



2024:DHC:7168



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order: 19th September, 2024**
+ **C.R.P. 8/2022 & CM APPL. 5316/2022**
SH. JASPAL SINGHPetitioner

Through: Mr. Sunil Chauhan and Ms. Vatsala
Chauhan, Advocates

versus

RAKESH YADAV & ANR.Respondents
Through: Mr. B. K. Sood, Mr. Harish Gaur,
Mr. Manik Sood and Mr. Manharjit
Singh, Advocates for R-1

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant civil revision petition under Section 115 of the Code of Civil Procedure, 1908 ("CPC" hereinafter) has been filed on behalf of the petitioner seeking setting aside of the judgment and decree dated 26th February, 2021, passed by the learned Additional District Judge-01, District South-West, Dwarka Courts, Delhi in CS No. 112/2016 (15241/2016) titled as "*Shri Jaspal Singh vs. Shri Rakesh Yadav and Another*", wherein the aforesaid suit filed under Section 6 of the Specific Relief Act, 1963 ("the Act" hereinafter) was dismissed.
2. Brief facts of the present matter that led to the filing of the instant



2024:DHC:7168



petition are as under:

- (i) The petitioner/plaintiff is the alleged owner of the residential plot no. 83, measuring 120 square yards, situated within the revenue estate of village Pochanpur, Delhi (“suit property” hereinafter), whereas, it is asserted by him that the respondents/defendants have illegally dispossessed him from the peaceful possession of the suit property.
- (ii) In the year 1987, the above said suit property was originally allotted to a person, namely, Sh. Om Prakash, under the 20 points programme of late Smt. Indira Gandhi, after which, the same was transferred to the predecessor-in-interest of the petitioner, namely, Sh. Pooran Chand, *vide* documents of conveyance dated 23rd June, 1990.
- (iii) It is claimed by the petitioner that by way of documents of conveyance, such as the General Power of Attorney (“GPA” hereinafter), agreement to sell, etc., executed in the year 2001 by the erstwhile owner, Sh. Pooran Chand, in his favour, the petitioner became the owner of the suit property and came into the possession of the same on 5th March, 2001. Thereafter, on behest of the petitioner, a boundary wall surrounding the suit property, as well as a room, was constructed in the same.
- (iv) Furthermore, it is claimed that the petitioner remained in the possession of the suit property till the month of December, 2014, pursuant to which, the respondents dispossessed him from the said



2024:DHC:7168



suit property by removing the locks affixed on its gate as well as the locks on the doors of the rooms built inside the same. Moreover, the respondents removed all the household goods of the petitioner lying in the aforesaid room.

- (v) The petitioner stated that on 5th December, 2014, he was informed by a neighbour, namely, Sh. Balwan Singh about the abovementioned incident as well as the fact that the name of respondents was painted on the gate of the suit property.
 - (vi) Subsequently, the petitioner filed a suit for possession bearing CS no. 112/2016 under Section 6 of the Act.
 - (vii) Learned Trial Court *vide* judgment and decree dated 26th February, 2021 (“the impugned judgment” hereinafter) dismissed the same.
 - (viii) Being aggrieved of the abovementioned impugned judgment, the instant civil revision petition has been filed seeking setting aside of the same.
3. Learned counsel appearing on behalf of the petitioner submitted that the learned Trial Court committed an error of law in dismissing the aforementioned suit by way of the impugned judgment as the same is contrary to the facts and evidence on record, causing grave miscarriage of justice to the petitioner and is thus, liable to be set aside.
4. It is submitted that the learned Trial Court failed to appreciate that the ownership and possession of the suit property lies in favour of the petitioner, in terms of the conveyance documents executed in his favour, in the year 2001 by the erstwhile owner, namely, Sh. Pooran Chand, and therefore, on



2024:DHC:7168



his behest, a boundary wall and a room was constructed in the suit property.

5. It is submitted that the learned Trial Court erred by ignoring the fact that in the month of December, 2014, the respondents illegally and forcibly dispossessed the petitioner by removing the locks affixed on the gate of the suit property and further breaking open the locks of the doors of the rooms therein. Furthermore, the respondents proceeded to remove all the household goods of the petitioner.

