

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Sugato Majumdar

**CS/285/2022
ASHA BANSAL & ORS.
VS
USHA KAPOOR & ANR.**

For the Plaintiffs : Mr. Megnad Dutta, Adv.
Mr. Rajesh Upadhyay, Adv.
Ms. Swabita Biswas, Adv.

Hearing concluded on : 19/11/2025

Judgment on : 24/11/2025

Sugato Majumdar, J.:

The instant suit was instituted by the Plaintiffs herein, praying for recovery of *khas* possession, decree of a sum of Rs.95,62,500/-, mesne-profits and other reliefs.

The Plaint case may be summarized as follow:

- a) A decree was passed in Partition & Administration Suit No. 1586 of 1938 by this Court on 31/07/1944 whereby one Mohan Devi Agarwal and her son Motilal Agarwal became joint and absolute owners of various immovable properties including the properties situated at 318A, 318B and 318C, Chittaranjan Avenue, Kolkata-700006 along with the ground plus five storied building standing thereon.

- b) The Plaintiffs are successors-in-interest of the said Mohan Devi Agarwal and Motilal Agarwal. The Plaintiffs are presently the owners of the property situated at the premises no. 318, Chittaranjan Avenue, Kolkata-700006.
- c) Originally one Kishan Kumar Khanna held three separate tenancies comprising five residential rooms admeasuring a total area about 750 sq. ft., situated on the third floor of the building standing at premises no. 318, Chittaranjan Avenue, Kolkata-700006.
- d) The said Kishan Kumar Khanna died in or about the year 2016. He was a divorcee.
- e) The present Defendants claim to be sisters of the said recorded tenant, since deceased. The Plaintiffs never accepted the Defendants as monthly tenant. The Defendants are not entitled to the possession of the properties. They are rank trespassers in respect of the properties fully described in the Schedule 'A', 'B', 'C', 'D' & 'E'. These are the suit properties.
- f) The Plaintiffs issued legal notice dated 24/03/2022 through their Learned Lawyers, asking the Defendants to quit and vacate the suit properties but of no avail.
- g) On being constrained, the Plaintiffs instituted the suit praying for recovery of *khas* possession, mesne-profits and damages on account of unauthorized addition and alteration of the suit properties.

Writs of summons were issued but the Defendants did not appear to contest the suit. Therefore, a Co-ordinate Bench, in terms of the Order dated 12/04/2024 marked the suit as undepended.

Oral as well as documentary evidences were adduced on behalf of the Plaintiffs. PW-1 was the constituted Attorney of the Plaintiffs.

The Defendants are now trespassers and illegal occupants. They are in occupation of the rooms amounting to trespass. There is no multiple tenancies. The suit is basically for recovery of possession from trespassers. There is no evidence that the Defendants are legal heir or representatives of the deceased tenant. In absence of anything else, unchallenged testimony of the Plaintiffs can be relied upon that the Defendants are trespassers. Mr. Dutta, the Learned Counsel for the Plaintiffs argued this vehemently.

Unchallenged testimony of PW-1 along with rent receipts and other documents proved the case of the Plaintiffs. Accordingly, let there be a decree of recovery of *khas* possession of the properties described in schedule of the plaint.

Let the decree be drawn up.

Fix 16th January, 2026 for hearing on mesne-profit.

(Sugato Majumdar, J.)