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

+ **RFA 448/2024 & CM APPL. 58734/2024**

KAMLESH GUPTA & ORS.

.....Appellants

Through: Mr. S. Wasim A. Qadri, Sr. Advocate
with Mr. Saahil Gupta, Advocate

versus

CHOTEY LAL GUPTA

.....Respondent

Through: Mr. Rajiv Kumar Ghawana and Mr.
Ashish Kumar, Advocates

+ **RFA 449/2024**

KAMLESH GUPTA & ORS.

.....Appellants

Through: Mr. S. Wasim A. Qadri, Sr. Advocate
with Mr. Saahil Gupta, Advocate

versus

CHOTEY LAL GUPTA

.....Respondent

Through: Mr. Rajiv Kumar Ghawana and Mr.
Ashish Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

19.02.2025

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[Physical Hearing/Hybrid Hearing (as per request)]

RFA 448/2024, CM APPL. 41017/2024 & CM APPL. 58728/2024 (stay)

RFA 449/2024, CM APPL. 41045/2025 & CM APPL. 58727/2024 (stay)

1. The appellants have assailed judgment and decree of recovery of possession of the immovable property and dismissal of their counter claim for declaration against title documents of the respondent. Broadly speaking, it is alleged by the appellants that now deceased husband of appellant no.1 gave money to the respondent with the request to purchase the subject property, because respondent was son-in-law of appellant no.1 and her



husband, but the respondent wrongfully got the agreement to sell and attendant documents executed in his name. On the other hand, the respondent alleges that the subject property was purchased by him with his own funds and he permitted the appellants to live therein as permissive user.

2. In the course of arguments on the stay application, learned senior counsel for appellants contended that the trial court did not frame any issue on title documents propounded by the respondent. But in this regard, it would be important to note that this is not a case where the existence of the documents is in doubt. As mentioned above, appellants themselves have admitted existence of those documents, though the appellants seek a declaration against those documents. Further, it is admitted by learned senior counsel for appellants that they have no evidence at all to show that the money spent by the respondent for purchase of subject property was given by husband of appellant no.1. Not only this, there is no explanation as to why husband of appellant no.1 during his lifetime would not care to ask for the title documents in his favour if he had paid the money. Further, what to say of any documentary evidence, even oral evidence of any witness does not suggest that money for purchase of the subject property was given by husband of appellant no.1.

3. Under these circumstances, I am unable to find any infirmity in the impugned judgment and decree.

4. However, at this stage, learned counsel for appellants requests that the matter may be referred to mediation since respondent is son-in-law of appellant no.1, so there is a possibility of settlement.

5. At this stage, on instructions of all appellants present in the court room, learned counsel for appellants seeks permission to withdraw these



appeals with the request that their possession over the subject property may be protected till 31.12.2025.

6. I have specifically spoken with the appellants in Hindi. All appellants undertake to vacate the subject property on or before 31.12.2025 and seek permission to withdraw these appeals.

7. On the other hand, learned counsel for respondent submits that his client has no objection if the appellants are protected till 31.12.2025.

8. Accordingly, these appeals and accompanying applications are dismissed as withdrawn with the direction that till 31.12.2025, the execution of the impugned decree shall remain stayed. However, if by 31.12.2025, the appellants do not vacate the subject property, the execution proceedings shall continue further without seeking any permission from this court.

GIRISH KATHPALIA, J

FEBRUARY 19, 2025/rk

[Click here to check corrigendum, if any](#)