



2024:DHC:4779



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

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Judgment reserved on: 13.03.2024
Judgment pronounced on: 27.06.2024

+ CM(M) 1129/2022

RAJNI GUPTA

..... Petitioner

Through: Mr. Ajay Gupta, Mr. Surbhi Gupta,
Mr. Anant Gupta and Mr. Ushan K.
Maheshwari, Advs.

versus

SANJAY GUPTA & ANR.

..... Respondents

Through: Mr. Ramesh Kumar and Mr. Alankar
Tiwari, Advs.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

1. This petition under Article 227 of the Constitution of India is directed against the impugned order dated 12.05.2022 passed by the learned Additional District Judge-03, Central District, Tis Hazari Courts, Delhi (hereinafter referred as 'Trial Court') in CS DJ No.170/2021 titled as "*Rajni Gupta vs. Sanjay Gupta & Anr.*" whereby the petitioner/plaintiff's application under Order XII Rule 6 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") was dismissed by the learned Trial Court.

2. According to the averments in the plaint, the petitioner is the owner of the property bearing No.2782, Gali Arya Samaj, Bazar Sita Ram, Delhi 110006 ("Suit Property") by virtue of a sale deed dated 27.03.2009. The



respondents herein as well as their predecessors were tenants of the suit property.

3. The petitioner sent a legal demand notice to the respondents, demanding payment of rent. However, since the notice was to no avail, the petitioner was compelled to file an eviction petition under Section 14(1) (a), (d) & (h) of the Delhi Rent Control Act, 1958 (“DRC Act”). The respondents thereafter filed their written statement whereby they claimed ownership of the suit property. Since the respondents had renounced landlord-tenant relationship, the petitioner filed the present suit for possession against the respondents.

4. The petitioner, then filed an application under Order XII Rule 6 CPC, seeking judgment on the admissions made by the respondents in their written statement. The respondents filed their reply to the application and vide the impugned order, the petitioner’s application came to be dismissed by the learned Trial Court wherein it was recorded that only because there is a registered sale deed in favour of the petitioner/plaintiff does not mean that an application under Order XII Rule 6 CPC may be allowed.

5. Mr Ajay Gupta, learned counsel for the petitioner submits that the order passed by the learned Trial Court is a cryptic order passed without any cogent reason. The learned counsel places reliance on “*Neha Saini vs Raghubir Singh*” in CM(M) No.291/2022 wherein this Court held that while dismissing an application under Order XII Rule 6 CPC, the Court must give reasoning and that the order must not be in a laconic fashion.

6. The learned counsel places reliance on the judgement of a Division Bench of this Court in “*Naeem Ahmed vs Yash Pal Malhotra (Deceased) Through LR’s & Anr: (2012) 188 DLT 579*” to impress upon the argument



that once the tenant deny landlord-tenant relationship, the suit for recovery of possession would lie and on said basis, the petitioner withdrew the earlier eviction petition under DRC Act and filed a fresh suit for possession against the respondent.

7. The learned counsel further contended that though the respondents in their written statement have averred that (a) Late Lala Ram Swaroop was the head of a Joint Hindu Family which then comprised of Late Lala Ram Swaroop and his sons Lala Bishan Swarup, Om Prakash, Kulu Mal, Ram Kumar, and Radhey Shyam, (b) that the property was purchased from funds of the family in the name of Smt. Sarla Singhal who was the wife of Sh. Radhey Shyam, (c) that the property was given in a clutter of the HUF headed by Late Lala Ram Swaroop (d) that Radhey Shyam was given in adoption to Lala Ram Chand, (e) that Smt. Sarla Singhal then gifted the suit property to her son Sh. Rajeev Singhal who later sold it to the petitioner/plaintiff. But the respondents have failed to show existence of a HUF. Further, the written statement does not find any mention of when the suit property was thrown into a common clutter. Reliance to this effect is placed on judgments of this Court in “**Sh. Surender Kumar vs Sh. Dhani Ram & Ors: AIR 2016 DEL 120**” as well as “**Master Ansh Kapoor & Anr vs K.B Kapur & Anr: AIR 2021 DEL 51**” and it was submitted that it has been held that under Order VI Rule 4 CPC, all necessary facts and details of the cause of action must be clearly mentioned and once it is claimed that a property was thrown into a common clutter, the exact details of the creation of the HUF by throwing the property into a common clutter must clearly be pleaded.



