86/2015** was heard by the Id. Single Judge of this Court, which were dismissed, vide order dated 9<sup>th</sup> May, 2016.

16. Two further applications were moved before the Trial Court for leading evidence on the ground that the Agreement for Enhancement of Rent is a forged document. These two applications were also rejected by the Trial Court, vide order dated 5<sup>th</sup> September, 2016 and order dated 30<sup>th</sup> November, 2016. Against these two orders of the Trial Court, the Id. Single Judge of this Court has decided **CM(M) 57/2017** which was also dismissed, vide order dated 27<sup>th</sup> October, 2017.

17. In both these orders dated 9<sup>th</sup> May, 2016 and 22<sup>nd</sup> October, 2017, it is clear that the Courts have concluded that the Defendant has indulged in completely dilatory tactics in order to delay the final arguments in the suit.

18. On merits, a perusal of the cross-examination of the Defendant clearly shows that he admits his signatures at point 'A'. The said Agreement was entered into on 2<sup>nd</sup> September, 2012 and when a specific question was put to him during cross-examination, the Defendant stated as under:

*"I tender my affidavit in evidence. Same is Ex. DW1/A and bears my signatures at point A and B. I rely upon the documents i.e the rent receipts are collectively Ex.DW1/1 (objected to by Ld. counsel for plaintiff regarding mode of proof), postal receipts, money order receipts and money order communication are collectively Ex.DW1/2, reply to legal notice is Ex.DW1/3 (not mentioned or exhibited in the affidavit Ex.DW1/A) however already exhibited Ex.PW1/H. The contents of my affidavit are true and correct.*

*XXXXXXXXXX by Sh. Hemant Verma, ld. counsel for plaintiff.*

*In suit premises, I am running the business of refrigeration and air conditioning spare parts trading. I am an income tax payee. I do not know whether I show the rent of suit premises in my income tax return. The suit premises is situated at main Najafgarh Road. I cannot describe the width of road situated in front of suit premises. However it may be 70 or 80 feet wide road. It is correct that the metro lane tracks are existing in front of suit premises. Tagore Garden Metro Station is located at 400-500 feet from the suit premises.*

*I am tenant in the suit premises since 1989. I*

*cannot tell the market rates of properties in the said location. It is wrong to suggest that a shop measuring 10.5x30 feet alongwith basement of 10.5x20 feet in same locality is having rent of Rs.15,000/- to 20,000/-. In August, 2012 I came to know that the plaintiff has purchased the property wherein the suit shop is situated.*

*Q. Is there any document in your possession which can show that the rate of rent was not Rs.12,780/- but something else?*

*Ans. I had issued a cheque bearing no. 956018 dated 12.08.2013 for Rs.1,065/- to the plaintiff which was not received by the plaintiff. (objected to by Ld. counsel for the plaintiff stating that the cheque is the document of witness himself and same is not admissible).*

*I do not have any other document regarding rent. It is correct that the cheques of Rs.12,780/- each issued by me in the months of July, 2013 and September, 2013 to the plaintiff had been duly honoured.*

*At this stage the witness is shown document EX.PW1/G from judicial record. The witness admits that the same bears his signature at point A.*

**At this stage the witness is shown document Ex.PW1/C from judicial record. The witness has read over the contents of the same.**

**On Court query, the witness states that the signature at point A belongs to him.**

**It is wrong to suggest that I had signed the**

document Ex.PW1/C after reading and understanding the contents of the same. I can read and understand English to a little extent.

At this stage the witness is shown the contents of Ex.PW1/C from point Y to Y1 and asked to explain its meaning. The witness states that he is unable to tell the meaning of said portion of Ex.PW1/C.

Court observation : When the witness was given the document Ex.PW1/C, he took more than five minutes to read the same and did not say that he could not understand the meaning.

