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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 143/2025 & CM APPL. 58151/2025 (for stay), CM APPL.
58153/2025 (for exemption from filing decree-sheet)
GURUCHARAN & ANR.Appellants

Through: Mr. Ayush Negi, Mr. Anurag Tomar,
Ms. Aarushi Gupta, Ms. Chaitanya
Pandey and Mr. Abhishek Singh
Bhandari, Advocates.

versus

PRAVEEN KUMAR TANWARRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
12.11.2025

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CM APPL. 58150/2025 and CM APPL. 58152/2025 (exemptions)

Exemptions granted, subject to just exceptions.

The applications stand disposed-of.

RSA 143/2025

By way of the present regular second appeal filed under section 100 of the Code of Civil Procedure 1908, the appellants impugn judgment and decree dated 20.05.2025 passed by the learned District Judge, Patiala House Courts, New Delhi in RCA DJ No.5218/2016, whereby the learned first appellate court has allowed the appeal filed against judgment and decree dated 06.11.2015 passed by the learned Civil Judge, Central-District, Tis Hazari Courts, Delhi in suit bearing No. 595/2014.

2. *Vidé* judgment and decree dated 06.11.2015, the learned trial court had dismissed the suit filed by respondent (plaintiff in the suit) for



possession, permanent injunction, damages and *mesne-profits* in respect of the property bearing No. WZ-86, Village Naraina, New Delhi ('suit property'), holding that since the Memorandum of Settlement/settlement deed dated 20.03.1998, on which the suit was based, was not a registered document, therefore the settlement deed could not be read into evidence. The learned trial court had proceeded with the following reasoning:

"12. Be that as it may, plaintiff has relied upon memorandum of settlement dated 20.03.1998 alleged to be executed between the plaintiff and the defendants whereby property bearing no. WZ-41, Village Naraina, New Delhi-28 was given to the defendants and the suit property came into the share of the plaintiff: Plaintiff in order to prove the said documents has examined Sh. N.P. Verma, one of the attesting witness to the said settlement deed. It is pertinent to state in here that the said settlement deed is unregistered.....

Even if for the sake of arguments the said settlement deed dated 20.03.1998 is admitted to be executed between the parties however considering the fact that the said settlement deed dated 20.03.1998 amounts to partition between the parties by metes and bounds and the same being unregistered, the said settlement deed cannot be read into evidence."

3. The aforesaid finding of the learned trial court has been reversed by the learned first appellate court, with the following observations:

"31. I have carefully considered the evidence on record, and based on the evidence on record, on a balance of probabilities, the plaintiff has proved the execution of the memorandum of settlement dated 20.03.1998 between the plaintiff, the two defendants and Sh. Surender Kumar Tanwar.

"32. Now, that I have already held that the execution of the settlement deed stands proved, the next question is with respect of admissibility of the settlement deed due to lack of registration.



“33. The Ld. Trial Court has held that the settlement deed dated 20.03.1998 was an instrument of partition which was compulsorily registrable, and hence, being an unregistered document, the settlement deed could not be read in evidence. I have carefully considered this aspect of the matter, and, with due respect, I am unable to agree with this finding of the Ld. Trial Court.

“34. The memorandum of settlement dated 20.03.1998 Ex.PW-1/8A records in the recitals that the plaintiff was adopted by late Sh. Jai Singh vide registered adoption deed dated 19.04.1988. Hence, the adoption of the plaintiff by Sh. Jai Singh stands admitted by the defendants in the memorandum of settlement.

“35. The memorandum of settlement dated 20.03.1998 Ex.PW-1/8A further records that the parties were jointly owning the properties bearing No.WZ-41 and WZ-86, Village Naraina. The memorandum further records that the two defendants and Sh. Surender Kumar Tanwar were already in possession of property bearing No. WZ-41 which was already partitioned between them and that they were in possession of their separate shares of the property which were divided as WZ-41A, WZ-41B and WZ-41C. It is further recorded that Sh. Jai Singh was in the absolute and sole possession of the property no.86 and was residing therein.

“36. As already discussed, the defendant no.2 as DW-2 has stated in his cross-examination that the respective portions of the three brothers being the two defendants and Sh. Surender Tanwar in the property WZ-41 had already been partitioned between them at the time of marriage of Sh. Surender Tanwar and that these three brothers had constructed their respective portions on the property WZ-41 and had numbered the same as WZ-41A, WZ-41B and WZ-41C, respectively. This only goes to show that there was already a partition through a family arrangement which had already been effected between the four brothers long ago, much prior to the execution of the memorandum of settlement dated 20.03.1998. This partition was not effected through any document in writing but was by the conduct of and dealing between the parties and was oral in nature. Hence, the memorandum of settlement dated 20.03.1998 Ex.PW-1/8A was nothing but only a record of the oral partition between the four brothers through a family arrangement



which had already been made long ago. The parties seem to have executed the memorandum of settlement dated 20.03.1998, since Sh. Jai Singh had died on 24.12.1997 and the parties wanted that the factum of the partition be recorded in writing so as to avoid any disputes in the future.

*“37. Since the memorandum of settlement dated 20.03.1998 was itself not an instrument of partition but was only a document by which the parties were acknowledging and recording the factum of the oral partition which had already taken place through a family arrangement much earlier, the memorandum of settlement was not required to be compulsorily registered. In this regard, it would be appropriate to refer to the decision of the Hon’ble Supreme Court in *Kale & Others vs Deputy Director Of Consolidation Ors. (1976) 3 SCC 119.*”*

(emphasis supplied)

4. In this backdrop, learned counsel appearing for the appellants has drawn attention to the proposed questions of law set-out in para 2 of the memo of appeal, which reads as follows:

“a) Whether the First Appellate Court has committed a serious error of law in holding that the settlement dated 20.03.1998 was itself not an instrument of partition but was only a document by which the parties were acknowledging and recording the factum of the oral partition which had already taken place through a family arrangement much earlier, though this fact was neither pleaded by the plaintiff/respondent nor any evidence in this regard was led ?

