



2025:DHC:11595



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

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Judgment Reserved on: 17.12.2025

Judgment pronounced on: 20.12.2025

+ **FAO 329/2024, CM APPL. 60007/2024 CM APPL. 60008/2024 CM APPL. 60047/2024**

MALAYA KUMAR CHAND

.....Appellant

Through: **Mr. Malaya K. Chand** (Appellant in person).

versus

PREM KUMAR VERMA & ANR.

.....Respondents

Through: **Mr. Kunal Kalra**, Advocate for R-1.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. The present appeal under Section 104 read with Order XLIII Rule 1(r) of the Civil Procedure Code, 1908 (the CPC), has been filed by the plaintiff in **C.S. No. 827/2023** on the file of the learned District Judge-07, West District, Tis Hazari Courts, Delhi, aggrieved by the order dated **20.07.2024**, by which the trial court dismissed his application under Order XXXIX Rules 1 and 2 read



with Section 151 of the CPC.

2. In this appeal, the parties herein, unless otherwise specified, shall be referred to as described in the original suit.

3. The averments made in the plaint are thus: The plaintiff is the owner of the entire freehold lower ground floor admeasuring 200 square yards of property bearing no. 11/8, West, Patel Nagar, New Delhi (the suit property), having purchased the same from one Veena Chugh *vide* two registered sale deed dated 28.01.2021. It is averred that Veena Chugh had acquired the property *vide* two registered sale deeds dated 22.11.2000 from the erstwhile owners, Abha Bhatia and Asha Bhatia, through their attorney Amit Babbar, and thus had clear and marketable title, which was validly conveyed to the plaintiff *vide* the sale deed dated 28.01.2021.

3.1. According to the plaintiff, defendant no. 1/respondent no.1 herein was never the owner of any portion of the suit property and was merely permitted to occupy a small portion admeasuring



about 100 square feet as a licensee or caretaker during the period when Veena Chugh was the owner. During the execution of the sale deeds in favour of the plaintiff, he was assured that defendant no. 1 would vacate and handover the peaceful possession of the property shortly. However, on completion of the execution of the sale deeds, defendant no. 1 refused to vacate the property and instead started asserting his ownership rights. It was further alleged that defendant no. 1 is relying upon a sale deed dated 07.12.1998, which is forged and fabricated and was fraudulently introduced into the record of defendant no. 2, the Sub-Registrar-II, Basai Darapur, New Delhi-110027. Various discrepancies in the said document relating to signatures, seals, attestation and endorsements are highlighted to contend that the sale deed is non est in the eyes of law. On the basis of the said allegations, the plaintiff claimed to have initiated criminal proceedings and also instituted the present suit seeking, *inter alia*, a declaration that the sale deed dated 07.12.1998 is null and void, recovery of possession

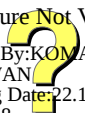


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of the suit property, mandatory directions to defendant no.2 and damages/*mesne* profits.

3.2. Defendant no. 1 entered appearance and filed written statement, contending that he is the absolute owner of the suit property by virtue of the registered sale deed dated 07.12.1998 and that he has been in open, continuous and settled possession thereof for more than two decades. Defendant no. 1 has been running a commercial establishment in the suit property and has been a regular tax payer and has been paying other bills and municipal dues in his own name, which demonstrates his long standing possession of the suit property. Defendant no. 1 also contended that the plaintiff has been residing in the same building much prior to the year 2021 and was fully aware about defendant no. 1's possession and ownership claim by relying on the Writ Petition filed by the plaintiff in the year 2017 [**W.P.(C) 10757/2017**], titled as **M.K. Chand & Ors. Vs. North Delhi Municipal Corporation**, wherein the photographs of the subject property





were placed on record by the plaintiff himself.

3.3. Defendant no. 2, the Sub Registrar, took a limited stand in his written statement that the documents in question were registered in accordance with law and that the registering authority does not adjudicate upon the title or the genuineness of documents beyond statutory requirements.

