



\$~76

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

+ W.P.(C) 6461/2018

VIJAY KUMAR AND ANR

.....Petitioners

Through: Mr. Rajat Aneja, Mr. Anant Chaitanya
Dutta, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC with
Mr. Kushagra Kumar and Mr. Amit
Kumar Rana, Mr. Varun Talwar and
Ms. Sanya Arora, Advocates for UOI.
Mr. Gautam Narayan, Sr. Advocate
with Ms. Gita Dhingra and Ms.
Asmita, Advocates for R-4.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **06.11.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 21428/2025 (delay)

2. The present application under Section 5 of the Limitation Act read with Section 151 of the CPC seeks condonation of delay of 6 days in filing the reply to CM APPL. 10580/2025 on behalf of respondent no. 4.

3. In view of the averments made in the application and in the interest of justice, the same is allowed and disposed of.

4. Delay of 6 days in filing reply to CM APPL. 10580/2025 is condoned.

**CM APPL. 10580/2025 (seeking clarification of the judgment dated
05.11.2024)**

5. The present application under Section 151 of the CPC seeks the



following prayers:

“It is, therefore, most respectfully prayed that this Hon 'ble Court may be pleased to pass appropriate directions for clarifying the Judgment dated 05.11.2024 insofar as the same disposes the present Writ Petition, vide Para 14 thereof, by observing that the Petitioners would be entitled to the protection afforded under the interim Order dated 10.09.2018 of this Hon'ble Court passed in the present Writ Petition, in the wake of the facts and circumstances explained hereinabove.

Any other Order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, may be also passed in favour of the Applicants/Petitioners.”

6. *Vide* judgment dated 05.11.2024, passed in the present writ petition being W.P.(C) 6461/2018 and RFA 234/2019, the learned single judge, while disposing the aforesaid petitions passed the following directions:

“13. The appellants have raised various factual and legal issues as mentioned hereinabove which require deeper judicial consideration. It is for Vijay Kumar and Chaman Lal to prove before the trial court that they are lawful owners of the suit properties and the suit properties are not enemy properties and they are entitled to divestment of the suit properties in their favour. The civil suit preferred by Vijay Kumar and Chaman Lal involves disputed questions of facts and law which cannot be decided without trial. As mentioned hereinabove, the proposal of CEPI namely Utpal Chakraborty for divestment of suit properties on the basis of report dated 28.10.2015 of the ADM stating that the suit properties were not owned by Pakistani nationals, cannot be treated as a specific, clear and categorical admission made by the parties being an internal communication and not affirmed and confirmed by the superior/higher authority. The impugned order and decree cannot be sustained and are accordingly set aside.

14. Vijay Kumar and Chaman Lal/the petitioners in W.P.(C) 6461/2018 challenged the impugned notice dated 01.05.2018 bearing File No. 08-00-68/CC/1792 issued by CEPI under section 11 of the Enemy Property Act, 1968 with respect to the suit properties. The trial court is already seized of adjudication of various issues raised between the parties who shall be proving their respective cases in accordance with law. It shall be in interest of



justice that the impugned notice remains stayed till disposal of civil suit bearing no. 19994/2016 and it is ordered accordingly. The trial court is directed to conclude judicial proceedings in civil suit bearing no. 19994/2016 titled as **Vijay Kumar Sharma and another V Union of India and others**. It is made clear that the trial court shall proceed with the trial without being influenced by any observation made in this judgment and nothing in this judgment shall be taken as an opinion of this Court on the merit of the case.”

