



2025:DHC:1112



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

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Judgment reserved on: 18.02.2025
Judgment pronounced on: 21.02.2025

+ **RFA 385/2023, CM APPL. 53522/2023 & CM APPL. 24953/2023**

SEEMA JASSAL

.....Appellant

Through: Mr. Vinay Rathi, Advocate with
appellant in person

versus

MANOJ BAJPAI

.....Respondent

Through: Ms. Geeta Luthra, Senior Advocate
with Mr. Anuj Singh, Advocate and
respondent in person

CORAM:**HON'BLE MR. JUSTICE GIRISH KATHPALIA****J U D G M E N T****GIRISH KATHPALIA, J.:**

1. This appeal brought under Section 96 read with Order XLI of the Civil Procedure Code, assails preliminary judgment and decree for recovery of possession of Flat No.97A, LIG Ground Floor, Pocket A-3, Kondli, Gharoli, Mayur Vihar, Phase-III, Delhi (*hereinafter referred to as "the subject property"*). The impugned judgment and decree was written under Order XII Rule 6 CPC on admissions of the appellant. On service of notice of this appeal, the respondent entered appearance through counsel. At

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request of learned counsel for both sides, I heard final arguments and examined the relevant record.

2. The circumstances leading to the present appeal are enumerated hereafter.

2.1 The present respondent, claiming himself to be the absolute owner and in possession of the subject property, filed against the appellant suit for mandatory injunction/possession, *mesne* profits and damages. The respondent in his plaint pleaded as follows. Being a medical doctor, he was operating his clinic from the subject property since the year 1996. The appellant aged about 50 years and married, having two children visited his Noida clinic in the year 2006 for treatment of her mother and after few months she again visited him at his Noida clinic and requested for a job, for which after some reluctance, he agreed and appointed her as Nursing Assistant in the Noida clinic. In the beginning of the year 2012, the appellant started misbehaving with the patients and staff of the clinic and even started consuming drugs, so he terminated her services in the month of March 2012 itself and she left for Chandigarh to live with her family. In the meanwhile, having been diagnosed with liver cirrhosis in the beginning of the year 2011, he had to close down his clinic in May 2012 due to failing health. In the month of June 2012, the appellant again approached him and requested for grant of accommodation for 2-3 days on the ground that she had to settle certain issues with her family and other relatives. Since the subject property was lying vacant, on humanitarian ground he allowed her to stay there for



few days. But thereafter, she did not vacate the same on the pretext of pending disputes in her family. In the month of August 2012, having partially recovered from illness, he intended to start his clinic from the subject property but realized that the appellant intended not to vacate the same and after changing the locks, she had started illegally operating her clinic portraying herself to be MBBS doctor. In August 2012, when he visited the subject property and asked the appellant to vacate, she refused and threatened him with dire consequences. In these circumstances he got published a general notice in a newspaper dated 02.09.2012 and also intimated the CDMO, East Delhi, whereafter he started getting threats from the appellant and her associates, who demanded money to vacate the subject property, so he lodged complaint dated 29.05.2012 with the local police but no action was taken. When he refused to give her any money, out of vengeance the appellant got registered a false case for offence under Section 376 IPC through FIR No.19 dated 17.01.2013 with PS Ashok Nagar, in which he was arrested and was granted bail after six days of judicial custody. Being an unauthorized occupant of the subject property, the appellant is liable to be evicted and is also liable to pay *mesne* profits, besides damages as quantified in the plaint.

2.2 The appellant contested the suit through her written statement, in which she denied the plaint contents and pleaded as follows. The present respondent after injecting drugs to her established physical relations with her and on false promise continued to violate her dignity. She is a married lady, though living with her children, separate from her husband and in-laws for



past about 16-17 years in the house of her parents in Noida. For medical treatment of her mother suffering with failure of one kidney, she had been visiting the ESI Hospital in Noida. In December 2006 she met the respondent at his clinic where she visited for ultrasound of her mother and in the evening while collecting the medical reports, the respondent informed that her mother was critical, so for some more tests they would have to come the next day. On the very first visit, the respondent befriended her and started frequently visiting her at her house. One day at her house, the respondent discussed about her facial paralysis and told that the same could be cured, and for that purpose he took her to his friend's clinic in Kondli for CT scan, after which he told her mother that she needed to visit a neurologist and took her to the house of Dr. Jyoti Khanna. Thereafter, the respondent kept her at his clinic in Noida on the pretext of medical treatment and started intravenous injections. At about 10:00 pm (*date not mentioned*), while in semi-conscious state she saw the respondent under heavy influence of alcohol sitting in her room and at 2:00 am he gave her an injection due to which she became unconscious and after some time found herself being sexually abused by him. On 09.04.2011, alongwith her son she went to her matrimonial home but the respondent started calling her up and texting messages, thereby blackmailing to reveal everything to her husband and children if she did not return. The respondent also promised that he would marry her if she came back as he had already instituted divorce proceedings against his wife. The sister of the respondent also used to call her up and pressurize her to return. Under such extreme pressure and on assurance of the respondent, she decided to start her life afresh and settle down with