4. *Pendente lite*, the plaintiff filed an application under Order XXXIX Rule 1 and Rule 2 CPC, seeking to restrain defendant no. 1 from creating any third-party interest in the suit property and the said application was premised on the apprehension that defendant no. 1 was attempting to alienate the suit property on the basis of the registered dale deed dated 07.12.1998.

5. The trial court, upon considering the materials placed on record, *vide* the impugned order, dismissed the application with an observation that defendant no.1 was in long-standing possession of the suit property and that grant of injunction would amount to



granting final relief without trial. It was accordingly held that the plaintiff had failed to establish a prima facie case, balance of convenience or irreparable injury.

6. Aggrieved, the plaintiff has preferred the present appeal.

7. It was submitted by the learned counsel for the plaintiff that the trial court failed to appreciate that the plaintiff is the lawful owner of the suit property, having acquired title through a clear and unbroken chain of registered sale deeds executed in the year 2000 and 2021. It was further submitted that the said suit property is residential in nature, allotted and sanctioned for residential use alone, and the suit property constitutes a portion of such residential lower ground floor. Defendant no. 1 has never resided in the suit property and was merely permitted to occupy a small portion as a licensee, which stood terminated and hence, the trial court erred in treating the possession claimed by defendant no. 1 as settled possession, goes the argument.



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7.1. It was further submitted by the learned counsel for the plaintiff that the trial court erred in according undue weight to the sale deed dated 07.12.1998, relied upon by defendant no. 1, despite the plaintiff having specifically pleaded and placed materials to show that the said document is forged and fabricated and that its execution and validity are yet to be proved. It was submitted that mere registration of the document could not have been treated as conclusive at the interlocutory stage, particularly in the face of pointed discrepancies.

8. *Per contra*, the learned counsel for defendant no. 1 would contend that the suit property is not an undivided or homogeneous lower ground floor, but consists of distinct and separately assessed portions, of which 13.75 sq. metres constitutes a shop owned and occupied by defendant no.1, while the remaining portion admeasuring about 149 sq. metres stood in the name of Veena Chugh by placing reliance on Municipal Assessment and House Tax records dated 25.10.2018, which



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specifically demarcate the area in the occupation of defendant no.1 and record his name separately from that of Veena Chugh, thereby evidencing long-standing, recognised possession and independent existence of defendant no.1's shop much prior to the plaintiff's purchase in 2021.

8.1. It was further urged by the learned counsel that the plaintiff was fully aware of defendant no.1's possession and claim over the shop admeasuring 13.75 sq. metres even prior to the purchase of the property in 2021. The plaintiff admittedly residing on the second floor of the same building had filed W.P.(C) No. 10757/2017 before this Court alleging misuse of the lower ground floor, pursuant to which municipal action including sealing/attachment was taken in respect of the portion recorded in the name of Veena Chugh and was subsequently de-sealed. Despite such knowledge, the plaintiff proceeded to execute sale deeds in 2021 purporting to purchase the entire lower ground floor, even though municipal records reflected Veena Chugh's



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ownership only to the extent of 149 sq. metres, with the remaining 13.75 sq. metres being in the possession of defendant no.1. It was urged that the plaintiff consciously undertook this transaction with open eyes and cannot now seek interim injunction to disturb defendant no.1's settled possession or to escape the consequences of his own conduct.

9. Heard both sides and perused the records.

10. On perusal of the pleadings and the records placed, it emerges that the suit property forms part of the lower ground floor of the property bearing no. 11/8, West, Patel Nagar, New Delhi, which is a multi-storeyed building. The plaintiff has purchased a substantial portion of the lower ground floor in the year 2021 from one Veena Chug *vide* two registered sale deeds dated 28.01.2021. It appears from the materials on record that defendant no. 1 has been in possession of a defined portion of the property for a considerable period of time and that such possession predates the



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plaintiff's purchase. The dispute therefore arises with respect to the nature, extent and legal character of defendant no.1's possession and the competing claims of the title set up by the parties.