6. It is submitted that while adjudicating the suit for possession under Section 6 of the Act filed by the petitioner, the learned Trial Court dismissed the same by virtue of the impugned judgment by ignoring the testimonies of petitioner witnesses that prove beyond doubt that the petitioner was in physical possession of the suit property prior to filing of the said suit.

7. It is further submitted that the learned Trial Court failed to appreciate that PW3, i.e., Sh. Rajesh Kumar, whose father and brother were in possession of the neighboring property bearing plots no. 53 and 54, situated at a distance of about 200-250 square feet of the suit property, deposed in favour of the petitioner's claim that he was in lawful possession of the suit property as a room was constructed in the same on his behest and he provided a water tanker for facilitation of the said construction work.

8. It is submitted that the learned Trial Court further failed in appreciating the testimony of PW4, i.e., Sh. Balwan Singh, the neighbour, who further testified in his statement that he informed the petitioner about the illegal dispossession and the names of the respondents written on the gate of the suit property.



2024:DHC:7168



9. It is also submitted that the learned Trial Court failed to take into account the possession letter placed on record which was executed by the erstwhile owner of the suit property in favour of the petitioner. It is submitted that the above said possession letter duly corroborates the case of the petitioner as it has not been rebutted and no allegations of fraud or illegality has come into question with regard to the same.

10. Learned counsel appearing on behalf of the petitioner submitted that the learned Trial Court erred in finding the respondent no.1 to be in possession of the suit property as there is nothing on record to show that he lawfully came into possession of the same.

11. It is further submitted that the learned Trial Court failed to appreciate that the cross-examination of DW1, i.e., the respondent no.1, is unreliable as he failed to disclose the measurement of the room despite the fact that he was a civil contractor by profession and he was expected to know the length and breadth of the room in question which has been allegedly constructed by him.

12. It is submitted that the learned Trial Court gave undue weightage by relying upon the oral contentions made by the respondent no.1 that the electricity supply and connection subsequent to 2014 was installed in the suit property in his name. It is submitted that there is no evidence on record to reflect the same and both the inspection report as well as the said installation was admitted subsequent to the institution of the suit.

13. It is submitted that the learned Trial Court failed to appreciate that the testimony of the official witness in this regard, i.e., DW5 raises a question



2024:DHC:7168



on merits of the instant case as he has stated in the same that it is unclear as to whether there was any electricity connection in the suit property prior to the year of 2015.

14. It is further submitted that the learned Trial Court erred in finding that the possession of the suit property was handed over to the respondent no.1 by Sh. Rajesh Khattar by relying upon the testimony of DW6, who was not brought to the witness box by the respondent and there is nothing to show on record as to how and when Sh. Rajesh Khattar came into actual, physical possession of the said suit property.

15. Therefore, in view of the foregoing submissions, learned counsel appearing on behalf of the petitioner prayed that the impugned judgment may be set aside and the suit filed under Section 6 of the Act on behalf of the petitioner may be decreed with costs.

16. *Per Contra*, learned counsel appearing on behalf of the respondent no. 1 vehemently opposed the instant revision petition and submitted that the learned Trial Court passed a detailed and reasoned judgment after considering the entirety of the matter, and thus, the instant petition is bereft of any merits.

17. It is submitted that there is no illegality or error in the impugned judgement which merits interference of this Court under its revisional jurisdiction as this Court has very limited power to interfere with a judgment decreed by the learned Trial Court unless there is a jurisdictional or legal irregularity in the same.

18. Learned counsel appearing on behalf of the respondent no. 1



2024:DHC:7168



submitted that the instant revision petition is liable to be dismissed as the same is barred by limitation and there is no application seeking condonation of delay filed on behalf of the petitioner, hence, the same is not maintainable.

19. It is further submitted that the learned Trial Court rightly adjudicated the instant matter as the evidence led on behalf of the petitioner through PW1 to PW5 and PW7 are in contradiction to the plaint filed by the petitioner, whereas, the evidence led by respondent no.1 has duly proved on record the existence of registered Will dated 18th October, 1994 executed by Sh. Om Prakash, i.e., the original allottee of the suit property, in favour of Sh. Nitin Mittal who in turn executed a GPA in favour of Sh. Rajesh Khattar.