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respondent, so she returned to Noida on 22.06.2011. Thereafter, the respondent took her to the subject property and provided her with basic amenities including almirahs, beds and kitchen appliances so that she could live there. After some time, the respondent started avoiding her phone calls and started quarreling with her despite the utmost care taken by her regarding his liver ailment. The respondent also introduced her as his wife before the treating doctor, but after recovering from ailment, he started ill treating her and started pressurizing her to leave the subject property. After 15.07.2012, he stopped visiting her. The respondent used to rape her after injecting her with narcotics and also took obscene photographs and videos of her, with which he started blackmailing her. On 14.01.2013 the respondent told her to leave him and in return he would hand over all her photographs, negatives and SIM cards containing her obscene videos. On 17.01.2013, an FIR was registered against the respondent, but after six days he was released on bail. Under these circumstances, the suit is liable to be dismissed.

2.3 In the meanwhile, one more case was registered by PS Ashok Nagar against the respondent on the complaint of the appellant through FIR No.245/2013 for offence under Section 195A/323/506 IPC. At that stage, parties arrived at a settlement and accordingly a notarized Memorandum of Understanding (MoU) dated 07.10.2013 was executed between them. In the said MoU, the parties recorded that the present respondent is the absolute owner of the subject property and he agreed to execute and get registered a Gift Deed in respect of half portion of the subject property in favour of the present appellant after conversion of the same from lease hold to free hold



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by the DDA, for which he would move the necessary application within a month and that the remaining half portion of the subject property would remain under his ownership and possession; that the respondent would pay a monthly sum of Rs.11000/- to the appellant during her lifetime and the appellant would not pursue the said FIRs while the respondent would not pursue the civil suit; that the appellant would file an application/ statement/ affidavit before the investigating officer and courts *qua* the said two FIRs, affirming her decision not to pursue the same; and that the appellant would withdraw her application for cancellation of bail that had been granted to the respondent and she would also file appropriate proceedings for quashment of the said FIRs through High Court.

2.4 In terms with the said MoU, the respondent withdrew his suit vide order dated 05.12.2013 of the learned Additional District Judge. But subsequently, the respondent filed an application dated 27.05.2016, seeking to revive the suit on the ground that the said MoU was never acted upon and complied with by the appellant. It was stated in the application that the appellant did not hand over the remaining half portion of the subject property to him and rather resisted his efforts to take possession of the remaining half; that she lodged a false complaint dated 12.07.2014 alleging theft of household articles against him; that the writ petition which he filed for quashing of the FIR No.19/2013 under Section 376 IPC was vehemently opposed by her through her counsel, while the other FIR under Section 195A/323/506 IPC culminated into a closure report, observing that the allegations of the appellant were false; that on 17.01.2015 the appellant got



registered another false case for offence under Section 195A IPC through FIR No.101/2015 of PS Ashok Nagar, in which he was granted anticipatory bail; that ultimately, FIR No.19/2013 under Section 376 IPC was quashed on merits by the Delhi High Court; and that these circumstances reflected that the appellant did not want to adhere to the terms of MoU, so the suit was liable to be revived. After hearing both sides, the Additional District Judge vide order dated 25.04.2018 revived the suit. Apparently, order dated 25.04.2018 was not challenged by either side.

2.5 In the above backdrop of rival pleadings and circumstances, the learned Additional District Judge allowed the application of the respondent under Order XII Rule 6 CPC and partly decreed the suit for recovery of possession against the appellant, posting the suit for further proceedings *qua* computation of *mesne* profits.

