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

+ **RSA 95/2023, CM APPL. 25378/2023**

SMT. VIMLA SHARMA

.....Appellant

Through: Mr. Amith J. and Mr. Mohit Gupta,
Advocates.

versus

LAND AND DEVELOPMENT OFFICE

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

05.12.2025

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By way of the present regular second appeal filed under section 100 of the Code of Civil Procedure 1908, the appellant impugns judgment and decree dated 07.02.2023 passed by the learned Senior Civil Judge-cum-Rent Controller, New Delhi District, Patiala House Courts, New Delhi in appeal bearing RC ARC No.19/2016.

2. By way of judgment and decree dated 30.04.2015, the learned trial court was pleased to dismiss the suit filed by the appellant (plaintiff), by which the appellant had sought mandatory injunction against the respondent (defendant) to issue a No-Objection Certificate ('NoC'), to the effect that no misuse or other similar charges were payable by the appellant in respect of property bearing No.G-114, Kalkaji, New Delhi.
3. The suit was dismissed by the learned trial court, with the following concluding observations:



“29. In view of the finding of issue no.5 above to the effect that the plaintiff is not entitled to receive any NOC from defendant office in respect of suit property in her favour as a demand of Rs. 5 lac towards regularization charges in respect of unauthorized construction on front courtyard of suit property and misuse of basement for carrying out commercial activity in the form of a factory of ready made garment is due against the suit property, it is hereby ordered that the plaintiff is not entitled to any relief from this Court including the relief of mandatory junction in her favour and against the defendant for the purpose of directing the defendant to issue a No Objection Certificate in favour of the plaintiff, The suit of the plaintiff stands dismissed. There shall be no order as to cost.”

(emphasis supplied)

4. The demand that was subject matter of the challenge had been issued in relation to unauthorized construction and misuse charges levied by the respondent, the Land & Development Office (‘L&DO’), vide communication/notice dated 18.03.2002, a copy of which is appended as Annexure A-2 to the present appeal.
5. The first appeal filed against dismissal of the suit, was also dismissed by the learned first appellate court vide order dated 07.02.2023, with the following, essential observations:

“17. Coming to the evidence part, I find that appellant, during her cross examination failed to recall any of the dates of notices received and responses from the respondent department. During cross examination she had stated that she had filed the suit for seeking the property to be converted into free hold. Further, the trial court had framed six issues in the present matter out of which issue no.1, 2 & 3 were already decided in favour of plaintiff/appellant. Issue no.4 regarding the fact whether demand of Rs.5 Lakhs raised by the respondent based on forged and fabricated documents was decided in favour of the defendant/respondent and the issue regarding grant of mandatory injunction was also decided against the appellant. Ld. Trial Court has categorically mentioned regarding the averments of the appellant as well as respondent, and therefore, rightly dismissed the case of appellant by holding that the appellant was not entitled for grant of NOC from the respondent in respect to the suit



property, for which the charges informed to the appellant vide letter dated 18.03.2002 was not paid. Further, an amount of Rs.5 Lakh as temporarily regularization charges is subsisting against the suit property and therefore the appellant was not entitled to any decree or mandatory injunction in her favour.

“18. Apart from that, appellant had examined herself as PW1. She placed on record the documents which do not show as to why the charges levied by the respondent were incorrect or should be waived of. Over all, she did not give the impression of a bonafide user in the suit premises and has no where stated that there was no misuse in the premises, by running a factory. Appellant failed on both accounts and therefore her testimony was not reliable. Testimony of this witness also did not inspire confidence.

“19. Ld. Trial Court rightly dismissed the Suit of appellant.”

(emphasis supplied)

6. In this backdrop, learned counsel appearing for the appellant submits, that the basis of the challenge in the present second appeal is, again, on the point that no charges for unauthorized construction or misuse of the suit property were leviable by the respondent upon the appellant.
7. However, counsel is unable to cite any question of law that arises in the present case, since the decisions in the suit, as well as in the first appeal, were based on appreciation of facts. The learned trial court and the learned first appellate court have both held that charges for unauthorized construction and misuse of the suit property, had been correctly levied upon the appellant.
8. The proposed questions of law that have been set-out in the memo of appeal also turn on matters that have been considered by the learned trial court based on the evidence before that court.



9. In the circumstances, there is no basis or justification to entertain the present second appeal.
10. The appeal is accordingly dismissed at the stage of issuance of notice itself.
11. Pending applications, if any, stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 5, 2025

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