



2025:DHC:8845-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 24th September, 2025

+ **RFA (COMM) 558/2025 & CM APPL. 61178-61180/2025**

SH INDERJEET SINGH

.....Appellant

Through: Mr. Praveen Suri with Ms. Harshita
Maheshwari and Ms. Amol Kaur,
Advocates

versus

SMT KAUSHALYA DEVI AND ORS

.....Respondents

Through: *Nemo*

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT (ORAL)

ANISH DAYAL, J.

1. The instant appeal assails the impugned judgment and order dated 9th September 2025 (hereinafter "*impugned order*") passed by the District Judge (Commercial Court)-06, West District, Tis Hazari Courts, Delhi rejecting the plaint of the appellant/plaintiff by allowing the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('*CPC*') filed by the respondent/defendant. Appellant/plaintiff filed a suit for recovery of ***Rs.8,50,900/-*** against the respondent/defendant.

2. Background facts, in brief, are as under:

i. Late *Shri Krishan Lal Gulati*, husband of respondent no.1 and



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father of respondent nos. 2 to 4 was leased property bearing No.22/1, Double Storey, Prem Nagar, Jail Road, New Delhi-110058 under the Refugee Rehabilitation Scheme. Late Sh. Krishan Lal Gulati made four shops in the premises of which shop no.1 is the subject matter of the present dispute. Shop no.1 (hereinafter “**subject property**”) was given on rent to appellant/plaintiff on a monthly rent of Rs.175/- and the other three shops were tenanted out to other persons. Eventually, shop no.2 was also given to the appellant/plaintiff on a monthly rent of Rs.175/-.

- ii. Sh. Krishan Lal Gulati passed away on 30th October 2014, leaving the respondents as legal heirs. Smt. Saroj Gulati, widow of one of the sons of late Sh. Krishan Lal Gulati filed a suit for partition and the legal heirs entered into a settlement on 20th December 2017 (hereinafter “**settlement**”), whereby the premises were divided amongst themselves.
- iii. Two more shops were constructed and as per the settlement, a decree was passed in **Civil Suit No. 9806/2016**. Shop no.1 came to the share of respondent no.2; shop no.2 came to the share of respondent no.4; shop no.3 fell in the share of respondent no.3; shop no.4 stood sold; shop no.5 came to the share of Smt. Saroj Gulati and further, the residential portion also came to the share of respondent no. 3.
- iv. On this basis, respondent no.2 filed an Eviction Petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958



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(hereinafter '*DRC Act*') in 2018, basis the aforesaid settlement, claiming that he does not have any other alternative accommodation since the property in question stood divided between respondents and *Smt. Saroj Gulati* by *metes and bounds*. Eviction order dated 18th May 2020 was passed against the appellant/respondent therein.

- v. Appellant preferred a Revision Petition before this Court which was dismissed on 21st January 2021 and thereafter, a Special Leave Petition ('*SLP*') before the Supreme Court which was also dismissed on 16th February 2021. Appellant was granted time to vacate the subject property till 31st August 2021, subject to filing an undertaking within 4 weeks.
- vi. Appellant gave the said undertaking, however, did not comply with his undertaking. Possession was ultimately taken on 10th September 2021 in the Execution proceedings, through the bailiff appointed by Court.

3. In the background of these circumstances, appellant/plaintiff filed the suit for recovery claiming that there was a bar on division of property without prior permission of the government, as provided in *Clause 8(ii)* of the lease agreement originally in favour of late *Sh. Krishan Lal Gulati*. On this basis, appellant/plaintiff contended that respondents had colluded with each other in executing the settlement which would otherwise be invalid and consequently, the Eviction Petition could not have been decided against the appellant herein. Getting *shop no.1* vacated on grounds of *bona fide* requirement was therefore, not tenable.



4. *Mr. Suri*, counsel for the appellant/plaintiff contended that fraud vitiates everything and therefore the order, judgment and decree of eviction would stand nullified. For this, he relied upon decision in *S P Chengalvaraya Naidu v. Jagannath*, (1994) 1 SCC 1; as also on *Ram Chandra Singh v. Savitri Devi*, (2003) 8 SCC 319; *Promilla Bhagat v. Vijay Kumar Gupta*, 2024 SCC OnLine Del 8778, and *G.T. Girish v. Y Subba Raju*, (2022) 12 SCC 321.

5. *Mr. Suri* contended that the Commercial Court rejected the plaint without taking into account these judgments or the allegations that fraud had been played by respondent nos. 1 to 4. Besides dealing with an application under Order VII Rule 11 of the CPC, the Commercial Court ought to have seen the averments made in the plaint only, but it went beyond the same.