*It is wrong to suggest that the rate of rent is Rs.12,780/- p.m. It is wrong to suggest that documents Ex.DW1/1 (colly.) are all forged and fabricated rent receipts.*

*I had signed my affidavit Ex.DW1/A only after reading and understanding the contents of the same. It is correct that rent receipts dated 06.07.2003 and 25.12.2004 collectively exhibited as Ex.DW1/1 bear different signatures of property owner. (Vlt: the signature in Urdu in rent receipt dated 06.07.2003 probably belongs to father of previous owner of suit premises).*

*At this stage the witness is shown rent receipt dated 01.11.2007 wherein it is stated that same pertains to rent of four months from 01.06.2007 to 01.10.2007 which amounts to Rs.3520/- @ Rs.880/- p.m. The witness explains that the receipt is dated 01.11.2007 and hence the same pertains to rent of five months and inadvertently it is mentioned that the same is till the period of 01.10.2007.*

*At this stage the witness is shown rent receipt dated 01.10.2008 wherein it is stated that same pertains to rent of one month from 01.09.2008 to 01.10.2008 for Rs.880/- p.m. But the total rent received is written as Rs.1760/-. The witness states that he explain the above discrepancy as the same is an old matter.*

*It is wrong to suggest that all the rent receipts Ex.DW1/1 (colly) are forged and fabricated as the same are full of contradictions as well as overwriting.*

*I cannot confirm that the previous landlord had received the money order sent by me as per Ex.DW1/2 as the same is the matter of year 2004. It is wrong to suggest that the rate of rent is Rs.12,780/- p.m.*

*It is wrong to suggest that I have not paid rent of suit premises since October, 2013 till date. (Vlt: I had paid the rent for 12 months @ Rs.1,065/- p.m. to the plaintiff by way of cheque of Rs. 12,780/- in advance in September, 2013). It is correct that my tenancy was on month to month basis. I have no dispute with any of my neighbours.*

*It is wrong to suggest that I am deposing falsely.”*

In the above cross-examination of the Defendant, the following facts are clearly noticeable:

- That the Defendant admitted his signatures;
- That the Defendant could read and understand English partially;
- That the witness claimed ignorance when asked to read a portion of the Enhance Agreement.

- That the demeanour of the witness has been recorded by the Court noting he took time to read the document, and also did not state that he did not know the meaning of the document.

Thus, on the basis of his cross-examination, it is clear that the Defendant's conduct was not *bona fide*.

19. The Defendant is a businessman, who is running an air conditioning and refrigeration business in the basement and on the ground floor of the suit property. He is an Income Tax payee. He has clearly entered into the Enhancement Agreement and has tried to resile from the same repeatedly. The fact that he has entered into the said Agreement is proved not merely from the Agreement itself, but also from the following facts:

- i) His cross-examination which was recorded on 1<sup>st</sup> October, 2014, wherein he admitted that the signature on the Enhancement Agreement (Ex. PW1/C) belongs to him.
- ii) The witnesses who confirmed that for the first month, the sum of Rs. 12,780/- i.e., the enhanced rent was paid on the date when the said agreement was executed i.e., on 2<sup>nd</sup> September, 2012.
- iii) The two cheques issued by him in July, 2013 and September, 2013.
- iv) The cheques were issued for a sum of Rs. 12,780/- which was almost one year's rent. The explanation put forth by the Defendant that the amount of Rs. 12,780/- constitutes one year's rent calculated at Rs.1065/- for 12 months is unacceptable inasmuch as the trial court is right that it cannot be expected that the Defendant would have paid to the present Plaintiff, the rent for the month of July, 2012, when admittedly the present Plaintiff purchased the property only in

August, 2012.

