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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 24th February, 2025*+ **C.R.P. 228/2019****ASHOK KUMAR JHA**PetitionerThrough: Mr. Dinesh Singh Bachgoti,
Advocate with the petitioner
in person.

versus

VIJAY KUMARRespondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)****CM APPL. 74616/2024**

1. The present application has been filed seeking restoration of the above-captioned petition to its original number.
2. For the reasons mentioned in the application, the same is allowed and the above-captioned petition (C.R.P. 228/2019) is restored to its original position and number, as obtaining on 20.11.2024.
3. The application stands disposed of.

C.R.P. 228/2019

4. The present petition has been filed challenging the judgment dated 10.10.2018 (hereafter '**impugned judgment**'),

Signature Not Verified

Signed By: HARMINDER KAUR
Signing Date: 17.03.2025
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passed by the learned JSCC/ASCI, North-East, Karkardooma Courts, Delhi, in Civil Suit No. 105500/2015.

5. By the impugned judgment, the learned Trial Court dismissed the suit filed by the petitioner/plaintiff under Section 6 of the Specific Relief Act, 1963 (hereafter '**the Act**'), wherein the petitioner sought recovery of possession of the subject property and permanent injunction restraining the defendant/respondent from alienating, transferring, or parting with possession of the same.

6. The respondent has not appeared before this Court despite service of notice. However, given the nature of the petition, this Court proceeds to adjudicate the matter on merits.

7. The plaintiff claimed that he had taken one room with an attached bathroom on the first floor of the subject property bearing No. C-124/28, Bhagat Singh Mohalla, Gali No. 03, New Usmanpur, Delhi-110053 ('**subject property**'), on a monthly rent of ₹600, later increased to ₹800.

8. Due to disputes between the parties, the defendant initiated eviction proceedings under Section 14(1)(a) of the Delhi Rent Control Act, 1958. The learned Rent Controller, *vide* order dated 27.08.2012, passed an eviction decree in favor of the defendant. The petitioner filed an appeal challenging the eviction order before this Court, but subsequently withdrew the same, allowing the eviction order to attain finality.

9. It is the case of the plaintiff that he was forcibly dispossessed in October 2014. Aggrieved by the alleged forcible dispossession, the plaintiff filed a suit under Section 6 of the Act



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seeking recovery of possession and a permanent injunction. The learned Trial Court dismissed the suit, leading to the filing of the present revision petition.

10. The learned counsel for the petitioner submits that the petitioner was a tenant in the subject property, having taken one room with an attached bathroom on rent at a monthly rent of ₹600, later increased to ₹800. He contends that despite an eviction order dated 27.08.2012, passed in favor of the respondent, the petitioner continued to remain in possession and regularly paid rent. The petitioner claims that in October 2014, he was forcibly dispossessed from the subject property by the respondent and his associates, without following due process of law.

11. He argues that his possession was protected under Section 6 of the Act, which prohibits unlawful dispossession, regardless of ownership rights.

12. He submits that the learned Trial Court erred in dismissing his suit, as it failed to appreciate that the respondent had taken the law into his own hands instead of executing the eviction order through proper legal channels.

13. The short question for determination in the present case is whether the petitioner was unlawfully dispossessed from the subject property warranting a decree under Section 6 of the Act.

14. Before delving into the merits, it is imperative to consider the maintainability of the present revision petition in light of the statutory framework governing suit filed under Section 6 of the Act, which reads as under :



*“6. Suit by person dispossessed of immovable property.—
(1) If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.
(2) No suit under this section shall be brought—
(a) after the expiry of six months from the date of dispossession; or
(b) against the Government.
(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.
(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.”*

15. Section 6(3) of the Act bars an appeal and review from any order or decree passed in any suit instituted thereunder.

16. Although a revision petition under Section 115 of the Code of Civil Procedure, 1908 (‘CPC’) is maintainable, but before this Court exercises its revisional jurisdiction over an order passed under Section 6 of the Act, the petitioner must establish grounds distinct from those available in an appeal. This Court is not empowered to re-evaluate or reappreciate evidence presented before the Trial Court. Only in exceptional circumstances, where the High Court identifies a manifest miscarriage of justice, a complete failure of the trial, or a decision suffering from a fundamental legal error, has a revision petition challenging an order under Section 6 of the Act been deemed maintainable.