6. At the very outset, appellant's/plaintiff's counsel was asked whether he has taken any steps during all the previous proceedings- commencing with the eviction petition filed in 2018, concluding with the eviction order on 18th May 2020, then the order being upheld in revision by this Court on 21st January 2021, and subsequent SLP dismissed on 16th February 2021. The counsel to that effect, responded in the negative.

7. Perusal of pleadings filed in the Eviction Petition by appellant/plaintiff would so bear out that no such issue, questioning the legal right of the landlord was ever raised.

8. This Court has examined the impugned order. The defence which was taken by respondent/defendant, as also in the application under Order VII Rule 11 of CPC was that the appellant/plaintiff had not disclosed any valid cause of action and could not be permitted to challenge a concluded



execution process through a subsequent suit for damages. Further, there was no proof attached to show damages of Rs.25,000/- per month totaling up to Rs.8,50,000/-. Moreover, it was contended that the dispute was not commercial in nature and subject matter of the suit, if at all, falls under the jurisdiction of Rent Controller as per the DRC Act. As a tenant, appellant/plaintiff cannot file a suit to challenge ownership of the landlord and is estopped under Section 116 of the Indian Evidence Act, 1872.

9. Appellant/plaintiff contended, on the basis of the documents of L&DO, that there was a breach and the alleged breach of terms and conditions of lease deed, a fraud had been perpetrated and therefore, tenancy was never terminated. Further, they have no other option but to file a suit, since there was no provision for grant of damages under the DRC Act.

10. The impugned order assessed the issue under Order VII Rule 11 of CPC, in particular, Rule 11 (a) and (d). In the impugned order, District Judge rightly stated that the question of damages arising from a tenanted property is intertwined with tenure of the tenancy and to grant such a relief, the Court would have to re-adjudicate the eviction order passed by the ACJ. However, the court could not sit as a Court of Appeal against the eviction order, and if it had been obtained through fraud, as alleged, the appellant/plaintiff had other remedies available. Moreover, there was nothing in the plaint to suggest that there had been a revision/review/objection or appeal preferred by the appellant/plaintiff against the eviction. Unarguably, the eviction order had attained finality.

11. Adverting to the order of ACJ in the Eviction Petition, in particular *paragraphs 17.8, 17.9 and 17.10* thereof, the District Judge emphasized the



right to maintain the Eviction Petition on behalf of the son of late *Sh. Krishan Lal Gulati*, who was the absolute landlord of the property, a fact which had not been disputed by appellant/plaintiff, as a tenant.

12. It was further emphasized by the District Judge that this Court in the challenge against the eviction order in ***R.C. REV. 241/2020*** issued a limited notice on 19th November 2020 as under:

“The learned counsel for the petitioner confines her prayer to grant a reasonable time to vacate the tenanted premises, which is a commercial premises.”

Petition was then dismissed, stating that the landlord's *bona fide* need was established and no triable issue was raised by the tenant.

13. Against the said order, ***SLP No. 2625/2021*** was filed before the Supreme Court. The Supreme Court by order dated 16th February 2021 noted as under:

“The Special Leave Petition is dismissed as being devoid of any merit. The petitioner-tenant is granted time to vacate till 31st August 2021, subject to filing the usual undertaking within a period of four weeks’ from today.”

14. Consequently, the undertaking was filed and on 2nd July 2021, the Supreme Court observed, as under:

“The undertaking shall, therefore, form part of the record and in terms of the order passed by this court, the present applicant shall be obliged to hand over the vacant and peaceful possession of the premises in question on or before 31st August 2021.”

15. District Judge has, therefore, correctly noted the sequence of events, emphasizing on the point that the appellant/plaintiff had fully exhausted his



remedies till the Supreme Court and, in fact, had given his own undertaking that he would vacate the premises. It is also evident from the said eviction proceedings that no issue was ever raised by appellant/plaintiff regarding the breach of terms and conditions of the lease deed, which, as alleged by appellant/plaintiff now, would invalidate the eviction proceedings.

16. By filing this suit for damages and claiming compensation against illegal eviction, the appellant/plaintiff is clearly trying to get a monetary benefit out of a non-existent cause of action. Having unsuccessfully contested the Eviction proceedings in three different forums till the Supreme Court, and thereafter, having vacated the property, post furnishing an undertaking, the issue of illegal eviction does not arise. And even if it does arise, it has to be agitated by the appellant/plaintiff in appropriate proceedings, emanating out of the Eviction Petition.