11. In the aforesaid facts and circumstances, the limited issue that arises for determination by this court in the present appeal is whether the trial court erred in refusing the grant of interim injunction to the plaintiff under Order XXXIX Rule 1 and Rule 2 CPC.

12. In the case on hand, the plaintiff's claim for interim injunction rests substantially on two pillars. First, the assertion of a superior chain of title flowing from the sale deeds of the year 2000 and 2021 and second, the allegation that the sale deed dated 07.12.1998 relied upon by defendant no. 1 is forged and fabricated. Both these aspects raise serious questions of fact and law, including the examination of documents, comparison of signatures, evaluation of statutory presumption attached to registered



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instruments and appreciation of evidence, which cannot be conclusively determined at the interlocutory stage.

13. It is apposite to note that the materials placed on record, including the Municipal Assessment and House Tax Records dated 25.10.2018, *prima facie*, indicate that the lower ground floor was assessed as consisting of two distinct and separately recorded portions, with defendant no. 1 shown to be in occupation of a portion admeasuring 13.75 square meters, separately from the portion recorded in the name of Veena Chugh, who is shown to be in occupation of a separate portion admeasuring 149 square meters. The same assessment records also reflect the plaintiff as the owner/occupant of the second floor of the very same property. These records lend a *prima facie* support to the stand of defendant no.1 that his possession was not recent, rather he was in possession of the property, much prior to the plaintiff's purchase in 2021. These records also lend weight to the contention advanced by defendant no. 1 that the plaintiff was well aware of the existing



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occupation and demarcation within the property prior to the execution of the sale deeds in his favour in the year 2021.

14. Interestingly, it also emerges from the records that the plaintiff himself had approached this Court earlier by filing W.P. (C) No. 10757/2017, complaining of alleged misuse of the lower ground floor of the very same property. The said writ petition was disposed of on 01.02.2019 by relegating the petitioner to the Special Task Force constituted pursuant to directions of the Apex Court, without any adjudication on title or possession. While the said writ petition does not decide civil rights *inter se* the parties, it does assume relevance for the limited purpose of examining the plaintiff's knowledge and awareness of the existing user and occupation of the lower ground floor prior to the execution of the sale deeds in his favour in 2021.

15. The aforesaid aspect, read with the Municipal Assessment and Tax Records placed on records, clearly indicate that the lower



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ground floor has two distinct portions; defendant no.1 is shown to be the occupant of a defined area in the lower ground floor, which is separate from the portion recorded in the name of Veena Chugh; and that the plaintiff is also an occupant of the second floor of the same building. In this backdrop, the plaintiff's plea that he was entirely unaware of the occupation of defendant no. 1 is difficult to accept, particularly when the records suggest that he himself was residing in the same building and had previously invoked writ jurisdiction of this Court with respect to the misuse of the suit property. Whether such knowledge would ultimately defeat the plaintiff's claim or have a bearing on the validity of the sale deeds is a matter to be examined at trial; however, for the purposes of interim relief, it does dilute the urgency and equity of the plaintiff's prayer.

16. The trial court has rightly taken note of the fact that defendant no. 1 is in possession of the suit property and a grant of injunction would, in effect, result in disturbing a possession that



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has existed for several years, on the basis of disputed title and allegations of forgery which are yet to be established. As regards the apprehension of creation of third-party rights, it is pertinent to note that such apprehension, though relevant, must be balanced against the competing equities. The plaintiff's interest can be adequately safeguarded by the eventual outcome of the suit, including recovery of possession and *mesne* profits, should he succeed. On the other hand, restraining defendant no.1 at this stage, in the teeth of long-standing possession and disputed title would cause disproportionate prejudice.

17. Therefore, this Court is of the view that the impugned order suffers from no perversity or infirmity, calling for an interference by this court.

18. In the view of the aforesaid facts and circumstances, the impugned order of the trial court is affirmed. It is clarified that nothing contained in this order shall affect the merits of the case.



19. In the result, the appeal *sans* merit is dismissed.

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 20, 2025/RN