



2025:DHC:10079



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

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Judgment Reserved on: 13.11.2025
Judgment pronounced on: 17.11.2025

+ **FAO 332/2023**

ANURADHA TEWARI THROUGH HER SPAAppellant

Through: Mr. Ninad Dogra and Ms. Komal Gupta, Advocates.

versus

BAL KISHANRespondent

Through: Ms. Neena Malhotra and Mr. Shubham, Advocates.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. The present appeal, under Order XLIII Rule 1(c) of the Code of Civil Procedure, 1908 (the CPC), has been filed for setting aside Annexure P-1, i.e., Order dated 15.07.2022 in CS 784/2019, whereby the appellant/plaintiff's application under Order XXXIX Rule 10 of the CPC was dismissed on the ground that the



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respondent had disputed the landlord-tenant relationship along with the fact that no lease agreement had been filed on record.

2. Brief facts of the case, as per the averments of the appellant/plaintiff, are as follows:- The appellant/plaintiff, on 05.05.2015, purchased the suit property bearing Flat No. 55C, DDA Janta flats, Pandav Nagar, Patel Nagar, New Delhi - 110008 (suit property), with roof rights by way of a registered sale deed.

2.1. As per the appellant/plaintiff, the suit property was leased to the respondent/defendant for five years commencing from 01.05.2015 at a monthly rent of ₹25,000, and, as per a mutual agreement, the rent was enhanced by 15% after every 24 months. The rent was enhanced twice in the months of May and July 2019, and the same was accepted and deposited by the respondent/defendant directly in the bank account of the appellant with two different banks. It is further submitted that when the



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appellant/plaintiff contacted the respondent/defendant to inspect the suit property for certain maintenance work, the respondent/defendant refused. For August 2019, the respondent/defendant deposited ₹7,500 only instead of the agreed rent of ₹33,100. The respondent/defendant requested the appellant to hand over the original lease deed, which the appellant gave, but the defendant did not return the same. Subsequently, the appellant/plaintiff issued a legal notice dated 12.08.2019 informing the respondent/defendant about the termination of tenancy and seeking recovery of arrears of rent. Thereafter, the appellant/plaintiff filed the present suit for eviction of the respondent/defendant; for recovery of possession of the suit property and for recovery of arrears of rent.

2.2. The respondent/defendant, in the written statement filed before the trial court, controverted the facts by asserting that no



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landlord–tenant relationship existed between the parties.

According to the respondent, he was merely repaying a loan of ₹22,00,000 extended by the appellant/plaintiff. He claimed that the appellant's husband took him to the Sub-Registrar's Office for execution of a mortgage deed in favour of the appellant/plaintiff, as the loan amount had been given by her. But, under the guise of executing a mortgage deed and other loan documents, he was deceitfully made to sign a sale deed without being informed of the nature of the document. He claimed that the sale deed was forged and fabricated. He further asserted that he continued to occupy and enjoy the suit property as its exclusive owner.

2.3. Along with the suit, the appellant/plaintiff filed an application under Order XXXIX Rule 10 CPC seeking a direction to the respondent/defendant for payment of monthly rent along with arrears.



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2.4. *Vide* the impugned Order dated 15.07.2022, the trial court dismissed the said application, holding that the respondent had disputed the landlord–tenant relationship and had not admitted the rent, and also noting that no lease agreement had been filed on record. Aggrieved, the appellant has filed the present appeal.

3. Learned counsel for the appellant/plaintiff submitted that the respondent/defendant has agreed in his written statement before the trial court that certain financial transactions were pending between the parties, which the respondent has characterised as repayment of interest on the alleged loan amount of ₹22,00,000. This admission, it was argued, is sufficient for directing the respondent/defendant to deposit the arrears of rent to protect the appellant/plaintiff from further loss during the pendency of the proceedings.

3.1. During the course of the arguments, the learned counsel for



the appellant/plaintiff drew the attention of the Court to Annexure P-5 of the appeal, i.e., the statement of account of the appellant, to show that contrary to the submissions made before the trial court, the statement of account reflects that the amounts were made towards rent.

4. On the other hand, the learned counsel for the respondent/defendant consistently denied the tenancy in the suit property. It was submitted that the sale deed dated 05.05.2015 is forged, fabricated, and executed by misrepresentation. He submitted that no lease agreement has been filed by the appellant to show his *bona fides*. According to the respondent/defendant, he is the owner of the suit property, and the appellant/plaintiff had no right to file the eviction proceedings.

5. Heard the learned counsel for either side.

6. The appellant/plaintiff has invoked Order XXXIX Rule 10



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CPC, which empowers the Court to direct the deposit of admitted amounts where the defendant acknowledges his liability to pay.

7. In the present case, the suit has been filed seeking eviction and recovery of arrears of rent. The application under Order XXXIX Rule 10 CPC is premised on the assertion of the appellant/plaintiff that there exists a landlord–tenant relationship between the parties. However, the appellant/plaintiff has failed to file any document, such as a lease deed, rent agreement, or any contemporaneous written acknowledgement, to establish even a *prima facie* contractual tenancy. The mere production of a single entry from the statement of accounts is insufficient to justify directing the respondent/defendant to deposit the amount at this stage, when infact, the respondent/defendant has categorically denied the existence of any landlord–tenant relationship and has put forth an entirely different version of events, alleging that the



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sale deed itself is forged and that the payments made were towards repayment of a loan.

8. The parties are, therefore, not *ad idem* on even the foundational facts necessary to invoke Order XXXIX Rule 10 CPC. The provision can be applied only where the defendant admits either the relationship or the liability to pay a particular amount. In the present case, there is no such admission and rather, the very nature of the transaction, the execution of the sale deed, and the character of the payments are all seriously disputed and are matters requiring evidence.

9. At this interlocutory stage, the Court cannot undertake a detailed inquiry into the veracity of the sale deed, the nature of the payments, or the alleged loan transaction. These issues can be adjudicated only after the parties present evidence during the trial. Thus, in the absence of any admitted liability, which is prerequisite



for invoking the provisions under Order XXXIX Rule 10 CPC, and in view of substantial disputes raised by the respondent, no direction for the deposit of rent can be issued.

10. Accordingly, the trial court was justified in dismissing the application. I find no infirmity, perversity, or illegality in the impugned order warranting interference by this appellate court. The appeal, *sans* merit, is dismissed.

11. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

NOVEMBER 17, 2025
MJ/er