20. It is submitted that it is proved on record that respondent no.1 is the rightful owner of the suit property in terms of a registered GPA dated 7th April, 2005 executed in his favour by Sh. Rajesh Khattar, the erstwhile owner of the same.

21. It is submitted that the learned Trial Court correctly dismissed the civil suit by meticulously examining the witness testimonies and evidence placed on record as there are material contradictions in the evidence led by the petitioner with respect to the purchase, construction, dispossession, lodging of complaint, information of dispossession, persons responsible for the said dispossession and factum of the date of dispossession.

22. It is submitted that the learned Trial Court rightfully found discrepancies in the petitioner's evidence as he has stated in his plaint as



well as by way of his affidavit of evidence that there was a boundary wall and a room in the suit property, however, he admitted in his cross examination that he doesn't know whether there was any boundary wall or a room in the said suit property when he brought the same from a person namely, Sh. Om Prakash.

23. It is submitted that the petitioner claimed in the plaint that he was informed by his neighbour on 5th December, 2014 about the respondents' names and their contact numbers painted on the gate of the suit property, whereas, in paragraph no. 9 of his affidavit of evidence, he admitted to the fact that he was informed on 15th December, 2014 about the same and the name of respondent no.1 was not written therein.

24. It is submitted that in his cross examination, the petitioner disclosed that on 5th December, 2014, one Sh. Balwan Singh, i.e., PW4, informed him about the said dispossession, however, it is an admitted fact that Sh. Balwan Singh doesn't remember the names that were written on the gate of the suit property.

25. It is submitted that the instant petition is liable to be dismissed in view of the material contradictions in the plaint as well as in his evidence as it is pleaded by the petitioner in paragraph no. 5 of the plaint that he came to know about the respondent no.1, Sh. Rakesh Yadav, on 5th December, 2014 through his neighbour, however, in his cross examination, he contrarily stated that he didn't mention respondent no.1 in his complaint dated 7th December, 2014 as he didn't know him.

26. It is further submitted that the learned Trial Court correctly dismissed



2024:DHC:7168



the suit for possession as the entire factual matrix of the claims is in contravention to the evidence led by the petitioner and therefore, his side of the claim is a question of doubt.

27. It is submitted that the learned Trial Court rightly adjudicated the matter by concluding that the respondent no.1 installed the electricity connection in the suit property in his name as the same has also been duly admitted by the petitioner that the electricity connection was energized on 27th January, 2015 in the name of respondent no.1.

28. It is also submitted that the learned Trial Court correctly held that the respondent no.1 was always in exclusive possession of the suit property being its absolute owner as it has been duly proved by the BSES officials by way of an inspection report after the installation of electricity connection in the name of respondent no.1.

29. It is submitted that the petitioner failed to establish his title and possession with regard to the suit property as even the description of the same in the site plan as filed on behalf of the petitioner is incorrect. It is submitted that the document evidencing his title shows that the road is towards east and west side, while the suit property has a road towards north and south side.

30. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be dismissed.

31. Heard learned counsel for the parties and perused the material available on record.

32. It is contended by the learned counsel appearing on behalf of the



petitioner that the learned Trial Court exceeded its jurisdiction by passing the impugned judgment which is irregular and contrary to the merits of the case as the evidence led by the petitioner duly prove on record that he was in actual physical possession of the suit property before he was illegally dispossessed by the respondents herein.

33. In rival submissions, learned counsel appearing on behalf of the respondent no. 1 denied the aforesaid contentions and submitted that there is no illegality in the said impugned judgment and the same has been passed by the learned Trial Court after thorough perusal of the evidence placed before it and has rightly taken into account various contradictions in the petitioner's evidence that belies his case. It is argued that the instant petition is devoid of any merit and is barred by limitation as well. In view of the same, there is no reason for interference of this Court.

34. Hence, the limited question before this Court is to decide whether the issue of possession of the suit property before filing of the civil suit under Section 6 of the Act, has been rightly adjudicated by the learned Trial Court or not.

35. At this juncture, this Court finds it apposite to reproduce the relevant extracts of the impugned judgment, which is reproduced hereinbelow:

“32. So far as the testimony of PW3 is concerned, although he has testified that he has seen the plaintiff in possession of the suit property and he helped the plaintiff in raising construction of the suit property yet he failed to prove on record that his father and brother are having plots in the vicinity of suit property. As far as testimony of PW4 is concerned, PW4 is the person, who has informed the plaintiff regarding his illegal



dispossession from the suit property, however, he has not deposed in respect of any construction raised over the suit property by plaintiff in his presence.