8. It is submitted on behalf of the petitioner that the respondents in their written statement have admitted that the petitioner is the owner of the suit property and hence no triable issue remains. Reliance to this effect is placed on the judgment of the Apex Court in ***“Uttam Singh Duggal & Co. Ltd. Vs United Bank of India & Ors.:(2000) 7 SCC 120”*** and a judgment of this Court in ***“Praneeta Soni vs Panchsila Hospitality Ventures Ltd. & Ors”*** in CM(M) No.903/2012

9. Mr. Ramesh Kumar, learned counsel for the respondents opposed the submission made by the petitioner and stated that respondents have denied the tenancy since 10.07.1956 when they have been in possession of the suit property, whereas the petitioner claims to have purchased the property in 2009. Further, the proceedings initiated by the petitioner before the learned Rent Controller have not been withdrawn, therefore, the present Civil Suit for possession is not maintainable.

10. The learned counsel submits that in the application filed by the petitioner under Order XII Rule 6 CPC, the petitioner has not cited any specific or unambiguous admission made by the respondents which would entitle the petitioner to a decree under Order XII Rule 6 CPC, therefore the impugned order does not suffer from any conjectures or infirmities. Various contentious issues arise from the pleadings of the parties which require trial, hence, the application has been rightly dismissed by the learned Trial Court.

11. I have heard the submissions addressed on behalf of the parties at length and have perused the record as well as the impugned order.

12. Black’s Law Dictionary defines Admission as *“Any statement or assertion made by a party to a case and offered against that party; an acknowledgement that facts are true. Admission against interest as – A*



person's statement acknowledging a fact that is harmful to the person's position as a litigant. An admission against interest must be made either by the litigant or by one in privity with or occupying the same legal position as the litigant"

13. An admission is the unassailable requirement to attract the operation of Order XII Rule 6 CPC. To qualify as a valid admission it should be unequivocal, unambiguous, and unconditional and should be made with intend to be bound by it. It should be a valid admission independently without having to be proved by adducing evidence and should entitle the other party to succeed

14. There is no hard and fast rule on what constitutes admission as it is highly dependent on the facts of each case. A statement made can be admission in one case and may not be in another. Admission necessarily means a statement made, either in pleadings or otherwise to conclusively determine an issue made by a party intending to be bound by it.

15. Order XII Rule 6 CPC is an enabling provision. The law with regard to the interpretation given to Order XII Rule 6 CPC is well settled in terms of the judgment of the Hon'ble Supreme Court in the case of ***Himani Alloys Ltd. V. Tata Steel Ltd. (2011) 15 SCC 273*** the Hon'ble Supreme Court held as under:

"11. It is true that a judgment can be given on an "admission" contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order XII Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore, unless the admission is clear,



unambiguous and unconditional, the discretion of the court should not be exercised to deny the valuable right of the defendant to contest the claim. In short the discretion should be used only when there is a clear "admission" which can be acted upon."

16. The learned Division Bench of this Court in the case of **Anupama Bansal v. Suraj Bhan Bansal**, RFA(OS) 46/2019, has in paragraphs 20 to 24 held as under:

"20. The law on the aspect as to what should constitute "pleadings or otherwise", the words used under Order XII Rule 6 CPC, for passing a judgment on admission, is well settled. There are a line of decisions rendered by the Supreme Court and the High Courts that if there is sufficient material on record including express/implied admissions, that can validate passing of a decree on the basis of such admissions, there is no impediment for the Court to accelerate the suit proceedings to a closure by passing a decree on admitted claims.

21. The scope and ambit of Order XII Rule 6 CPC was discussed by the Supreme Court in the landmark case of Uttam Singh Duggal and Co. Ltd. v. Union Bank of India reported as (2000) 7 SCC 120: AIR 2000 SC 2740, where it was observed as under:-

"12. As to the object of the Order 12 Rule 6, we need not say anything more than what the Legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said rule, it is stated that 'where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled. We should not unduly narrow down the meaning of this rule as the object is to enable a party to obtain speedy judgment. Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission to succeed."

(emphasis added)

22. In ITDC Ltd. v. Chander Pal Sood and Son reported in (2000) 84 DLT 337 DB, a Division Bench of this Court interpreted the provisions of Order XII Rule 6 CPC in the following words:-

"17. Order 12 Rule 6 of Code gives a very wide discretion to the Court. Under this rule the Court may at any stage of the suit either on the application of any party or of its own motion and without determination of any other question between the parties can make



such order giving such judgment as it may think fit on the basis of admission of a fact made in the pleadings or otherwise whether orally or in writing...."