3. Hence, the present appeal.

4. During arguments, learned counsel for appellant contended that the impugned judgment and decree are not sustainable in the eyes of law since according to Clause 4 of the MoU, the present respondent is duty bound to transfer half share of the subject property in the name of the appellant and the same having not been done, she cannot be evicted from the subject property. It was argued on behalf of appellant that decree under Order XII Rule 6 CPC is a matter of discretion, which ought not to have been exercised in favour of the respondent as marriage between the parties is a matter of



trial and the appellant has pleaded that she got married with the respondent. It was also argued by learned counsel for appellant that the trial court got influenced by the order of the High Court, whereby the FIR for rape was quashed. Learned counsel for appellant argued that it was a fit case where the trial court ought to have carried out full dress trial.

5. On the other hand, learned counsel for respondent supported the impugned judgment and took me through complete record. Learned counsel for respondent argued that since admittedly both parties were already married, merely because they had consensual physical relations, marriage between them cannot be assumed. As regards the MoU, it was argued that the same was never acted upon by the appellant herself, so she cannot claim benefit under the same. It was also argued on behalf of respondent that admittedly in the absence of any legally stamped and registered instrument, possession of the appellant continues to be as permissive user. Learned counsel for respondent also took me through para wise contents of pleadings to show admissions of relevant facts by the appellant.

6. For ready reference, the provision under Order XII Rule 6 CPC is extracted below:

“6. Judgment on admissions.—(1) *Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question-between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.*



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(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

6.1 No law expects any litigant to undergo rigmaroles of protracted trials and litigations where there is no dispute on the relevant aspects. Where the defendant does not dispute claim of the plaintiff in whole or in part, it would be counterproductive for the justice dispensing machinery to make the plaintiff undergo full dress trial. Where the defendant admits the entire or part of the claim raised by the plaintiff, it would be fair and reasonable for the court to allow the claim of the plaintiff to the extent of admissions. The provisions under Order XII Rule 6 CPC were enacted to give the parties a speedy judgment where there is no controversy. Earlier, the provision under Order XII Rule 6 CPC stipulated that any party may at any stage of a suit, where admissions of facts have been made either on pleadings or otherwise, apply to the court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties and the court may upon such application make such order or judgment as the court may think just. The Law Commission of India in its 54th report suggested an amendment in the said provision in order to enable the court deliver a judgment not only on the application of a party but on its own motion as well. Accordingly, the provision was amended in order to further the ends of justice and to widen the scope of the provision by empowering the judges to use it *ex debito justitiae* (an obligation of justice). Reading the provision under Order XII Rule 6 CPC as it stands, in an appropriate case, a party to the *lis* on the basis of admissions of the rival party can press for judgment as a matter of legal right. However, the court



always retains discretion in the matter of pronouncing the judgment. The expressions “admission of fact” and “either in the pleading or otherwise, whether orally or in writing” used in Order XII Rule 6 CPC show the wide expanse of the provision to the extent that the admissions in question can be inferred from facts and circumstances of the case also.

6.2 In the case of ***Sushil Bhardwaj vs. Ved Prakash Shastri***, (2009) 163 DLT 287, a Single Judge of this court took a view that for the purposes of Order XII Rule 6 CPC, the court can also draw the admissions from documents filed by the parties and held thus:

“21. The above provision of Order 12 Rule 6, CPC has been apparently conceived in a public interest to ensure speedy disposal of cases once one or the other party to the litigation admits to a plea or document which would go into the root of the controversy. These provisions, in a sense, short circuit the trial process; if any admission fatal to the case of one of the parties is discerned on motion by the party seeking advantage of it, the Court can proceed straightaway to make order. The Supreme Court in Uttam Singh Dugal's case (supra), outlined the object of this provision as one, to enable a party to obtain speedy judgment at least to the extent of relief which according to the Court, one or the other party would be entitled. It was underlined that the Court should not unduly narrow down the rule as its object is to enable one party or the other to obtain a speedy judgment. The Court also, in a broad manner, indicated the proper method of construing such admissions. Paragraph 15 of the said judgment states that:

“15. Even without referring to the expression ‘otherwise’ in Rule 6 of Order 20, CPC, we can draw an inference in the present case on the basis of the pleadings raised in the case in the shape of the applications under that Rule and the answering affidavit which clearly reiterates the admission. If that is so, interpretation of the expression ‘otherwise’ becomes unnecessary.”