17. By filing this suit for damages, appellant/plaintiff is effectively trying to commence a new set of proceedings, which would require Eviction proceedings, already concluded by the Supreme Court, to be re-questioned and re-opened, which cannot be permitted.

18. The impugned order further noted that appellant/plaintiff had vexatiously filed the suit against respondent/defendants to obstruct peaceful enjoyment of tenanted property. Notably, appellant/plaintiff had filed other frivolous litigations, including a petition under Section 19(2) of the DRC Act before the ACJ in ***RC/ARC No. 45/2022*** with a prayer that the landlord (respondent no.2 herein) be called upon to file proof to show that he has not made any structural changes in the property and that he started his business prior to 10th November 2021, failing which, possession should be restored



back to appellant/plaintiff. ACJ dismissed the petition *vide* order dated 24th February 2025, stating as under:

“29. In my view, a party that has lost its case up to the highest Court of the land and has sought to invoke the discretion of the Court cannot subsequently retract and seek an advantage from the breach of its own undertaking given to the highest Court. It is unacceptable for such a party to claim that their case falls outside the scope of the decision rendered by the Hon'ble High Court merely because there was non voluntary relinquishment of possession. Allowing such a recourse would open the door for litigants with malicious intent to exploit the system, undermining the integrity of the judicial process. A Court cannot assist a litigant in reaping the benefits of their own wrongs. It would be a miscarriage of justice to allow a party to gain from the very breach or misconduct for which they are responsible. The judicial system is designed to uphold fairness and integrity, not to reward those who attempt to manipulate or circumvent its decisions.”

(emphasis supplied)

19. Impugned order relies upon decision of Madras High Court in ***Dr. L. Ramachandran v. K. Ramesh & Others***, AIR 2015 Mad 281 and decision of the Apex Court in ***Madanuri Sri Rama Chandra Murthy v. Syed Jalal***, 2017 13 SCC 174 where it was observed that on a meaningful reading of the plaint, if it is found that the suit is manifestly vexatious and meritless, the Court should exercise power under Order VII Rule 11 of CPC. However, in a scenario where clever drafting of the plaint has created the illusion of a cause of action, court will ‘*nip it in the bud*’ at the earliest, so that bogus litigation is not encouraged.

20. The impugned order correctly notes that core of the dispute does not arise from any commercial transaction, but from the execution of judicial



and quasi-judicial processes such as eviction decree, mediation settlement and eviction process carried on by the bailiff, which do not satisfy the definition of a '*commercial dispute*.' To substantiate the same, the impugned order notes that there was no valid or subsistent commercial agreement/lease contract between appellant/plaintiff and respondents/defendants, and the suit was filed on the basis of an alleged infirm eviction order, claiming loss of earnings.

21. Impugned order cited *paragraph 15* of the suit for '*cause of action*' and concludes that the paragraph only bears out that the appellant/plaintiff is aggrieved by judicial orders, decree, mediation settlement, and eviction proceedings, for which appellant/plaintiff had the option of other remedies.

22. Additionally, impugned order also notes that the suit was barred by limitation, since the appellant/plaintiff was evicted on 10th September 2021 and legal notices were issued on 27th June 2024. However, issuance of legal notices could not circumvent the bar of limitation.

23. This Court, therefore, finds no reason to interfere with the impugned judgment and order rejecting the plaint under Order VII Rule 11 of CPC. It is clear, apparent, unambiguous and incontrovertible that the suit which is filed by the appellant/plaintiff is a sheer abuse of process of law and only a *mala fide*, vexatious and frivolous attempt to drive stakes into the landlord at the behest of whom he was evicted.

24. Even as per the plaint, it is alleged that eviction order was secured by respondent no.2/Sh. *Basant Lal Gulati* on the basis of an infirm family settlement and that the alleged landlord did not have any ownership of the property, since L&DO never renewed their lease. It is further claimed that



the eviction suit was hit by provisions of Section 15 of Public Premises (Eviction of Unauthorized Occupants) Act, 1971. Collusion on part of L&DO officials by failing to disclose status of the property was also alleged.

25. Appellant/Plaintiff contended that the family settlement arrived at between the legal heirs of late *Shri Krishan Lal Gulati* was an outcome of fraud and that possession taken through the bailiff was therefore, an outcome of a fraudulently obtained eviction order. Needless to state that all these aspects relate to a concluded judicial proceeding and issues pleaded, if any, stand concluded now. By virtue of this suit, issues cannot be reopened.