23. Another Division Bench of this Court had the occasion to interpret the expression, 'otherwise' used in Order XII Rule 6 CPC in *Rajiv Srivastava v. Sanjiv Tuli* reported as (2005) 119 DLT 202 (DB) and observed as below:-

"10. The use of the expression 'otherwise' in the aforesaid context came to be interpreted by the Court. Considering the expression the Court had interpreted the said word by stating that it permits the Court to pass judgment on the basis of the statement made by the parties not only on the pleadings but also de hors the pleadings i.e. either in any document or even in the statement recorded in the Court. If one of the parties' statement is recorded under Order 10 Rules 1 and 2 of the Code of Civil Procedure, the same is also a statement which elucidates matters in controversy. Any admission in such statement is relevant not only for the purpose of finding out the real dispute between the controversy exists between the parties. Admission if any is made by a party in the statement recorded, would be conclusive against him and the Court can proceed to pass judgment on the basis of the admission made therein....."

24. In *Delhi Jal Board v. Surendra P. Malik* reported as (2003) 104 DLT 151, a Division Bench of this Court had laid down the following tests for pronouncing a judgment on admission:-

"9. The test, therefore, is (1) whether admissions of fact arise in the suit, (ii) whether such admissions are plain, unambiguous and unequivocal, (iii) whether the defense set up is such that it requires evidence for determination of the issues and (iv) whether objections raised against rendering the judgment are such which go to the root of the matter or whether these are inconsequential making it impossible for the party to succeed even if entertained. It is immaterial at what stage the judgment is sought or whether admissions of fact are found expressly in the pleadings or not because such admissions could be gathered even constructively for the purpose of rendering a speedy judgment."

(emphasis added)"

17. There is no dispute with regard to the proposition of law laid down in the aforesaid judgments in as much as, (i) a judgment on admission under Order XII Rule 6 CPC is not a matter of right, rather is a matter of discretion of the Court; (ii) to constitute a clear, unequivocal, unambiguous and unconditional admission, the Court has to see the overall effect of the



pleadings and documents. (iii) if the issue raised, involves a mixed question of fact and law, the same has to be adjudicated by way of evidence; (iv) the discretion conferred under Order XII Rule 6 of the CPC is to be exercised judiciously and not arbitrarily.

18. It is settled law that an admission should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. In the present petition, the case set up by the petitioner in the plaint is that the petitioner is the owner of the suit property and the respondents/defendants are in possession of the same. It is further the contention of the petitioner that in the previous proceedings filed by the petitioner against the respondents for eviction under section 14 (1) (a) of Delhi Rent Control Act, before Additional Rent Controller, Delhi in that written statement, the respondents had claimed their right over the suit property being the owner thereof. The petitioner has further claimed in the plaint that since the respondents have repudiated and renounced the relationship of landlord and tenant and set up their own title in the property as such on the basis of claim of the respondents of their ownership over the said property, the petitioner has filed the present suit for possession against the respondents on the basis of her title. Thus, it is clear from a reading of the plaint that the respondents have set up their own title to suit property and do not admit the title of the petitioner to the suit property.

19. In the aforesaid background, a perusal of the written statement of the respondents filed in the present suit shows that the respondents have been consistent with their stand as was in the eviction petition before the learned Additional Rent Controller that from the funds left behind by late Lala Ram Swaroop and the funds generated by his widow by disposing off her



jewellery and from the income of joint family business, the suit property was purchased in the name of predecessor in interest of the petitioner and that although this property was purchased in the name of predecessor in interest of the petitioner but was meant for joint ownership and residence of all the remaining family members of Lala Ram Swaroop as the coparceners and joint owners thereof. Therefore, after its purchase various portions were allocated to various male members of the family as joint owners thereof, immediately, after the purchase of this property on 10.07.1956 and on these, amongst other, pleadings, the respondents have denied and disputed the claim of the petitioner for exclusive possession of the suit property. The pre-requisites for passing a decree on admission are the existence of an unconditional, unambiguous, and clear admission.

20. It is evident from the written statement filed by the respondents that there is no clear admission by the respondents in respect of the claim of the petitioner. In fact as noticed above, the petitioner's own case is that the respondents had set up their own title to the suit property and it is for this reason the petitioner has filed the present suit. It cannot be said that there is an admission by the respondents so as to enable the Court to give a judgment in favour of the petitioner.

21. The impugned order, accordingly requires no interference by this Court, the petition, consequently is dismissed.

SHALINDER KAUR, J.

JUNE 27, 2024/ab