33. So far as the testimony of PW1 is concerned, plaintiff in the complaint made to the police i.e. Ex.PW1/ 12 has made a complaint regarding illegal dispossession of plaintiff by defendant/ Sh.Krishan and Sh.Vijay as on the outer gate of the suit property, name of Sh.Krishan and Sh.Vijay was written and a mobile No.9999071771 was written in between the name of Sh.Krishan and Sh.Vijay. However, in plaint, plaintiff has admittedly pleaded in para 5 that defendants i.e. Sh.Rakesh Yadav and Sh.Krishan have illegally dispossessed plaintiff from the suit property. Plaintiff in para 9 of his affidavit of evidence Ex.PW1/ A has stated that he was informed by his neighbour on 15.12.2014 (inadvertently it is written 15.12.2014 otherwise it is 05.12.2014 in other pleadings) that defendants have illegally dispossessed plaintiff from suit property. However, plaintiff in his cross-examination specifically disclosed name of that neighbour as that Sh.Balwan (PW4) who has informed him on 05.12.2014 that defendants had illegally dispossessed plaintiff from the suit property, however, PW1 at the same time has admitted that PW4, is not resident of the area where the suit property is situated.

34. As far as identity of defendant No.1 is concerned, plaintiff in para 5 of the plaint alleged that he came to know the name of defendant no.1/Sh. Rakesh Yadav, as the person, who has illegally occupied the suit property on 05.12.2014. However, in cross examination, PW1 admitted that he has not mentioned the name of defendant No.1 in his complaint dated 07.12.2014 as Mr.Vijay has not disclosed the name of Sh. Rakesh Yadav. PW1, thereafter, in cross-examination further admitted that he has mentioned in his plaint that he came to know about the name of defendant no.1 on 05.12.2014.

35. It may be noted that plaintiff has tried to prove that plaintiff happened to be in possession of the suit property in terms of the



possession letter Ex.PW1/ 5 in the presence of two attesting witnesses, namely, Sh.Krishan and Sh.Yogesh. However, Sh. Yogesh died and Sh. Krishan has not been summoned to prove the factum of the possession of the plaintiff over the suit property since 05.03.2001. Testimonies of PW3 and PW4 although supports the case of the plaintiff that plaintiff is in possession of the suit property as pleaded by the plaintiff, yet the testimonies of PW3 and PW4 did not inspire confidence so as to conclude that plaintiff is in possession of the suit property as claimed by PW1, PW3 and PW4 in as much as there is no documentary evidence on record to support the oral deposition as made by PWs including the plaintiff.

36. A conjoint reading of the testimonies of PW1, PW2 and PW3 lead to conclude that except the oral statements of plaintiff, PW3 & PW4, that plaintiff happened to be in possession of the suit property in terms of possession letter Ex.PW1/ 5, there is no other evidence on record. So far as the contention of the plaintiff that plaintiff had been in possession of the suit property since 2001, there is no document on record to substantiate the claim of the plaintiff that he happened to be in possession of the suit property since 05.03.2001 in as much as the plaintiff has neither examined the attesting witness Sh.Krishan nor there is evidence of another attesting witness Sh.Yogesh on record to prove that plaintiff was handed over possession by the said Puran Chand as he expired before recording of his cross-examination.

40. From the conjoint testimonies of DW1, DW5 and DW6, it can at least be inferred that defendant no.1 was in possession of the suit property before December 2014 and defendant no. 1 has got installed an electricity connection in the suit property in his name which fact further fortifies the claim of the defendant no.1 that he happened to be in possession of the suit property.

41. From the above discussion, it can be safely concluded that plaintiff has led no evidence from which this court shall presume that plaintiff was in possession of the suit property



since 2001 as pleaded and tried to be proved by the plaintiff and he was dispossessed in December 2014 by defendants. Therefore, issue no. 1 is decided against the plaintiff and in favour of the defendants.”