26. Apex Court in *Asgar v. Mohan Varma*, (2020) 16 SCC 230 dealt with a similar issue, wherein the claim of compensation was being raised in the subsequent execution proceedings. Observing that the same was barred by the principles of constructive *res judicata*, the Court held as under:

“30. Under Section 11, a matter which has been directly and substantially in issue in a former suit between the same parties or between parties litigating under the same title cannot be raised before a court subsequently, where the issue has been heard and finally decided by a competent court. Explanation IV enacts a deeming fiction. As a result of the fiction, a matter which “might and ought” to have been made a ground of defence or attack in a former suit shall be deemed to have been a matter directly and substantially in issue in such a suit. In other words, Explanation IV is attracted when twin conditions are satisfied : the matter should be of a nature which might and ought to have been made a ground of defence or attack in a former suit....

...

37. We are not inclined to decide this question on a priori consideration, for the simple reason that under CPC, both res judicata (in the substantive part of Section 11) and



constructive res judicata (in Explanation IV) are embodied as statutory principles of the law governing civil procedure. The fundamental policy of the law is that there must be finality to litigation. Multiplicity of litigation enures to the benefit, unfortunately for the decree-holder, of those who seek to delay the fruits of a decree reaching those to whom the decree is meant. Constructive res judicata, in the same manner as the principles underlying res judicata, is intended to ensure that grounds of attack or defence in litigation must be taken in one of the same proceeding. A party which avoids doing so does it at its own peril. In deciding as to whether a matter might have been urged in the earlier proceedings, the court must ask itself as to whether it could have been urged. In deciding whether the matter ought to have been urged in the earlier proceedings, the court will have due regard to the ambit of the earlier proceedings and the nexus which the matter bears to the nature of the controversy. In holding that a matter ought to have been taken as a ground of attack or defence in the earlier proceedings, the court is indicating that the matter is of such a nature and character and bears such a connection with the controversy in the earlier case that the failure to raise it in that proceeding would debar the party from agitating it in the future.

(emphasis supplied)

27. While dealing with a Writ Petition challenging a previous judgement where similar reliefs had been denied, claiming that binding precedents were not taken into consideration, the Apex Court succinctly reiterated that the proper channel to challenge a judgement are through review or curative petition. The observations in **Satish Chander Sharma v. State of Himachal Pradesh** 2025 INSC 491 are extracted as under:

“30. Therefore, it is crystal clear that the present writ petition is thoroughly misconceived and is liable to be dismissed. However, before parting with the record, we



would like to emphasize and reiterate the principle of finality of an adjudication process. Finality of a lis is a core facet of a sound judicial system. Litigation which had concluded or had reached finality cannot be reopened. A litigant who is aggrieved by a decision rendered by this Court in a special leave petition or in a civil appeal arising therefrom can seek its review by invoking the review jurisdiction and thereafter through a curative petition. But such a decision cannot be assailed in a writ proceeding under Article 32 of the Constitution of India. If this is permitted, then there will be no finality and no end to litigation. There will be chaos in the administration of justice."

(emphasis supplied)

28. During the pendency of these proceedings, if at all, any triable issues existed, no steps were taken by appellant/plaintiff, whatsoever, to question the lease deed or raise any ground relating to the alleged fraud perpetrated upon him by the family members of late *Sh. Krishan Lal Gulati*.

29. It would also be apposite to assess the Eviction Order dated 18th May 2020, passed by the ACJ dismissing appellant's application seeking leave to defend. Amidst the objections which were raised by the appellant-respondent therein, was a denial that *Basant Lal Gulati*-petitioner therein, was 'neither the owner nor landlord of the premises' and that the compromise decree dated 22nd December 2017 *vide* which petitioner/*Basant Lal Gulati* claimed title was *sham* and *inadmissible* for want of registration and adequate stamp duty.

30. The ACJ notes that appellant had not stated, as to who is the owner and landlord of the tenanted premises in question, if not for the petitioner/*Basant Lal Gulati*, while admitting to the fact that he was



occupying the subject property in the capacity of a tenant. On the issue of settlement agreement and compromise decree being *sham* and *inadmissible*, ACJ made the following observations, noted as under:

“17.9...even if this argument of respondent is assumed to be true, yet the respondent fails to raise a triable issue on this aspect. The moot question being whether, the petitioner can maintain the present eviction petition, de hoars the compromise decree/settlement agreement. The answer to this is emphatically in affirmative. Even de hoars the settlement agreement/compromise decree, the petitioner is well within his right to maintain the present petition as he is the son of late Shri Krishnalal Gulati, who was the absolute owner/landlord of the property in question, which fact is not disputed by the respondent in his entire application for leave to defend and supporting affidavit. After the demise of late Shri Krishnalal Gulati on 30th December 2014, the petitioner stepped into the shoes of his late father as co-owner/ co-landlord, qua the tenanted premises/shop in question. It is well settled that one of the co-owners alone can file an eviction petition without impleading the other co-owners, provided the other co-owners do not object.”

