



2025:DHC:6502



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

% ***Date of Decision: 17.07.2025***

+ **C.R.P. 266/2024, CM APPL. 53659/2024**

INDERJEET SINGH MAGGON

.....Petitioner

Through: None.

versus

HARASH SURI

.....Respondent

Through: Mr. Advocate [Appearance not given]

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. None appears on behalf of the Petitioner despite the matter being called twice.
2. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] seeking to impugn the Order dated 08.08.2024 passed by the learned Additional District Judge, North West District, Rohini Courts, New Delhi in Suit No. 75217/2016 titled *Inderjeet Singh v. Harash Suri* [hereinafter referred to as "Impugned Order"]. By the Impugned Order, an Application under Order XII Rule 6 of CPC [hereinafter referred to as "Application"] filed by the Petitioner [Plaintiff before the trial court] was dismissed.
3. The record reflects that the matter has been listed before this Court on four occasions i.e. on 13.09.2024, 07.10.2024, 27.02.2024 and 15.07.2025.



Of these, on three occasions i.e., 13.09.2024, 27.02.2024 and 15.07.2025, adjournments were sought by the Petitioner.

4. It is in this context that on 15.07.2025, the following Order was passed by the Court :

“1. A request for an adjournment is made on behalf of the learned Counsel for the Petitioner. The record reflects that a similar request for adjournment was made on the last date of hearing as well.

2. None appears for the Respondent.

3. List on 17.07.2025 in the Supplementary list.

4. It is made clear that no further adjournment will be granted to the Petitioner on the next date of hearing.”

[Emphasis Supplied]

5. Despite the directions passed by this Court, there is no appearance on behalf of the Petitioner today.

6. Learned Counsel appearing on behalf of the Respondent submits that the Application has been filed by the Petitioner merely to delay the adjudication of the proceedings. He submits that a suit for cancellation of the sale deed, declaration, permanent injunction and mesne profits and damages was filed by the Petitioner in the year 2013 and thereafter, an amended suit was filed in the year 2016. He submits that the suit has reached at an advanced stage.

6.1 It is further contended that the evidence of the Petitioner/Plaintiff was already recorded in the year 2015 and the Respondent/Defendant's evidence is currently being recorded, however, thereafter the Petitioner has been filing Applications to delay the case. He submits that even otherwise, there is no merit in the present Petition.



6.2 It is further contended by the learned Counsel appearing for the Respondent that the Application which was filed before the learned Trial Court by the Petitioner seeks to rely upon an admission in the cross-examination of an ancillary proceeding, under Section 138 of the Negotiable Instruments Act, 1881. It is submitted that it is the case of the Petitioner that the Respondent has admitted in the cross-examination that a sum of Rs. 18.2 lakhs is the consideration paid for the sale deed for the transfer of property bearing no. A1/138-B, Lawrence Road, Keshavpuram, Delhi. Learned Counsel further submits that the cross-examination which is sought to be relied upon [annexed as Annexure F to the Petition] does not reflect any admission.

7. A perusal of the Impugned Order shows that the learned Trial Court examined the contentions of the parties and the defences as taken by the Respondent/Defendant before the learned Trial Court. The learned Trial Court also records that the Application has been filed by the Petitioner/Plaintiff for delaying the matter.

8. The learned Trial Court after examining the Application found that there are several issues which require adjudication. It was directed that unless the findings on these issues, including the valuation of the suit, are returned, no decree can be passed, as the suit's value will also affect the jurisdiction of the Court to hear the case. Thus, the learned Trial Court dismissed the Application. It is apposite to set out the relevant extract of the Impugned Order, below:



*“During the course of submission on the application, the notice of the court is drawn towards issue no. 1 qua the valuation of the suit property as per the Suit Valuation Act, issue no. 2 qua maintainability of the suit in its present form framed on 02.08.2016 and the additional issue no. 2 framed qua the limitation period framed on 25.04.2019. **The findings of the said issues may be returned by the court only after completion of the trial and the valuation of the suit for the purposes of jurisdiction will also affect the jurisdiction of this court to try and adjudicate this suit.** Thus, in the facts, even if the defendant no. 1 has admitted about payment of no sale consideration in another litigation, the reliefs claimed in the suit are to be adjudicated by the court after the completion of trial. Application of the plaintiff is dismissed at this stage.”*

[Emphasis Supplied]

9. It is settled law that if the Defendant raises issues which requires trial and which goes to the root of the matter, orders in an Application under Order XII Rule 6 of the CPC cannot be granted.