22. In a previous decision, i.e. Shikharchand v. Mst. Bari Bai, AIR 1974 MP 75, the High Court had arrived at much the same conclusion in relation to the term ‘otherwise’, saying that it clearly indicates that



it is open to the Court to base the judgment on statement made by a party not only in the pleadings but also de hors the pleadings. The Court crucially also held that such admissions may be made either expressly or constructively. It may also be noticed that a provision under Order 12 Rule 6, CPC is flexible enough to enable the Court to dismiss the suit if the situation so warrants. The provision is not confined to an order decreeing the claims of the plaintiff, against the defendant; the terminology used is wide enough to comprehend situations where admissions either in the pleadings or 'otherwise' can result in dismissal of the suit, which would result in the drawing up of a decree. The question on the merits here, therefore, is whether the two documents relied upon by the defendants, i.e. Ex. D-1 and D-2 are unambiguous and clear admissions which should persuade the Court to dismiss the suit."

6.3 In the case of ***Karam Kapahi vs Lal Chand***, 168 (2010) DLT 501 SC, the Hon'ble Supreme Court held thus:

"46. The principles behind Order 12 Rule 6 are to give the plaintiff a right to speedy judgment. Under this Rule either party may get rid of so much of the rival claims about 'which there is no controversy' [See the dictum of Lord Jessel, the Master of Rolls, in Thorp versus Holdsworth in (1876) 3 Chancery Division 637 at 640]. In this connection, it may be noted that Order 12 Rule 6 was amended by the Amendment Act of 1976.

47. Prior to amendment the Rule read thus:- "6. Judgment on admissions. - Any party may, at any stage of a suit, where admissions of facts have been made, either on pleadings or otherwise, apply to the Court for such judgment or order as upon such admission he may be entitled to, without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment, as the Court may think just."

48. In the 54th Law Commission Report, an amendment was suggested to enable the Court to give a judgment not only on the application of a party but on its own motion. It is thus clear that the amendment was brought about to further the ends of justice and give these provisions a wider sweep by empowering judges to use it ex debito justitiae, a Latin term, meaning a debt of justice. In our opinion the thrust of the amendment is that in an



appropriate case, a party, on the admission of the other party, can press for judgment, as a matter of legal right. However, the Court always retains its discretion in the matter of pronouncing judgment.

49. If the provision of Order 12 Rule 1 is compared with Order 12 Rule 6, it becomes clear that the provision of Order 12 Rule 6 is wider in as much as the provision of order 12 Rule 1 is limited to admission by 'pleading or otherwise in writing' but in Order 12 Rule 6 the expression 'or otherwise' is much wider in view of the words used therein namely: 'admission of fact.....either in the pleading or otherwise, whether orally or in writing'.

50. Keeping the width of this provision in mind this Court held that under this rule admissions can be inferred from facts and circumstances of the case [See Charanjit Lal Mehra and others v. Kamal Saroj Mahajan (Smt.) and another, (2005) 11 SCC 279 at page 285 (para 8)]. Admissions in answer to interrogatories are also covered under this Rule [See Mulla's commentary on the Code, 16th Edition, Volume II, page 2177].

51. In the case of Uttam Singh Duggal & Co. Ltd., v. United Bank of India and others, (2000) 7 SCC 120, this Court, while construing this provision, held that the Court should not unduly narrow down its application as the object is to enable a party to obtain speedy judgment”.

6.4 In the case of **National Textile Corporation vs Ashval Vadera**, 167(2010) DLT 602, this court reiterated thus:

“17. It is settled law that admissions need not be made expressly in the pleadings. Even on the constructive admissions Court can proceed to pass a decree in plaintiff's favour. In order to invoke the provisions of Order XII Rule 6 CPC, admissions de hors pleadings may also be considered as is evident from the use of the word "otherwise" in the said provision. [See Shikharchand vs. Mst. Bari Bai, AIR 1974 MP 75; K. Kishore vs. Allahabad Bank, 1997 (41) DRJ 698; Uttam Singh Dugal vs. UBI, (2000) 7 SCC 120; Rajiv Srivastava vs. Sanjiv Tuli, 119 (2005) DLT 202; Rama Ghei vs. U.P. State Handloom Corpn., 91 (2001) DLT 386 and R.N. Sachdeva vs. R.L. Mahajan Charitable Trust, 1997 (41) DRJ 698]. Such admissions may be contained in documents written or executed

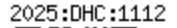


between the parties before the action is brought or even from the statements of parties recorded in the Court, including statements recorded under Order X Rule 1 CPC. Admissions may also be gleaned from vague and unspecific denials made in the pleadings and documents, which on the face of it appear to have been deliberately made in order to mislead the Court, or gathered from the non- traversal of specific averments made in the pleadings and documents.