36. A bare reading of the impugned judgment transpires that the learned Trial Court, in paragraph no. 15 of the impugned judgment, delved into the scope of the provision of Section 6 of the Act and stated that the above said provision has a very limited scope as the only question to be determined in the present case is whether the petitioner was in possession of the suit property at any point of time, six months prior to filing of the suit.

37. Further, the learned Trial Court while deciding the aforementioned issue and passing the impugned judgment in favour of the respondents and against the petitioner categorically noted various material contradictions in the petitioner's plaint and the evidence led by him.

38. On the aspect of possession of the suit property, the learned Trial Court held in paragraph no. 32 of the impugned judgment that despite the fact that PW3, i.e., Sh. Rajesh Kumar, whose father and brother were allotted plot nos. 53 and 54, which are situated in the vicinity of the suit property, deposed that he had seen the petitioner in possession of the suit property, yet his testimony failed to bring any documentary evidence in order to prove on record that his father as well as his brother resided in the aforementioned plots. Therefore, it was made out that the testimony of PW3 cannot be relied upon.

39. Similarly, the learned Trial Court examined the testimony of PW4,



i.e., Sh. Balwan Singh, who informed the petitioner about his illegal dispossession and the names of the respondents on the gate of the suit property. The learned Trial Court took into account that later in his cross examination, PW4 couldn't recall the names written on the said gate nor did he call the petitioner from the suit property itself. It is also noted that the PW4 deposed that no construction was raised with respect to any construction in the suit property by the petitioner in his presence.

40. With respect to the contradictions of PW1, i.e., the petitioner himself, the learned Trial Court noted the material discrepancy in the names of the respondents as it was claimed in his testimony that a complaint was lodged by him against Sh. Krishan (respondent no.2 herein) and Sh. Vijay, as their names were written on the said gate. However, in his plaint, the petitioner admitted in paragraph no.5 that he had been dispossessed by Sh. Rakesh Yadav and Sh. Krishnan (the respondents herein).

41. Moreover, it is pertinent to note here that the learned Trial Court also took into consideration that the petitioner had alleged in his plaint that he came to know about the illegal act of respondent no.1 on 5th December, 2014, however, he contrarily stated in his cross-examination that he did not mention the name of respondent no.1 in his complaint dated 7th December, 2014.

42. It is also transpired from the impugned judgment that out of the two witnesses who attested the possession letter relied upon by the petitioner, one of them expired (PW2) and the other has not been summoned since 5th march, 2001.



2024:DHC:7168



43. Therefore, the learned Trial Court while passing the impugned judgment held that there is no other material evidence on record to substantiate the contentions of the petitioner that he was in possession of the suit property and the testimonies of PW3 and PW4 did not inspire confidence so as to conclude the same.

44. Furthermore, while deciding the suit in favour of the respondents, the learned Trial Court made out from the conjoint perusal of testimonies of DW1, DW5 and DW6 that the respondent no.1 was in possession of the suit property before the month of December, 2014 and it has been proved on record that he installed the electricity connection in his name which further substantiates his claim beyond reasonable doubt. Hence, the civil suit filed by the petitioner was dismissed by way of the said impugned judgment.

45. Insofar as the law is concerned, the scope for deciding a civil suit filed under the provision of Section 6 of the Act is limited, i.e., the Court need not delve into the adjudication of ownership, as the same does not raise a question of the better title of the suit property. Therefore, the law under the aforesaid provision makes it clear that in order to claim a relief under the same, the plaintiff merely needs to establish that he was in possession of the suit property along with the fact that he has been illegally dispossessed without his consent or due process of law and has been deprived of his right to physically enjoy the suit property.

46. It is imperative to note that the objective of the abovesaid provision is to provide a summary relief, i.e., the Court may grant a quick relief in terms of recovery of possession to someone who has been forcibly dispossessed



2024:DHC:7168



from the suit property without their consent or due course of law. The intent behind the aforementioned provision is not to protect the possession of the suit property, but rather to disentitle a person to forcibly and illegally dispossess another.

47. The abovementioned settled position of law has been enunciated in a catena of judgements passed by the Hon'ble Supreme Court as well as various High Courts, including the judgment in ***Rame Gowda v. M. Varadappa Naidu*, (2004) 1 SCC 769**, that when a person is in a continuous possession of the suit property, even on the assumption that he has no right to be in actual physical possession of the same, he cannot be dispossessed by the owner of the property except with due process of law. The objective behind the same is to discourage people from adopting foul means to dispossess a person who has been in actual and physical possession of a suit property.

