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

+ RSA 119/2025

SHAMMI ARORA

.....Appellant

Through: Mr. Ravi Dev Sharma and Mr. Prince
Sharma, Advocates.

versus

NIRMAL SAHNI

.....Respondent

Through: Mr. Narender Singh, Advocate *via*
video-conferencing.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **11.08.2025**

CM APPL. 49145/2025 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

RSA 119/2025 & CM APPL. 49144/2025 (stay)

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 28.07.2025 passed by the learned District Judge-01, East District, Karkardooma Courts, Delhi, in appeal bearing RCA DJ No.46/2025.

2. The court has heard Mr. Ravi Dev Sharma, learned counsel appearing for the appellant, at great length.
3. Mr. Narender Singh, learned counsel has also joined the proceedings on behalf of the respondent *via* video-conferencing.
4. Mr. Sharma submits, that judgment dated 04.12.2023 passed by the learned trial court is *ex-facie* a judgment that has come to be passed without application of mind; and it will be seen that the learned trial



court has made observations in the judgment, which are plainly contrary to the record.

5. In this behalf, counsel for the appellant has drawn attention to the observations made by the learned trial court in para 5 of judgment dated 04.12.2023, to submit that the learned trial court has recorded the name of the PW-1 as Ms. Rajesh Singh, wife of Sh. R.C. Singh; whereas a perusal of the record would show that PW-1 was one Smt. Nirmal Sahni, viz., the respondent, who had appeared as a witness in the matter.
6. Furthermore, Mr. Sharma submits, that the learned trial court has assessed the “*occupational charges*” payable by the appellant at Rs. 10,000/- per month without there having been any document or evidence to that effect on the record before it; and it is a matter of record, as also noted in para 21 the trial court judgment, that the respondent (plaintiff in the suit) had claimed Rs. 25,000/- per month as ‘occupational charges’.
7. In this behalf, attention is drawn to the following paras of the trial court judgment:

“21. The plaintiff by way of her affidavit has deposed that the defendant had remained in the suit premises as an unauthorized occupant from January, 2019. The plaintiff has sought occupational charges @ Rs. 25000/- per month, however, no evidence has been led by the plaintiff showing that she is entitled for occupational charges at such exorbitant rate. Therefore, the plaintiff is entitled to recover occupational charges @ Rs. 25000/- per month from the date of filing of the present suit till the delivery of vacant and peaceful possession of the suit property by the defendant.

* * * * *



24. Plaintiff is further entitled to recover occupational charges @ Rs. 10,000/- per month alongwith pendente lite and future interest @6% p.a from the date of the filing of the present suit till the date of delivery of vacant possession of the suit property subject to filing of appropriate court fees on the record.”

8. In the above backdrop, on being queried as to what substantial questions of law arise in the present case, learned counsel has drawn attention to the proposed questions of law as set-out in the Memo of Appeal, which read as follows:

“QUESTION OF LAW 1:

Whether a judgment that contains fundamental copy-paste errors, wrong party identification, and mechanical adjudication without application of judicial mind and violation of principles of natural justice, rendering such judgment void ab initio?

i. *The errors in the Trial Court’s Judgment dated 04-12-2023 being:*

a. *Mechanical Adjudication: The trial court judgment suffers from fundamental copy-paste errors that completely vitiate the judicial process*

b. *Wrong Party Identification: The trial court erroneously identified "Ms. Rajesh Singh W/o Sh. R.C Singh as PW-1" when the actual plaintiff is Smt. Nirmal Sahni. This person named in the Judgment Ms Rajesh Singh:*

i. *Was never a party to proceedings*

ii. *Was never examined as witness*

iii. *Has no connection to the case*

iv. *Appears to be copied from another judgment*

ii. *Contradictory Monetary Awards: The judgment contains glaring contradictions:*

a. *Para 12 & 19: Lease rent stated as Rs. 10,000/- per month*

b. *Para 21: Court awards Rs. 25,000/- per month with self-contradictory reasoning*

c. *Para 24: Final decree reverts to Rs. 10,000/- per month*



QUESTION OF LAW 2:

Whether an Agreement to Sell, without execution of a registered Sale Deed and without proof of valid consideration, can confer sufficient title to maintain a suit for possession against the original title holder under Section 54 of the Transfer of Property Act, 1882 especially under the allegations of fraud and suspicious circumstances surrounding it?