17. In ***Sanjay Kumar Pandey v. Gulbahar Sheikh : (2004) 4 SCC 664***, the Hon’ble Apex Court discussed the scope of the above-mentioned provision while dealing with an appeal filed by the plaintiff/ appellant against the judgment passed by the High



Court in a revision petition dismissing the suit, as under:

“4. A suit under Section 6 of the Act is often called a summary suit inasmuch as the enquiry in the suit under Section 6 is confined to finding out the possession and dispossession within a period of six months from the date of the institution of the suit ignoring the question of title. Sub-section (3) of Section 6 provides that no appeal shall lie from any order or decree passed in any suit instituted under this section. No review of any such order or decree is permitted. The remedy of a person unsuccessful in a suit under Section 6 of the Act is to file a regular suit establishing his title to the suit property and in the event of his succeeding he will be entitled to recover possession of the property notwithstanding the adverse decision under Section 6 of the Act. Thus, as against a decision under Section 6 of the Act, the remedy of unsuccessful party is to file a suit based on title. The remedy of filing a revision is available but that is only by way of an exception; for the High Court would not interfere with a decree or order under Section 6 of the Act except on a case for interference being made out within the well-settled parameters of the exercise of revisional jurisdiction under Section 115 of the Code.”

18. This Court in ***Raj Aggarwal v. Shashi Jain : 2017 SCC OnLine Del 9224***, while dealing with a similar petition under Section 115 of the CPC against the decree of dismissal of a suit under Section 6 of the Specific Relief Act, 1963, held as under:

“16. Though Revision Petition under Section 115 lies, but before this Court entertains Revision Petition against an order under Section 6 of the Specific Relief Act, a ground different from that of appeal is to be made out for exercise of revisional jurisdiction. This Court cannot re-appreciate any evidence led before the Trial Court. In fact Courts have held that the High Court will generally not interfere in revision as the proper remedy is to institute a regular suit for declaration of title and possession. Only in extreme cases where the High Court finds grave injustice to have been done or where there has been no trial at all or where the decision is vitiated by error of law and the like, has the remedy of revision against an order or decree under Section 6 of Specific



Relief Act, 1963 been held to be maintainable. In the facts of the present case when the petitioners/plaintiffs were admittedly for about 20 years prior to the institution of the suit not in use of the premises, the question of any injustice lest grave having been caused to the petitioners/plaintiffs does not arise.

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18. For the suit under Section 6 of the Specific Relief Act to succeed, it is essential for a plaintiff to prove that the plaintiff, within six months prior to the institution of the suit was in possession of the premises. Once the petitioners/plaintiffs failed to prove so, as has been rightly held by the learned Civil Judge on appreciation of the evidence, the issue no. 6 supra also ought to have been decided against the petitioners/plaintiffs and the suit ought to have been dismissed as barred by limitation."

(emphasis supplied)

Absence of Lawful Possession

19. The petitioner's tenancy was terminated by the eviction order dated 21.08.2012. Once the eviction order attained finality upon withdrawal of the appeal filed by the petitioner, the petitioner ceased to have any legal right to remain in possession of the subject property.

Lack of Evidence of Forcible Dispossession

20. The petitioner alleged forcible dispossession in October 2014. However, as rightly noted by the learned Trial Court, the petitioner failed to produce any credible evidence in support of this assertion. The learned Trial Court noted that the petitioner failed to file any police complaint regarding the alleged dispossession. It was observed that no independent witness testified in favor of the petitioner and no evidence was adduced to show that the belongings of the petitioner were removed or



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retained by the respondent.

21. The respondent's contention that possession was handed over voluntarily stands uncontroverted, as the petitioner failed to rebut this claim with any cogent evidence.

22. In light of the foregoing discussion, it is evident that the petitioner had no legal entitlement to possession of the subject property following the eviction order passed in favor of the respondent. Furthermore, the petitioner has failed to produce any evidence to substantiate his claim of illegal dispossession. In the absence of any material proof supporting the contention that possession was unlawfully taken away, no grounds exist to justify interference in revisional jurisdiction.

23. This is not a case where the decision of the learned Trial Court is vitiated by an error of law, nor has the petitioner demonstrated the existence of exceptional circumstances that would warrant interference with the impugned judgment. Consequently, no case is made out for the exercise of revisional jurisdiction in favor of the petitioner.

24. Furthermore, the order sheets of the case reflect the lack of diligence on the part of the petitioner vis-à-vis the address of the respondent in the memo of parties is incomplete; the petitioner failed to take necessary steps for service of notice, leading to repeated adjournment and despite directions, costs imposed by the Court were not paid.

25. Given this pattern of conduct, the present petition appears to be a misuse of judicial time.

26. In view of the above, the present petition is dismissed with



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costs of ₹25,000/-, to be deposited with the Delhi High Court Legal Services Committee within four weeks.

FEBRUARY 24, 2025

AMIT MAHAJAN, J