48. Adverting to the merits of the case, for proper adjudication of the same, this Court has perused the impugned judgment, the contentions of the parties, as well as other material placed on record including the Lower Court's Record.

49. It is observed from the aforesaid content that the learned Trial Court adjudicated the instant matter after carefully examining the testimonies of the witnesses. Furthermore, it is observed that the evidence led by the petitioner in the civil suit is full of discrepancies and hence it is devoid of any merit. Moreover, the averments made on behalf of the petitioner are unworthy of credit on various instances.



2024:DHC:7168



50. After carefully examining the material on record, it is noted by this Court that the petitioner in paragraph no. 5 of his plaint filed before the learned Trial Court, admitted to the fact that the names of the respondents, i.e., Sh. Rakesh Yadav and Sh. Krishnan were painted on the gate of the suit property which was informed to him by a neighbor (PW4 i.e., Sh. Balwan Singh).

51. It is further observed that the petitioner, in paragraph no. 8 of his plaint, claimed that he was informed about the said illegal dispossession on 5th December, 2014 after which he filed a complaint with the Police authorities as well as filed the civil suit in question before the learned Trial Court.

52. It is pertinent to note here that upon a bare perusal of the material placed before this Court, it is transpired that the aforesaid pleadings are not corroborated with the evidence on its record. It is observed from the Lower Court's Record that the petitioner in paragraph no. 9 of his statement as well as in his cross-examination, failed to mention respondent no.1 and deposed that the said illegal dispossession was done by persons namely, Sh. Krishnan and Sh. Vijay. The relevant excerpt is reproduced hereinbelow:

“9. That the deponent came to know about the illegal dispossession when a neighbour informed the deponent on 15.12.2014 that the name of the Defendants was painted on the gate of the suit property. The deponent immediately visited the suit property and saw with his own eyes that his lock which was affixed on the main gate and the lock affixed on the door of the room was also broken open by the Defendants. The deponent saw the names of the persons, namely, Shri Krishan and Shri



2024:DHC:7168



Vijay painted on the main gate besides a mobile number and consequently, he immediately filed a Police complaint to the SHO, which was filed by him on 07.12.2014. The original complaint bearing the stamp of acknowledgment of Police Station, Dwarka dated 07.12.2014 bears the signatures of the deponent at point 'A; and the complaint is exhibited as EXHIBIT PW1/12."

53. It is further made out from the cross-examination of the petitioner that he admittedly does not know the respondent no.1, i.e., Sh. Rakesh Yadav and he has not mentioned his name in the complaint filed by him, which is a grave contradiction. Moreover, he has admitted therein that PW-4, i.e., Sh. Balwan Singh is not a resident of the area where the suit property is situated and he has not mentioned the respondent no.1 when he informed about the dispossession to the petitioner.

54. Furthermore, a bare reading of the cross-examination of PW-4 i.e., Sh. Balwan, who has allegedly called the petitioner on the date of illegal dispossession by the respondents, has stated to the extent that he does not remember the names of the people that were written on the gate of the suit property. He stated that “....*I do not remember whose name was written on the Main Gate of the said plot... I do not know the name of other defendants. I do not remember as to whether name of Rakesh Yadav was written on the Main Gate of the plot...*”

55. It is further observed that the testimonies of petitioner witnesses lack credibility and merit as the PW3, i.e., Sh. Rajesh Kumar, who claimed that his father as well as his brother have been allotted plots no. 53 and 54 in the



2024:DHC:7168



vicinity of the area of the suit property, failed to bring on record any documentary evidence to substantiate the aforesaid contention.

56. Moreover, it is observed that insofar as the case of respondent no.1 is concerned, the learned Trial Court took into consideration the evidence led by him including the possession letter in his favour. The claim is further substantiated by the inspection report of the officers of BSES. It is the case of the respondents that prior to 2014, there was no supply of electricity and the same commenced by the BSES officers after the respondent no.1 got the electricity meter installed in his name.

