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

+ RSA 177/2025, CM APPL. 69683/2025 (for stay)

TARUN TULI

.....Appellant

Through: Mr. Pawan Kumar Sharma, Adv.
versus

V.P NAHAR

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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10.11.2025

CM APPL. 69684/2025 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

RSA 177/2025

By way of the present regular second appeal filed under section 100 read with Order XLII of the Code of Civil Procedure 1908 ('CPC'), the appellant impugns judgment and decree dated 22.08.2025 passed by the learned first appellate court of the learned District Judge-03, East District, Karkardooma Courts, Delhi in RCA DJ No.52/2024 and judgement and decree dated 04.11.2024 passed by the learned Principal Magistrate JJB-VII, South-West District, Dwarka Courts, Delhi in suit bearing CS No. 6552/2016.

2. The genesis of the dispute between the parties is the respondent's demand (plaintiff in the suit) that the appellant (defendant in the suit) be directed to remove the alleged illegal encroachment made by the appellant on common areas by putting-up a gate in the service lane, and by blocking certain common areas with iron/bamboo poles, and by



keeping plants etc. to prevent of vehicles being parked in and around apartment bearing No. B-1G, Delhi Police Apartments, Mayur Vihar, Phase-I, Delhi.

3. By way of the impugned judgment and decree dated 04.11.2024, the learned trial court had directed the appellant to remove the illegal encroachments on the common areas as detailed in para 21 of its judgment, within 30 days, failing which the Municipal Corporation of Delhi was directed to take appropriate action for such removal.
4. *Vide* judgment dated 22.08.2025 passed by the learned first appellate court, the judgment and decree of the learned trial court has been upheld.
5. The court has heard Mr. Pawan Kumar Sharma, learned counsel appearing for the appellant in relation to the proposed questions of law set-out in the memo of appeal.
6. The proposed questions of law set-out read as follows :

“SUBSTANTIAL QUESTION OF LAW:-

A.) Whether if there is a serious question mark over the locus standi of the plaintiff, the suit of the plaintiff can be tried and decided without deciding locus standi of the plaintiff to file the suit?

B.) Whether during the trial, if once trial court raised the issue regarding the maintainability of the suit as well as locus standi of the plaintiff to file the suit, the court can proceed with the trial without deciding the question of the maintainability as well as the question of the Locus standi of the plaintiff?

C.) Whether the provision of order XX rule 1 CPC which laid down the law regarding the time frame for pronounce of the Judgment, gives any discretion to a civil court to pronounce the judgment beyond the 60 days from the day when the court reserved the Judgment and whether Provision of order XX rule 1 CPC gives any discretion to the civil court beyond the period of 60 days.



D.) Whether an area/land situated within the boundary of the residential group Housing Society shall be treated as public place for the non-resident of the society and whether any Civil suit for Injunction filed by the non-resident qua the use of the common area of the society is maintainable without impleading the Society as necessary party?

E.) Whether the trial court pass the judgment/decree only on the basis of presumptions, ignoring all the material facts and evidence on record is illegal or not?

F.) Whether court of law can ignore the basic principle of natural justice and condemn a party unheard?

G.) Whether the Ld. Trial Court as well as First Appellate Court have committed a serious error by giving a perverse finding which are contrary to the material available on record?"

7. Insofar as the question of *locus-standi* of the respondent to file the suit is concerned, it transpires that the respondent is the son of the registered owner of the apartment, and the respondent had inducted tenants in the flat; and his daughter and son-in-law were residing there.
8. In this view of the matter, the learned first appellate court has rejected the challenge as to *locus-standi* raised on behalf of the appellant in the following manner :

"26. The plea that the plaintiff was neither owner nor in possession and thus lacked cause of action is untenable. The plaintiff is the son of the registered owner, had inducted tenants in the subject flat, and his daughter and son-in-law resided there. Documents proved as Ex.PW1/1 till Ex.PW1/6 establish that he paid society charges and house tax. These facts cumulatively establish a direct and substantial interest in the enjoyment of the premises and its appurtenant common areas. The law does not insist that only the physical occupant and/or registered owner may sue. A person having a real interest in the occupancy may maintain an action to protect the rights of user of common areas when those rights are infringed. The defendant, having encroached upon the common area, cannot be heard to deny the standing of the son of the owner to complain. The subsequent order dated 13.01.2023 declaring the



plaintiff's brother to be the owner was not part of the trial record and cannot be looked into at the appellate stage. In any event, that order does not detract from the plaintiff's locus at the time of suit for protection of common-area rights."

9. Accordingly, the proposed questions of law at A and B above do not arise, inasmuch as on point of fact, and based on the evidence on record, the learned trial court has decided the question of *locus-standi* of the respondent as well as the maintainability of the suit at the hands of the respondent.
10. Insofar as the proposed question of law at C is concerned, a perusal of Order XX Rule 1 CPC would show that the prescription that a judgment ought to be pronounced within 30 days, and if that is not practicable, *"the Court shall fix a future day for the pronouncement of the judgment, and such date shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded"*, is clearly not a mandate to say that the civil court does not have the discretion to pronounce a judgment at all beyond the period of 60 days.
11. In this view of the matter the proposed question of law at C is, yet again, not a substantial question of law that requires to be decided by this court.
12. As far as the proposed question of law at D is concerned, the record shows that the Secretary of the Delhi Police Society had appeared as PW-2 and had deposed in favour of the respondent, whereby again the proposed question of law at D becomes irrelevant.
13. Besides, on a plain reading of the proposed questions of law at E, F and G, it is evident that these are questions that turn on the evidence that was led in the matter; and do not present any questions of law,



muchless any substantial questions of law that require consideration in the present second appeal.

14. In view thereof, this court finds no basis or justification to entertain the present second appeal, which is accordingly dismissed at the stage of issuance of notice itself.
15. Pending applications, if any, stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 10, 2025
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