(emphasis supplied)

The ACJ’s findings were not interfered with by the High Court, and subsequently by the Supreme Court.

31. Reliance placed by appellant/plaintiff on decisions and list of authorities are also not helpful and will not save the appellant/plaintiff from an order of dismissal. Cases cited by the appellant/plaintiff dealt with the following set of issues:

31.1 In ***Pasupuleti Venkateswarlu v. Motor & General Traders*** 1975 1 SCC 770 the issue before Supreme Court related to a revision petition filed against an eviction proceeding before the High Court.



The issue concerned whether, certain subsequent events such as, acquisition of a non-residential building by a landlord/plaintiff could be taken into account in order to deal with the plea of *bona fide* requirement.

31.2 In ***Hasmat Rai & Anr. v. Raghunath Prasad*** 1981 3 SCC 103 the issue before the Supreme Court was yet again, whether the Appellate Court could take cognizance of subsequent events showing that the landlord requirements had been met.

31.3 In ***Amarjit Singh v. Smt. Khatoon Quamarin*** 1986 4 SCC 736 as well, the issue was whether landlord had access to reasonably suitable accommodation, which had to be viewed with regard to providing habitat only and not comfort.

31.4 In ***Satyawati Sharma (Dead) by LRs v. UOI & Anr.*** 2008 5 SCC 287 Court dealt with the issue of validity of Section 14(1)(e) of DRC Act and the same was held to be violative of the doctrine of equality embodied in Article 14 of Constitution of India, 1950, in so far as it discriminated between the premises let out for residential and non-residential purposes and were required by the landlord for *bona fide* purposes.

32. The above decisions do not assist the appellant's/plaintiff's case by any stretch of imagination, since these all relate to legal issues which may arise during Eviction proceedings, which is not the case here.

33. Reliance on ***S.P. Chengal Varaya Naidu*** (*supra*) and ***Ram Chandra Singh*** (*supra*) is also not of any assistance to appellant/plaintiff. In ***S.P. Chengal Varaya Naidu***, the issue surrounded discovery of a vital document



at the stage of application for a final decree, which had previously not been disclosed, even while preliminary decree had been obtained. In this context, Court had held that the Trial Judge's finding that the preliminary decree had been obtained by fraud had to be accepted.

34. In **Ram Chandra Singh**, the issue arose out of an application filed in a partition suit claiming that the preliminary decree was collusive and fraudulent and the resulting final decree was, therefore, null and void. Said application was allowed, and Revision Petition filed before High Court modified the order. In the SLP filed before Apex Court, the final decree was held to be collusive and suffering from nullity, and therefore, matter was remanded back to High Court.

35. It is therefore, evident from the above, that issues were opened up in same proceedings in which orders had been passed, and not in parallel proceedings, seeking re-agitation of concluded decisions. The premise on which the suit has been filed is therefore, meritless and untenable.

36. This attempt of filing a suit for damages, dismissed by the impugned order, is yet another attempt to re-open the issue which, in the opinion of the Court, is highly vexatious, a *mala fide* attempt to abuse the process of law and to subvert concluded proceedings.

37. It is noted that appellant/plaintiff did not vacate the subject property, despite the orders of High Court. Further, even despite orders and undertaking before the Supreme Court, appellant/plaintiff did not vacate the subject property, on or before 31st August 2021. Notably, he had to be forcibly evicted by executing the decree through a bailiff on 10th September 2021, when possession was finally surrendered.



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38. It clearly shows that the appellant/plaintiff is habituated in abusing the process of court, with scant respect for concluded proceedings and their own undertaking furnished to the courts. Appellant/plaintiff, therefore, does not deserve any indulgence. This, aside from the fact that the appeal is, in any event, unmerited.

39. Accordingly, the appeal is dismissed.

40. Pending applications are also dismissed, as infructuous.

41. Judgement be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

**NITIN WASUDEO SAMBRE
(JUDGE)**

SEPTEMBER 24, 2025/sm/sp