20. Thus, it is clear that the Defendant is making repeated excuses to explain the Enhancement Agreement. After the cross-examination of the Defendant was recorded by the Trial Court on 1<sup>st</sup> October, 2014, various attempts have been made by the Defendant to resile from the statement which he made admitting his signature. The Defendant did not have any hesitation in giving a vague and misleading answer, even during the hearing before this Court, when a categorical question was put to him in respect of the signature on Ex. PW1/C. The Defendant is clearly not coming clean with the Court, as is also reflected in the repeated orders of the Trial Court and that of the Id. Single Judge of this Court, dismissing the applications preferred by the Defendant. The observations made by the Trial court as also this Court in various petitions filed by the Defendant are extracted below:

i) **Order dated 10<sup>th</sup> April 2015 in C.S. No. 22/11:**

*“From the above observations it is clearly apparent that after making a candid admission of his signatures on Ex. PW 1/C, the defendant having come to know of the legal consequences, now wants to change his statement by way of present application of re-examination. A witness cannot be permitted to make improvements on his earlier admissions by re-examination and that too after expiry of so many days after recording of 1 his evidence. If such applications are allowed, the cross-examination of witness would become a futile exercise as all the witnesses will then pray for re-examination in case they have made any categorical admission of facts which go against them.*

*Further the Judgment relied upon by Ld. counsel for plaintiff is not applicable to the facts of the*

*case as in the case herein the defendant has himself admitted the signatures on document under Oath. Moreover, it has been held by the Hon'ble Supreme Court in the case of Vediraj Naggapa Vernekar (D) through LRs vs. Sharad Chand Prabhakar Gogate AIR 2009 SC 1604 that a party cannot be permitted to fill up lacuna or omissions in the evidence of witness by way of application U/o 18 rule 17 CPC. With these observations the application U/o 18 Rule 17 CPC stands dismissed."*

ii) **Order dated 9<sup>th</sup> May, 2016 in C.R.P. 78/2015:**

*"In view of this factual narration which has been noted by the Trial Court, the Trial Court had rightly declined the prayer made in the present application. This petition is nothing but an abuse of the process of the Court and has been filed mala fide. Petitioner is trying to buy time by prolonging the proceedings on one pretext or the other. Petition being without any merit dismissed with costs quantified at Rs.10,000/-."*

iii) **Order dated 5<sup>th</sup> September 2016 in SCJ No. 611070/2016:**

*"It is obvious that the present application u/s. 151 CPC has been filed merely to delay the proceedings. With these observations the present application u/s 151 CPC stands dismissed. However this time a cost of Rs.3,000/- is imposed on defendant for delaying the proceedings, to be deposited in DLSA (W)."*

iv) **Order dated 27<sup>th</sup> October, 2017 in CM(M) 57/2017:**

*"7. Apart from the above, in view of the absence of*

the respondent the fact that number of adjournments have been taken by the petitioner at the stage when the matter was fixed for final arguments was not brought to the notice of this court. It is manifest from the fact stated above, the petitioner has himself closed his evidence on 1.10.2014. Despite that instead of completing final arguments the petitioner has filed several applications to prolong the matter.

8. The above conduct of the petitioner escaped the notice of this court as none had appeared for the respondent, being not served with an advance copy. In my opinion, there is an error apparent on the face of the record. I recall the order dated 17.1.2017.

9. In view of the facts stated above and the conduct and dilatory tactics resorted to by the petitioner, I allow the present review petition and recall the order dated 17.1.2017 and dismiss the present petition.”

The above observations made repeatedly by the trial court, High Court and the conduct of the Defendant before this Court leaves no doubt that the Defendant has deliberately indulged in abuse of process.

21. The Enhancement Agreement has not been admitted merely by the Defendant, but also by the witnesses who have appeared on behalf of the Plaintiff. The said witnesses have made a statement admitting that the said Agreement was signed in the office of the Plaintiff. Even the details of the manner in which the signatures had taken place have been clearly explained by the witnesses in the following manner:

“05.08.2014

**PW-3, Sh. Virender Chawla, S/o Late Sh. H.S. Chawla, Aged 43 years, R/o H. No.74, Meenakshi Garden, New Delhi**

**On S.A**

xxx      xxx      xxx

*The property containing the suit shop was purchased by plaintiff in the year 2012. Prior to the signing of the agreement Ex.PW1/C. I might have seen plaintiff signing once or twice. The said agreement was signed by me, Rakesh, Plaintiff and defendant.*

*The said agreement was signed in the office of Chawla Band at about 5.00-6.00 p.m. It was already lying prepared before coming to the shop. I am conversant with the contents of the said agreement. The said agreement was not attested. The said agreement was prepared in plain paper.*