10. The Supreme Court in the case of ***Hari Steel & General Industries Ltd. v. Daljit Singh***¹, has held that that the discretion conferred under Order XII Rule 6 CPC is to be exercised judiciously, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant. It was further held that where the defendants have raised objections, which go to the root of the case, it would not be appropriate to exercise discretion under Order XII Rule 6 CPC. The relevant extract of the ***Hari Steel*** case is reproduced below:

“25. In the judgment in *Himani Alloys Ltd. v. Tata Steel Ltd.* [*Himani Alloys Ltd. v. Tata Steel Ltd.*, (2011) 15 SCC 273 : (2014) 2 SCC (Civ) 376], nature and scope of Order 12 Rule 6 has been considered by this Court. In the aforesaid judgment this Court has held that the discretion conferred under Order 12 Rule 6 CPC is to

¹ (2019) 20 SCC 425



be exercised judiciously, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant. Para 11 of the judgment read as under : (SCC pp. 276-77)

“11. It is true that a judgment can be given on an “admission” contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear “admission” which can be acted upon. (See also *Uttam Singh Duggal & Co. Ltd. v. United Bank of India* [*Uttam Singh Duggal & Co. Ltd. v. United Bank of India*, (2000) 7 SCC 120] , *Karam Kapahi v. Lal Chand Public Charitable Trust* [*Karam Kapahi v. Lal Chand Public Charitable Trust*, (2010) 4 SCC 753 : (2010) 2 SCC (Civ) 262] and *Jeevan Diesels & Electricals Ltd. v. Jasbir Singh Chadha* [*Jeevan Diesels & Electricals Ltd. v. Jasbir Singh Chadha*, (2010) 6 SCC 601 : (2010) 2 SCC (Civ) 745] .) There is no such admission in this case.”

26. In the judgment in S.M. Asif v. Virender Kumar Bajaj [S.M. Asif v. Virender Kumar Bajaj, (2015) 9 SCC 287: (2015) 4 SCC (Civ) 589] , this Court has held that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a right. It is further held in the aforesaid case that where the defendants have raised objections, which go to the root of the case, it would not be appropriate to exercise discretion under Order 12 Rule 6 CPC. Para 8 of the judgment read as under : (SCC p. 291)

“8. The words in Order 12 Rule 6 CPC “may” and “make such order ...” show **that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right.** **Judgment on admission is not a matter of right and rather is a**



***matter of discretion of the court.** Where the defendants have raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order 12 Rule 6 CPC. The said rule is an enabling provision which confers discretion on the court in delivering a quick judgment on admission and to the extent of the claim admitted by one of the parties of his opponent's claim.”*

[Emphasis Supplied]

11. The Division Bench of this Court in the case of ***Delhi Jal Board v. Surendra P. Malik***², has laid down the parameters which the Courts have to consider while adjudicating an Application under Order XII Rule 6, CPC. The relevant extract of the ***Delhi Jal Board*** case is reproduced below:

*“9. The test, therefore, **is (i) whether admissions of fact arise in the suit, (ii) whether such admissions are plain, unambiguous and unequivocal, (iii) whether the defence set up is such that it requires evidence for determination of the issues and (iv) whether objections raised against rendering the judgment are such which go to the root of the matter or whether these are inconsequential making it impossible for the party to succeed even if entertained.** It is immaterial at what stage the judgment is sought or whether admissions of fact are found expressly in the pleadings or not because such admissions could be gathered even constructively for the purpose of rendering a speedy judgment.”*

[Emphasis Supplied]

12. Thus, amongst the considerations by the Court while dealing with an Application under Order XII Rule 6, CPC, is whether the objections raised by the Defendant go to the root of the matter or whether these objections are inconsequential making it impossible for the party to succeed even if entertained.

13. At this stage, learned Counsel appearing on behalf of the Petitioner

² 2003 SCC OnLine Del 292



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appears online and submits that she is instructed to withdraw the present Petition.

14. The Petition is accordingly dismissed as withdrawn. All pending Applications stand closed.

15. Learned Counsel appearing on behalf of the parties submit that they shall not take any unnecessary adjournment before the learned Trial Court. The parties are bound by the statement made by their Counsel today.

16. It is clarified that the Court has not expressed any opinion on the merits of the controversy. The rights and contentions of the parties are left open.

17. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 17, 2025
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