C. Without pressing for any reappreciation of evidence which is not permissible at this stage, still highlighting that even the close scrutiny of documents relied upon by the Respondent/Plaintiff and the submissions made by the Appellant in the form of Written Statements highlighting the concealments, element of fraud confirms that the Respondent's case could not stand on its own legs.

D. It is submitted that the Appellant is an old widow, ill and an illiterate lady and in 2018 was living alone and no one to offer immediate support. The Respondent through her husband Mr Harish Chander Sahni, son Mr Gagan Sahni in connivance with one Mr Virender Kumar Sethi, his wife Mrs Ritu Sethi came in contact with her slowly, developed relations and managed some dubious transactions and managed the Appellant to sign some documents by misrepresentations and fraud to grab the property of the Appellant without any genuine payment to the Appellant which is quite apparent from the records. Any money so transacted remained between the Respondent and her accomplices."

9. On considering the submissions made on behalf the appellant however, it is observed that:

9.1. That as for the submission that the learned trial court has recorded the wrong name of PW-1, it is noticed that apart from the error in the name of the witness, in para 5 of its judgment, the learned trial court has correctly mentioned the documents referred-to by PW-1 in her deposition recorded before the learned trial court on 04.07.2023;



9.2. Furthermore, from a meaningful reading of the trial court judgment, it also transpires that though the respondent had claimed use and occupation charges at Rs.25,000/- per month, the learned trial court has awarded such charges at Rs.10,000/- per month based on the agreed rent of the tenanted premises, which has been noted in para 19 of the trial court judgment, which reads as follows:

“19. Perusal of Ex. PW-1/3 show that the rent of the tenanted premises is Rs. 10,000/-. The case of the plaintiff is that the defendant was the tenant in the suit property and was regular in making the payment of rent. However, since 2019, the defendant has been defaulting the terms and conditions of Ex. PW-1/3. Due to the defendant’s behaviour and conduct and for non payment of rent from January, 2019, the plaintiff through legal notice dated 24.04.2019 and 06.06.2019 Ex. PW-1/4 and Ex. PW-1/5 terminated the tenancy of the defendant in respect of the suit property mentioned in the site plan. It is deposed by the plaintiff that the defendant has not vacated the suit property despite the termination of tenancy and has been residing in the property as unauthorized occupant. The defendant has not cross examined the plaintiff meaning thereby the case of the plaintiff is duly proved by her. The testimony of the plaintiff remained unrebutted. Therefore, all the essential ingredients for seeking possession of the suit property by the landlord i.e.(i) landlord tenant relationship; (ii) rate of rent above Rs. 3500/-; (iii) termination of tenancy by way of legal notice are duly proved by the plaintiff.”

10. Accordingly, in the opinion of this court, the proposed question of law No. 1 cited on behalf of the appellant, does not arise in the present case, since the learned trial court has appropriately dealt with the



appellant's contentions as discussed above; and no question of law remains to be considered by this court arising from those contentions.

11. Insofar as the proposed question of law No. 2 is concerned, the copy of Agreement to Sell dated 03.05.2018 appended to the present Memo of Appeal shows, that the document is a 'registered' document and it is therefore permissible to use that registered agreement to sell under the amended provisions of section 53A of the Transfer of Property Act, 1882. It is also noticed that there is on record a Receipt dated 03.05.2018 evidencing the full and final payment of Rs. 9,40,000/- as sale consideration under the agreement to sell; as well as a Possession Letter dated 03.05.2018, copies of which have also been appended to the present appeal. Accordingly, the proposed question of law No. 2 sought to be raised also appears to be misconceived and does not arise, in light of the documents that are on record.
12. Be that as it may, even if the appellant had any ground to challenge the execution of the agreement to sell, the receipt and/or the possession letter, a counter-claim to that effect had been filed in the course of proceedings before the learned trial court, which was however dismissed in default of prosecution. Counsel submits, that a restoration application in relation to the counter-claim is pending before the learned trial court.
13. In the circumstances, considering the restricted remit of proceedings under section 100 CPC viz., a second appeal, this court is of the view that none of the proposed questions of law arise for consideration before this court.



14. The present regular second appeal is accordingly dismissed, at the stage of issuance of notice itself.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 11, 2025

V.Rawat