*At the time of agreement the defendant had paid cash of Rs.12,780/- to the plaintiff. No receipt was issued to that effect. The cash was paid for the first month which happened to be September, 2012.*

*Defendant had given cheque to plaintiff in my present at shop of Chawla Band. I cannot say as to which bank the said cheque belonged to. The said cheque was already filled up before coming to the shop. The amount mentioned was 12,780/-. I am not aware about the rent of shops of similar description in the same locality. I am doing business in the market for about 25 years.*

*It was wrong to suggest that the said agreement was not signed by persons concerned in my presence. It is wrong to suggest that the said agreement bears the forged signatures of defendant. It is wrong to suggest that on account of animosity with defendant and proximity to plaintiff. I am deposing before court in favour of plaintiff. It is wrong to suggest that my affidavit is false or that I am deposing falsely.*

05.08.2014

**PW-2, Sh. Rakesh Tanwar, S/o Sh. Harnand**

*Singh, aged 53 years, R/o WZ-53, Tatarpur, New Delhi-27.*

***On S.A.***

*xxx xxx xxx*

*I am running the business of band. I do not know as to when the property containing the suit shop was purchased by plaintiff. (Vot : it might have been purchased about two years ago). I am running my business from my own shop. Prior to the signing of the agreement Ex.PW1/C, I might have seen plaintiff signing once or twice. (Again said : plaintiff has never signed in my presence prior to signing of said agreement). The said agreement was signed by one Lovely, Tajender, defendant and I. Lovely is Jeth (brother in law) of plaintiff and I know him by this name only. Except for the parties herein, plaintiff's husband and Jeth and I, nobody else had signed the said agreement. The said agreement was signed in Chawla's shop and it was already lying prepared. I am not conversant with the contents of the said agreement as it was in English language and I am not conversant with English language. Even today I am not aware about the contents of said agreement. After signing on the said agreement. I did not take it anywhere. I am not aware as to value of the stamp paper on which the said agreement was executed. It is correct that to get the said agreement attested. I did not visit any of the Notary Public. Defendant had given cheque to plaintiff in my presence. I cannot say as to which bank the said cheque belonged to. Defendant filled up the said cheque in my presence. The amount mentioned was 12,780. There are other tenanted shops also which are as old as the suit shop. The said shops also fetch the rent of about Rs.12,000/- p.m. but I cannot produce any document to that effect. Again said : that I am not aware about any*

*shop which fetches the monthly rent of Rs.12,000/- in the same locality and of similar description. It is wrong to suggest that the said agreement was not signed by persons concerned in my presence. It is wrong to suggest that the said agreement bears the forged signatures of defendant. It is wrong to suggest that on account of animosity with defendant and proximity to plaintiff. I am deposing before the court in favour of plaintiff. It is wrong to suggest that my affidavit is false or that I am deposing falsely.”*

22. A perusal of the Enhancement Agreement also shows the signatures of the witnesses, namely Mr. Virender Chawla and Mr. Rakesh Tanwar, both of whom had appeared before the Trial Court. The signatures of the Defendant on the said Agreement are also admitted. The said Agreement is also signed by the Plaintiff. Under such circumstances, there can be no reason to disbelieve the Agreement for Enhancement of Rent dated 2<sup>nd</sup> September, 2012.

23. Insofar as the judgments which have been cited on behalf of the Defendant are concerned, the proposition that mere signatures may not prove the contents of the documents, cannot be disputed. However, in the present case there is sufficient contemporaneous and corroborative evidence to establish the execution of the Enhancement Agreement. Thus, this Court does not accept the submission of the Defendant pertaining to the substantial question of law that would arise in respect of the contents of the said Agreement.