57. It is pertinent to note herein that upon perusal of the cross-examination of the petitioner, it is admitted by him therein that respondent no.1 is the registered consumer of the electricity being supplied in the suit property. Further, it is admitted on record that the said electricity connection was installed by respondent no.1 on 27th January, 2015. The above said observation further contradicts the case of the petitioner.

58. Therefore, in light of the material contradictions observed by this Court in the foregoing paragraphs, this Court is of the considered view that the learned Trial Court correctly noted the aforesaid discrepancies after meticulously examining the evidence placed on its record and held that the evidence led by the respondents has proved beyond doubt that respondent no.1 was in possession of the suit property. Thus, while passing the impugned judgment, the learned Trial Court rightly held that the contentions made on behalf of the petitioner in the plaint and a conjoint reading of the testimonies of PW1, PW3 and PW4 contain several irregularities and



2024:DHC:7168



material contradictions and thus, the plaint seeking relief under Section 6 of the Act is liable to be dismissed being devoid of any merit.

59. It is a settled position of law that in order to seek protection under the summary relief as per the provision of Section 6 of the Act, two ingredients are required to be proved by the plaintiff. First is the physical and actual possession of the suit property, six months prior to the institution of suit by the plaintiff, and secondly, the act of dispossession without consent or due process of law. If either of the ingredients remain unfulfilled then the suit for recovery of possession under the said provision will be bereft of merits and liable to be dismissed.

60. The learned Trial Court *vide* the impugned judgment observed that the petitioner has failed to fulfil the necessary ingredient of proving his possession over the suit property for claiming a relief of recovery of possession under Section 6 of the Act as the petitioner has failed to prove the same beyond reasonable doubt as the evidence so produced by him is inconsistent and contradictory.

61. Insofar as the scope of this Court's revisional jurisdiction is concerned, it has been held by the Hon'ble Supreme Court in ***Ambadas Khanduji Shinde v. Ashok Sadashiv Mamurkar***, (2017) 14 SCC 132, that the High Courts cannot interfere with the actual findings of the learned Trial Court in exercise of its revisional jurisdiction. Hence, this Court is of the view that the petitioner has failed to prove that he was in possession of the suit property and thus, the instant petition does not merit the interference of this Court.



2024:DHC:7168



62. Further, from the evidence placed on record including the Lower Court's Record, it is crystal clear that the petitioner's evidence by way of witness testimonies is full of contradictions and thus, cannot be relied upon. Therefore, the learned Trial Court correctly analyzed the evidence placed before it and dismissed the suit for possession.

63. In light of the aforementioned findings of the learned Trial Court as well as the discussion of facts and law in the foregoing paragraphs, this Court is of the considered view that the learned Trial Court rightly exercised its discretion in dismissing the civil suit filed on behalf of the petitioner as the evidence led on his behalf contains various material contradictions due to which he has failed to establish his claim of possession over the suit property.

64. It is the considered view of this Court that the learned Trial Court appreciated the facts and evidence produced before it and correctly observed the contention of the respondents that the respondent no.1 applied for installation of the electricity connection in the suit property, stands proved in terms of the inspection report of the BSES officials. Whereas, on the contrary, the petitioner failed to file a complaint in the name of respondent no.1 which belies his claim.

65. Hence, for the purpose of adjudication of the instant civil revision petition, the petitioner has not been able to make out a case which requires interference of this Court with the impugned judgment. In the view of the same, no merit is found in the contention of the petitioner that the impugned judgment is bad in law and is liable to be set aside.



2024:DHC:7168



66. Accordingly, this Court finds sufficient force in the arguments made by the learned counsel appearing on behalf of the respondents that the learned Trial Court has rightly adjudicated the instant matter as the petitioner failed to establish his possession over the suit property.

67. Therefore, this Court is of the view that there is no illegality with the impugned judgment dated 26th February, 2021, passed by learned Additional District Judge-01, District South-West, Dwarka Courts, Delhi in CS No. 112/2016 (15241/2016) titled as “*Shri Jaspal Singh vs. Shri Rakesh Yadav and Another*” and the same is upheld.

68. Accordingly, the instant petition is, thus, dismissed being bereft of any merits. Pending applications, if any, also stands dismissed.

69. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

SEPTEMBER 19, 2024

gs/sm/av

Click here to check corrigendum, if any