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

% **Date of Decision: 28.05.2025**

+ RFA 500/2025 & CM APPL. 33503-33506/2025

PRADEEP SHARMA (SINCE DECEASED) THROUGH
HIS LR.

.....Appellant

Through: Mr. Pankaj Srivastav, Adv. Mob.
9560838391

versus

DHARMARTH TRUST MANDIR SHRI LAKSHMI NARAIN JI &
ORS.

.....Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL):

**This matter has been received on transfer from the Court of HMJ Anup
J. Bhambhani, since the said court has not assembled.**

1. The present appeal has been filed against the judgment and decree dated 14th December 2022 passed by the Court of Additional District Judge-05, Central District, Tis Hazari Courts, Delhi in case titled as "*Dharmarth Trust Mandir Shri Laxmi Narain Ji & Ors. Versus Pradeep Sharma*" in case bearing no. CS DJ/1081/2019.
2. Learned counsel appearing for the appellant submits that the deceased appellant was in personal service of respondent no. 2, and not of respondent no.1.
3. Learned counsel appearing for the appellant also relies upon *Annexure A-2*, which contains the various letters which were written to the appellant's father by their relatives, at the address in question.



4. This Court notes that by way of the impugned judgment dated 14th December 2022, the Court has decreed the suit in favor of the respondents herein and against the appellant on grounds that there is an admission by the appellant herein, that the appellant was an employee of the respondents on account of which the appellant had been given possession of one room and one kitchen. The relevant paragraph of the impugned judgment dated 14th December 2022, reads as under:-

“XXX XXX XXX

8. It is significant to note that the present suit for a decree for recovery of possession of the suit property i.e. one room and kitchen on the first floor of property no. 519, Kucha Pati Ram, Delhi 110006 as shown in red colour in the site plan annexed with the plaint as annexure B, has been filed by the plaintiffs claiming plaintiff no. 1 to be owner of the suit property and defendant being in permissive possession of the same through its managing trustee i.e. plaintiff no. 2 as he had been working as an employee of plaintiff no. 2 and was also looking after the work of the plaintiff no. 1 Trust. It has further been alleged in the plaint that the defendant is liable to vacate the suit property since he has already left the employment of plaintiff no.1 & 2 since April 2018 and even otherwise his license to stay in the suit property has been terminated through legal notice dated 16.08.2019.

9. The defendant in para no. 5 of his preliminary objections has admitted having work with plaintiff no. 2 and also for plaintiff no. 1. He has further admitted that the suit property was given to him during the tenure of his service as a part and parcel of his employment. In para no. 3 of reply on merits in his written statement, he has again admitted having worked as an employee of plaintiff no. 2 and having collected the rent from the tenants of the plaintiff no. 1 Trust. In para no. 4 of reply on merits in his written statement, he has admitted that the premises was given to him as a part and parcel of the service, however, he has tried to assert that he had also derived the right of ownership by way of adverse possession also from his father.

10. From the aforesaid facts, it is absolutely clear that the defendant has admitted that the suit property was given to him by the plaintiffs in lieu of his services as a part of the service conditions. The vague plea regarding he having derived the ownership by way of adverse possession is neither here nor there, in as much as, the aforesaid plea of the



defendant cannot coexist with the admitted fact that the possession of the suit property was given by the plaintiffs to the defendant as a part of his service. The defendant has also admitted the receipt of legal notice dated 16.08.2019 whereby his license has been terminated. He has further admitted that he is no more in employment of either of the plaintiffs since April 2018 and it does not matter for adjudication of the present application as to whether his services were terminated by the plaintiffs or he himself has resigned from the service.

xxx xxx xxx”

(Emphasis Supplied)

5. During the course of hearing, learned counsel appearing for the appellant has drawn the attention of this Court to the demand notice for illegal termination dated 23rd November 2019. The said demand notice, as sent by the appellant to respondent no. 2 for illegal termination, reads as under:-

“I worked with you, as an assistant, and my last from monthly wages was Rs.12,500/- in M/s. Jagannath Hari Ram HUF, Katra Nawab, Chandni Chowk, Delhi-110006, in which you are Karta I joined the service in the year 2004 and worked with you till my illegal termination by you on 01.05.2018.

That during the service, I used to do entire clerical work, in your shop, used to go to the bank and doing work of share investment work for you. During the entire tenure of my service with you had given me accommodation since the date of joining your employment at First Floor, 519, Kucha Pati Ram, Bazar Sita Ram, Delhi-110006, which was a part of service condition of me.

That I did not give any chance of any Complaint to you, regarding my work and performance, during the entire length of service with you. I was never charge sheeted, nor issued any memo by you, during the entire tenure of service with you.

That you had not been providing, legal facilities to me, which I was entitled to get under law. I had been persistently demanding legal facilities from you but you avoided to grant me the same. My persistent demand of legal facilities, irked you and you terminated my services illegally on 01.05.2018, without any reason or justification.



During my service tenure, with you, you got my signatures on blank papers and vouchers also, I apprehend that you may misuse the said blank papers and vouchers in order to harm me.

That I kept on visiting you and seeking employment from you but you avoided me on one pretext and gave me false assurances of providing me employment in future. On receiving your court notice, I came to know fact, that you were misleading me, in fact, my services were dispensed with by you.

That your act of terminating my services is blatantly illegal and against the provisions of the industrial disputes act.

That after the termination of service by you I have been living miserably and has no source of living, heavily banking upon others, for my survival.

That by this notice I call upon you to provide me employment and arrears of wages within 72 hours after receipt of this notice, failing which I shall before be constrained to file the claim before the labour authorities for reinstatement with the attendant benefits.

*Pradeep Sharma
C/o Mandir Shri Laxmi
Kucha Pati Ram, Bazar Sita
Ram, Delhi-110006"*

(Emphasis Supplied)

6. Perusal of the aforesaid Demand Notice, as issued by the appellant, clearly shows that that the appellant herein has categorically admitted that during the course of the employment of the appellant with the respondents, the appellant herein was given an accommodation since the date of joining the employment at property bearing no. 519, *First Floor, Mandir Shri Laxmi Narain Ji, Kucha Pati Ram, Delhi-110006*.

7. Thus, there is a clear admission on the part of the appellant that the said premises had been given to the appellant during the course of the employment.

8. This Court further notes the written statement filed by the appellant before the Trial Court, relevant portions of which, read as under:-



“xxx xxx xxx

5. That the Defendant admittedly worked with Shri Anil Kumar Gupta, the alleged managing trustee in his personal capacity and also worked with the said trust property, additionally and the premises was given to him during the tenure of service which is part and parcel of the employment. The services of the defendant were allegedly terminated in April, 2018 illegally without providing the legal facilities to him which he was entitled to get under the law as he was not charged for any negligence, dereliction of duties during the entire length since 2004 and no memo was ever issued to him till date and no enquiry was conducted against him.

xxx xxx xxx”

(Emphasis Supplied)

9. Reading of the aforesaid written statement filed on behalf of the appellant shows that the only defense taken by the appellant is that he was in personal employment of respondent no. 2, and not with the respondent no.1. However, once the appellant has made a categorical admission that the premises in question were given to him for occupation during the tenure of his service, as part and parcel of his employment, it is clear that the appellant has no right, title or interest over the premises in question.

10. In view of the aforesaid observations, this Court finds no error in the impugned judgment.

11. The present appeal, along with the pending applications, is accordingly dismissed.

MINI PUSHKARNA, J

MAY 28, 2025/neha