24. Insofar as the ownership of the Plaintiff in respect of the suit property is concerned, paragraph 1 of the Plaint reads as under:

*“That the plaintiff is the owner of built up property*

*bearing no. WZ-48, out of Khasra No.26, admeasuring 75 sq. yds. situated at Tatarpur Village, Main Najafgarh Road, New Delhi – 110027. The plaintiff purchased the same vide Registered Sale Deed dated 17<sup>th</sup> August, 2012 registered in the office of Sub-Registrar-II, Janakpuri, New Delhi, on dated 17/8/2012. Photocopy of Sale Deed dated 17.8.2012 is annexed herewith as **Annexure-A.**”*

25. In the paragraph-wise response to the Plaint, the written statement filed on behalf of the Defendant before the Trial Court reads as under:

*“1. That the contents of the corresponding paragraph are matter of record.”*

26. The pleadings reproduced above are sufficient to hold that the Defendant does not dispute, and has in fact, clearly and unequivocally admitted the ownership rights of the Plaintiff in respect of the suit property.

27. Insofar as the third submission of Mr. Sagar, Id. Counsel for the Defendant to the effect that the SPA was not properly executed is concerned, considering the fact that the defect in respect of the SPA has already been rectified by the Trial Court as also the fact that the person in whose favour the SPA has been executed is the husband of the Plaintiff, no substantial question of law arises in respect thereof.

28. The conduct of the Defendant is something completely unacceptable to the Court. The Defendant has not merely indulged in abuse of process of law, after having made a clear admission as to his signature on the Agreement for Enhancement of Rent dated 2<sup>nd</sup> September, 2012 during this cross-examination, but has repeatedly taken the stand before the Trial Court as also this Court that the said Agreement is forged and fabricated. Even

during the hearing before this Court, when the Court put a question to him, he has attempted to resile from his admission. It is clear that the Defendant is not coming clean with the Court, and the Court cannot turn a blind eye to such conduct of the Defendant.

29. Under these circumstances, the present second appeal is dismissed as no substantial question of law arises in this matter. The Defendant has filed applications after applications in order to somehow escape the consequences of his clear admission. He has challenged the orders in each of the applications by filing six Revision Petitions/ Writs before this Court. The Court cannot turn a blind eye to such conduct. In view of the above facts and circumstances, considering the dishonest conduct of the Defendant as also the gross abuse of process which he indulged in and the fact that he enjoyed the property for a period of more than five years, a sum of Rs. 5,00,000/- is imposed as costs upon the Defendant and in favour of the Plaintiff. The present second appeal stands dismissed with costs of Rs. 5 lakhs. Out of the said amount, a sum of Rs. 2 lakhs shall be paid to the High Court of Delhi Middle Income Group Legal Aid Society (A/c No. 15530110135488, UCO Bank, High Court of Delhi) and the remaining Rs. 3 lakhs shall be paid to the Plaintiff. The costs shall be paid within a period of four weeks.

30. The Defendant in this case has been enjoying the property since 1989 and is also running a commercial business in the suit property. The Defendant has already delayed the final arguments in this matter from 2014 to 2017. Recently, the Supreme Court in the case of **Rahul S. Shah v. Jinendra Kumar Gandhi & Ors. [(2021) 6 SCC 418]**, has observed as under:

*“30. As to the decree for the delivery of any*

*immovable property, Order 21 Rule 35 provides that possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property.”*

31. The Supreme Court has also expressed displeasure in the manner in which execution of decrees is indefinitely delayed. Thus, this Court is of the opinion that no useful purpose is served by relegating the parties to the executing court where the matter is currently pending. The possession of the suit property ought to be handed over immediately to the Plaintiff, within a period of four weeks from today i.e., on or before 25th October, 2021. The arrears of rent due till date would also be paid by the Defendant by 25th October, 2021.

32. Since the Executing Court had adjourned the execution proceedings to 26th November, 2021 only due to the pendency of the present second appeal, the matter shall now be taken up before the Executing Court on 29<sup>th</sup> October, 2021.

33. The appeal, along with all pending applications, is dismissed in the above terms.

**PRATHIBA M. SINGH  
JUDGE**

**SEPTEMBER 21, 2021/mw/ad**

*(Corrected & released on 27<sup>th</sup> September, 2021)*