*18. It is the bane of the judicial system that with a view to protract and drag on the case, a litigant who is a wrong-doer often takes all sorts of false and legally untenable pleas. Such litigants should not be allowed to hijack the judicial process and to subvert the cause of justice. **Where it is palpably clear to the Court that the defence is with the sole purpose of protracting the proceedings to the advantage of the wrongdoer and the disadvantage of the aggrieved party, it becomes the bounden duty of the Court to save the latter from going through the rigmarole of a futile and expensive trial.** For this, the Court has been invested with sweeping powers by a number of provisions in various statutes, the most potent of which are the provisions of Order XII Rule 6 read with Order VIII Rules 3 and 4 CPC. Regrettably, the said provisions, though exploited by the Courts to the advantage of the judicial process, have yet to reach the optimum level of exploitation. It thus becomes imperative on this Court to use the powers reposed in it to prevent misuse of the judicial process, to cut short laws' delays and to save the aggrieved party from the travails of a long drawn out litigation, often outliving his life span itself and falling into the lap of his survivors."*

(emphasis supplied)

7. Falling back to the present case, admittedly the appellant is in possession of the subject property neither as owner nor as tenant nor as licensee for consideration. Also admittedly, the subject property is owned by the respondent. Further admittedly, the appellant was inducted into the subject property by the respondent only.



10. As reflected from judgment dated 21.05.2015 of learned Single Judge of this court in W.P. (Crl) 771/2014 for quashment of FIR No.19/2023 of PS Ashok Nagar for offence under Section 376 IPC, the appellant quite contrary to the terms of the MoU opposed the quashment through her counsel and finally it is on merits through elaborate discussion that the respondent was



successful in his petition. After minutely traversing through the material on record, the learned Single Judge of this court in para 36 of the said judgment observed that the FIR in question deserved to be quashed in order to prevent the misuse of criminal justice system for personal vengeance of a partner of live in relationship. The said judgment of the learned Single Judge of this court having not been challenged has attained finality.

11. Since the appellant herself breached the terms of MoU dated 07.10.2013, now she cannot be allowed to claim that since the respondent did not gift her half portion of the subject property, she has right to retain the same. Moreso, because the appellant has admittedly not instituted any independent legal proceedings to seek enforcement (*if possible*) of the said MoU.

12. The net result is that the appellant was inducted as and continues to be only a permissive user of the subject property and owner of the same wants her to vacate. On this aspect, the rival pleadings described above clearly show her unambiguous and unequivocal admissions. As mentioned above, in her written statement, the appellant categorically pleaded herself that she was taken to the subject property by the respondent and was also provided basic amenities so that she could live there. Even in the MoU, so strongly relied upon by her, the appellant stated that the subject property is owned by the respondent and that she had been inducted into the subject property by respondent only.



13. There is another aspect. As mentioned above, in terms of the said MoU, the respondent withdrew his suit vide order dated 05.12.2013 of the learned Additional District Judge, but subsequently, he filed an application seeking revival of that suit on the ground that the appellant never acted upon the terms of the said MoU. The said application of the respondent was allowed by the learned trial court vide order dated 25.04.2018, specifically holding that since the settlement entered into between the parties was not acted upon, the suit was being revived. The said order dated 25.04.2018, having not been challenged has attained finality. And that would mean acceptance by the appellant that the said MoU stands discarded for not having been acted upon. Therefore, she cannot claim protection under that MoU.

14. In such circumstances, ignoring such clear and unambiguous admissions, and pushing the parties to undergo churning rigmaroles of protracted trial on non issues would be complete travesty of justice.

15. To summarize: the appellant in unequivocal terms admits that the subject property is owned by the respondent and she was inducted into the subject property only as a permissive user by the respondent; the appellant never got married with the respondent; and the MoU relied upon by the appellant was not acted upon and rather it is the appellant only who breached the terms thereof. Therefore, I am unable to find any infirmity in the impugned judgment and decree, and the same are upheld. The present appeal is blatant abuse of process, so the same along with the pending



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applications is dismissed with costs of Rs.50,000/- to be paid by the appellant to the respondent towards his litigation expenses of present appeal, estimated on conservative side.

**GIRISH
KATHPALIA**

Digitally signed by GIRISH KATHPALIA
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**GIRISH KATHPALIA
(JUDGE)**

FEBRUARY 21, 2025/ry