“b) Whether the First Appellate Court has erred in substituting its own finding of fact, without considering the finding of fact recorded by the trial court that the alleged family settlement dated 20.03.1998 amounts to partition between the parties by metes and bounds and the same being unregistered, the said settlement deed cannot be read into evidence ?

“c) Whether the suit of the plaintiff/respondent for exclusive possession in relation to suit property i.e WZ-86 Naraina New Delhi which is a joint property belonging to the Appellants, respondent, another brother of Appellants Surrender and four sisters of the



Appellants who have ownership rights in the suit property in the capacity of class 1 legal heirs of father of the Appellants late Banwari Lal, without seeking declaration of his exclusive ownership in respect of suit property ?

“d) Whether the alleged family settlement dated 20.03.1998 is a valid legal document keeping in view of the fact that it was not executed by all the heirs of the late Banwari Lal who was the original owner of suit property located at WZ-86 Naraina, including his four daughters ?

“e) Whether in the absence of any pleading or evidence, the Appellate court is justified in holding that the alleged family settlement was only a document which only recorded the family arrangement which had already been entered into and even acted upon much earlier and as such same was not compulsorily registrable ?

“f) Whether the First Appellate Court has committed an error in completely ignoring the registered Release deed dated 19.04.2001, Ex. RW1/4 executed by two sisters of the appellants Smt. Bhagwati Devi and Smt. Raj Kumari as well as Appellant No.2 Swami Charan, in favour of their brother i.e. Appellant No.1, releasing/relinquishing all their rights and interest in respect of suit property located at WZ-86 Naraina, New Delhi in his favor ?”

5. Evidently, all the proposed questions of law, though differently worded, essentially seek to raise the same issue - viz., whether the learned first appellate court had correctly interpreted the contents of Memorandum of Settlement dated 20.03.1998, in holding that the said document was *not a deed* by which the properties were apportioned or partitioned or settled between the family members but was only a *memorandum* or a *post-facto record* of the apportionment/partition/settlement that had been done between the family members earlier-on.



6. Clearly, the *interpretation* of a document as to its *factual purport and effect*, applying the correct position of law, does not present a question of law for consideration of this court.
7. When confronted with this position, learned counsel for the appellants submits, that another question of law that arises for consideration in the present appeal is : *whether the learned first appellate court could have gone beyond what was pleaded in the plaint*. Learned counsel submits, that nowhere in the plaint had the respondent (plaintiff in the suit) said that the document dated 20.03.1998 was only a memorandum of family settlement and was not a partition deed.
8. However on reading the plaint, it is found that the plaint *inter-alia* contains the following averments:

“7. That when the plaintiff attains the age of majority a written family settlement was constituted between the plaintiff and the defendants. As per that settlement the defendants choose their shares in the joint family property bearing no. WZ-41, Village Naraina, New Delhi-28, while the plaintiff get his share in the property bearing no. WZ-86, Village Naraina, New Delhi-28, which is ultimately the share of the father of the plaintiff i.e. late Sh. Jai Singh. The defendants are in possessions of their respective shares and enjoying the same and the plaintiff was enjoyed his share for a short term. The abovementioned family settlement was constituted as per the law of inheritance and the same was executed on dated 20.3.98 and the same also bears the signature of both the parties with two witnesses. The family settlement was also got attested by Notary Public at that time.

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“10. That the father of the plaintiff was died in a road accident on dated 24.12.97 and after that the plaintiff was living alone in the property in question. The plaintiff was using the aforesaid premises only in the day time and in the night the plaintiff was generally used to stay in the university hostel to complete his



academic qualification as well as to get the success in life and good job so that the plaintiff may be in a position to survive in this world.

.....”

(emphasis supplied)

9. It is settled law that a plaint is to be read in its entirety, meaningfully, and not in isolated passages; and upon doing so, it is evident that the plaintiff has averred that he had been in possession of the suit property *prior* to execution of Memorandum of Settlement dated 20.03.1998.
10. Besides, a reading of the Memorandum of Settlement dated 20.03.1998 also shows, that the parties had already partitioned the property amongst themselves; and had continued in possession of their respective portions/shares even prior to the date of signing of the family settlement. This is evident *inter-alia* from the following extracts of the memorandum of settlement:

“And whereas Swami Charan, Guru Charan and Surinder Kumar are in possession of property No. WZ-41, Village Naraina, New Delhi which has already been partitioned, between themselves and are now in possession of separate shares of this property and have divided the same as WZ-41, WZ-41B and WZ-41C. Portion 41A is in possession of Shri. Surinder Kumar, WZ-41B is in possession of Shri. Guru Charan and WZ-41C is in possession of Sh. Swami Charan. Shri. Jai Singh was in absolute and sole possession of property No. 86, Village Naraina, New Delhi and was residing therein.

IT IS NOW AGREED BETWEEN THE PARTIES AS UNDER

1. That the property bearing No. WZ-41, Village Naraina, New Delhi which has already been mutually divided and separate portions thereof are in possession of the 1st party, will be the owners of the respective portions in their possession.

* * * *”

(emphasis supplied)



11. Clearly therefore, the contention raised on behalf of the appellants, that the learned first appellate court has traversed beyond the pleadings in the plaint, is misconceived.
12. In view of the above, this court is unable to discern any question of law, muchless any substantial question of law, that arises in the present appeal.
13. Accordingly, the present regular second appeal is dismissed at the stage of issuance of notice itself.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 12, 2025/ak