



2025:DHC:9856-DB



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

Date of Decision: 11.11.2025

+ **FAO(OS) 138/2025 and CM APPL. 70058/2025**

BAPTIST CHURCH TRUST ASSOCIATION & ORS.

.....Appellants

**Through: Mr. Deeptakirti Verma & Ms.
Neha Sharma, Advs.**

versus

VINEET KUMAR & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. The Appellants in this matter (three associations/societies) filed a suit with the following prayers:-

“a) pass a decree of Possession in favour of the Plaintiffs and against the Defendants thereby directing the Defendants No. 1 and 2 to deliver and handover the actual, physical, vacant and peaceful possession of the Suit Property being a part of Property No. 19, Raj Niwas Marg, Civil Lines, Delhi, ad-measuring about 1724.41 squares meters clearly shown in Red Outline in Site Plant attached with the Plaint;

b) Pass a decree, in favour of the Plaintiffs and against the Defendants, for the arrears of damages which have accrued on the suit property for a sum of Rs.10,00,000/- per month from 18.10.2018 till the date of institution of the present suit amounting to Rs.1,30,00,000/- (Rupees One Crore Thirty Lacs Only).

c) Direct an inquiry as to the mesne profits/damages for the suit property for the period pendent-lite and from the date of decree till delivery of possession of the same to the Decree Holder with a notice of relinquishment of possession of the suit property by the Judgment Debtor with notice to the Decree Holder through Court;



d) Pass a final decree in respect of mesne profits/damages in accordance with the result of such inquiry. The plaintiffs undertakes to pay appropriate Court Fee on the basis of quantum of mesne profits found in respect of the suit property on the basis of the result of the inquiry directed by the Hon'ble Court;

e) award the costs of present pass a decree with costs in favour of the plaintiffs and against the defendants.

f) pass such further or others relief as this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case."

2. Common written submissions were filed by the Defendants No. 1 and 2.

3. The Appellants filed an application under Order XII Rule 6 of the Code of the Civil Procedure, 1908 [hereinafter referred to as "CPC"] for passing a decree, which has been dismissed by the learned Single Judge while making the following observations:-

"11. The recital which finds place in the GPA as reproduced by the plaintiffs is extracted as under:

"GENERAL POWER OF ATTORNEY"

Whereas Shri Sandeep Massey Is the Secretary of Society namely Kids Castle Convent Society, is registered under provisions of Registration Act 1960, vide Registration No. S/46330 of 2003, which is running at property bearing No. 19, area measuring 3200 sq. yds, situated at Raj Niwas Marg, Civil Line, Delhi, and the executants is holding rights, rights, title interests, claim, lien and incidental rights of occupation of the said bearing No. 19, area measuring 3200 sq. yds situated at Raj Niwas Marg, Civil Line, Delhi, as tenant.

And whereas a Court case is pending in the Hon'ble Court between me and the owner BCT A, therefore I am unable to manage the affairs of the said property and society, therefore my said attorney is hereby authorized as under:-"

12. Upon a perusal of the entire pleadings and the documents, the Court finds that at this stage no conclusive findings can be rendered. Even the very locus of the plaintiffs is assailed by the defendants, beside the ownership of the suit property. The aforesaid aspect goes to the root of the matter.



13. No doubt, the Court will have to adjudicate depending upon the oral and documentary evidence to be adduced by the parties, however, at this stage, on the basis of some recitals which have been made in the GPA, the power under Order XII Rule 6 of the CPC, cannot be invoked under the present circumstances.

14. The Court, however, deems it appropriate to leave the parties open to raise their contentions during the course of trial. Any observations made herein shall not be construed to be an expression on the merits of the case.”

4. The correctness of such order is impugned in the present Appeal.

5. We have heard learned counsel representing the Appellants at sufficient length.

6. On a Court question with regard to admission of the Defendants to the claim of the Plaintiff, the learned counsel representing the Appellants refers to a sentence in the General Power of Attorney (Annexure A-12) dated 11.11.2014, wherein it is stated that the Appellant No.1 is the owner of the property. He also relies upon the following judgments:-

(i) ***Maria Margarida Sequeira Fernandes and Ors. v. Erasmo Jack De Sequeira (Dead) Through LRs¹***; and

(ii) ***Charanjit Lal Mehra and Ors. v. Kamal Saroj Mahajan (Smt.) and Anr.²***

7. Order XII Rule 6 of the CPC enables the Court to pass a decree on the admission of the Defendants, particularly, when the Court comes to a conclusion that the parties are not at issue and the Court is not further required to adjudicate upon any dispute. Such enabling power is discretionary because the statute uses the word ‘may’.

¹ (2012) 5 SCC 370

² (2005) 11 SCC 279



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Before passing such decree, the Court is required to be absolutely certain that the parties are *ad-idem*.

8. In this case, the learned Single Judge has found that even *locus standi* of the Plaintiffs is questioned by the Defendants.

9. Moreover, it was found that the Court, at this stage, is not in a position to record any conclusive finding. In these circumstances, the conclusion drawn by the learned Single Judge appears to be a plausible view.

10. The judgment in *Maria Margarida Sequeira Fernandes (supra)* is not in context of Order XII Rule 6 of the CPC. The judgment in *Charanjit Lal Mehra and Ors. (supra)* is in the context of rent control and eviction. In the facts of the abovementioned case, the Court came to the conclusion that some part of the relief could be granted by the Court without putting the parties to a further trial.

11. The aforesaid judgment has been passed in a peculiar set of facts and does not, as a *ratio decidendi*, lay down that in every case, a decree in terms of the Order XII Rule 6 of the CPC be passed irrespective of there being no admission by the Defendants.

12. Hence, this Court finds no ground to interfere. The present Appeal, along with the pending application, is therefore dismissed.

ANIL KSHETARPAL, J.

RENU BHATNAGAR, J.

NOVEMBER 11, 2025/sp/kv