7. Learned counsel for the petitioner draws attention of this Court to order dated 10.09.2018, passed by the learned Single Judge of this Court whereby it was observed as under:

“3. The respondents have filed the present application stating that there is urgency in the matter as tenants inducted in the said property are being evicted by the petitioner and therefore, status quo be directed to be maintained. It is common knowledge that it takes long time to evict tenants that have statutory protection. This Court is also at a loss to understand the anxiety of the respondents to ensure that the tenants continue to occupy the said property. In the event, the petitioner does not prevail in the present petition and the property is found to be enemy property, the Custodian would be at liberty to deal with it in any manner permissible including inducting tenants if the Custodian so desires. **However, at this stage, the petitioner cannot be prevented from continuing with the proceedings to evict the tenants, which this Court is informed commenced several years earlier.**

4. Having stated the above, this Court also considers it apposite to restrain the petitioner from creating any third party interest, except with the permission of the court, till the next date of hearing. It is so directed.”
(emphasis supplied)

8. Learned counsel for the petitioner submits that the aforesaid eviction proceedings are still pending before the concerned Court and the defendants therein have taken certain objection in pursuance of the aforesaid judgment passed by learned Single Judge seeking adjournment of the proceeding *sine die* subject to the outcome of the civil suit. It is also pointed out that



respondent no. 1 and 2 have also moved certain applications before the said Court for impleading themselves in the said proceedings. It is therefore submitted that it may be clarified that the petitioner will not be prevented from continuing the proceedings to evict the tenants.

9. Per contra, learned Senior counsel appearing for respondent no. 4 in. RFA 234/2019, Mr. Virender Kapoor, as well as learned Central Government Standing Counsel submits that the present application is not maintainable in view of the fact that the present writ petition stands disposed of and the SLP which was filed has also been dismissed vide order dated 09.04.2025.

10. Heard learned counsel for the parties and perused the records.

11. It is a matter of record that the impugned notice in the present petition dated 01.05.2018 was stayed by an order dated 01.06.2018. The aforesaid stay has been directed to continue by the learned Single Judge by disposing of the present petition till the disposal of the subject civil suit bearing No. 19994/2016 titled ***“Vijay Kumar Sharma and another v. Union of India and Ors.*** It is pertinent to note that the order dated 10.09.2018 was passed on an application filed at the instance of respondent nos. 1 and 2 being CM No. 36648/2018 seeking the following prayers:

- “(i) The order dated 01.06.2018 passed by this Hon'ble be vacated recalled and stay .be vacated in the interest of Justice; and
- (ii) That the petitioners may be directed not to create any third-party interest in the case properties bearing No. 1859-1864 & 2248-2260 situated at Wazir Singh Street and Raj Guru Road, Ward-15, Chuna Mandi, Paharganj, New Delhi and further may be directed to maintain the status quo till the pendency of the present petition; and
/ or
- (iii) Pass any other order as this Hon'ble be may deem fit in the light of the above events and circumstances stated through this Application.”



12. The learned Single judge, while disposing of the present petition and the aforesaid RFA observed as under:

“14. Vijay Kumar and Chaman Lal/the petitioners in W.P.(C) 6461/2018 challenged the impugned notice dated 01.05.2018 bearing File No. 08-00-68/CC/1792 issued by CEPI under section 11 of the Enemy Property Act, 1968 with respect to the suit properties. The trial court is already seized of adjudication of various issues raised between the parties who shall be proving their respective cases in accordance with law. It shall be in interest of justice that the impugned notice remains stayed till disposal of civil suit bearing no. 19994/2016 and it is ordered accordingly. The trial court is directed to conclude judicial proceedings in civil suit bearing no. 19994/2016 titled as **Vijay Kumar Sharma and another V Union of India and others**. It is made clear that the trial court shall proceed with the trial without being influenced by any observation made in this judgment and nothing in this judgment shall be taken as an opinion of this Court on the merit of the case.”

13. In the considered opinion of this Court, in view of the aforesaid observation, the right of either of the parties has not been precluded in the aforesaid eviction proceedings and therefore no clarifications are called for. Needless to state that the concerned Court shall decide the objections/applications on its own merits in accordance with law.

14. With the aforesaid direction, the application stands disposed of.

AMIT SHARMA, J

NOVEMBER 6, 2025/bsr/ah