



\$~57

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

+ **RSA 180/2025**

M/S POPULAR DRINKS AND BAKERIESAppellant

Through: **Mr. Abhishek Singh, Advocate.**

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: **Mr. Sunder Khatri, Additional
Standing Counsel with Mr. Naman
Khatri and Mr. Ravi Grover,
Advocates for R-1.**

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

12.11.2025

CM APPL. 70622/2025 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

RSA 180/2025

By way of the present regular second appeal filed under section 100 of the Code of Civil Procedure 1908 ('CPC'), the appellant impugns judgment and decree dated 19.08.2025 passed by the learned Principal District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi in RCA DJ No.19/2023, whereby the learned first appellate court has dismissed the challenge to order



dated 27.10.2022 passed by the learned Senior Civil Judge-cum-Rent Controller, New Delhi District, Patiala House Courts, Delhi in suit bearing CS SCJ No.348/2019.

2. *Vidé* order dated 27.10.2022, the learned trial court had rejected the plaint filed by the appellant seeking the reliefs of possession, declaration, and mandatory and permanent injunctions on the ground under Order VII Rule 11(a) of the CPC, namely, that the plaint did not disclose any cause of action.
3. In this backdrop, the appellant has sought to raise the following proposed questions of law as set-out in para 2 of the memo of appeal:

“a) Whether the Courts below erred in law in rejecting the plaint under Order VII Rule 11(a) CPC on the ground that no cause of action was disclosed, without considering the long-standing, uninterrupted, and peaceful possession coupled with statutory recognition (house tax receipts and health licenses issued by NDMC)?

b) Whether the Courts below failed to consider that long-standing, uninterrupted, and peaceful possession coupled with statutory recognition (house tax receipts and health licenses issued by NDMC) creates enforceable possessory rights which cannot be disturbed except through due process of law?

c) Whether the Courts below erred in law in rejecting the suit for protection against illegal dispossession on the ground of absence of title, despite the settled principle that in cases of settled possession, proof of title is irrelevant, as held by the Hon’ble High Court of Delhi in RSA 118/2022, Saleem & Ors. v. Wahid Malik?

d) Whether the Courts below erred in ignoring the settled law that a person in settled possession cannot be dispossessed without recourse to law, as laid down in Rame Gowda vs. M. Varadappa Naidu (2004) 1 SCC 769?

e) Whether both the courts below erred in ignoring the settled law laid down by the Hon’ble Supreme Court in Gurdev Singh v. Harvinder Singh, [2022 LiveLaw (SC) 963], which



categorically holds that lack of entitlement to relief is not a ground for rejection of a plaint under Order VII Rule 11 CPC??

f) Whether the Courts below failed to apply the principle of legitimate expectation arising from NDMC's continuous acceptance of house tax and issuance of health licenses for decades in favour of the appellant?

g) Whether both the courts below have ignored the settled principle of law that "that a plaint cannot be rejected in its entirety merely because one of the prayers or reliefs sought is legally untenable, so long as other reliefs are maintainable and based on independent causes of action."

h) Whether both the courts below have ignored the settled principle of law that a plaint can (sic. cannot) be rejected under Order VII Rule 11 CPC when, on a plain reading of the averments as true, it discloses triable issues of fact such as the existence of possession and illegality of dispossession??"

4. At this point it is relevant to set-out the reliefs that were claimed in the plaint, which were as follows:

a) Pass a decree of declaration declaring all such unauthorized and illegal actions of the respondents as non-est null and void and upon the declaration, cancel such notices along with all other documents also which may have been passed subsequent thereto as null and void; and/or

b) Pass a decree of possession in favour of the Plaintiff and against the defendant's Nos. 1 to 3 for the delivery of the vacant and peaceful possession of the suit property after restoring it in its original form for the business purpose; and/or

c) Pass a decree of Permanent Injunction in favour of the Plaintiff and against the Defendant No. 1 to 3, their employees, servants, contractors, agents, attorneys etc. Directing them not to create any third-party interest in whatsoever manner with respect to the suit property; and/or

d) Pass a decree of Mandatory and perpetual Injunction in favour of the Plaintiff and against the Defendants No. 1 to 3, their employees, servants, contractors, agents, attorneys etc. directing



them to immediately remove all the barricades being kept around the suit property and also to remove notices being kept around the suit property as such barricades and the notices are completely unauthorised and illegal;

e) Any other order, relief or directions may also kindly be passed in favour of the Plaintiff and against the Defendant as the Hon'ble Court may deem fit, just and proper according to the facts and circumstances of the present case."

5. By way of the plaint, what the appellant had claimed was a decree of possession of the suit property, which property was a Kiosk situate at the Hindustan Petroleum Petrol Pump, near Ashoka Hotel, Niti Bagh, Chanakyapuri, New Delhi.
6. It is the admitted case, as set-out in the plaint, that the appellant had been ousted from possession of the kiosk by respondent No.2- Hindustan Petroleum Corporation Limited; and the appellant was seeking to be put back in possession of the kiosk.
7. However, neither in the plaint nor in response to the queries that were put to the appellant (plaintiff in the suit) in the course of the submissions before the learned trial court, was the appellant able to show any right, title or interest vesting in him, to be put back into possession of the kiosk.
8. In this backdrop, the learned trial court rejected the plaint observing as follows:

"12. Plaintiff has failed to show any document in its favour that creates right in plaintiff. Admittedly land belongs to defendant no. 3. There is no lease in favour of plaintiff or P.K. Chander Shekhar from whom they have alleged to derive the title in suit property. Reliance is made on GPA and partnership deed. There is no document to show any right in property in favour of plaintiff. Averments of plaintiff are vague and ambiguous, moreover not



supported by any legal right in their favour. Even if one consider their right as trespasser, then also present plaint is not under section 6 Specific Relief Act and not within time prescribed therein. Possessory rights are not recognised against the owner.

“13. In light of above discussion suit of plaintiff is rejected under Order VII Rule 11(a). All pending applications are disposed off not being pressed.”

9. Subsequent thereto, the learned first appellate court has also dismissed the first appeal filed by the appellant *inter-alia* with the following observations:

“15. The suit has been filed by the plaintiff by invoking the provisions of Code of Civil Procedure. The plaintiff is claiming her entitlement to the suit premise. Plaintiff is claiming that she derived her rights from P. K. Chander Sheikher to possess the kiosk in question by virtue of GPA dated 26.07.1988 and partnership deed dated 30.04.1977. There is settled legal position that no one can transfer a better title than he himself has. The basic question goes to the right and entitlement of P. K. Chander Sheikher with respect to the kiosk in question, but nothing has been placed on record to show that P. K. Chander Sheikher had any legal or civil right to occupy and possess the kiosk / suit premises. The payment of house tax by any person would not make him a rightful owner of the property.

“16. Even otherwise, GPA or partnership deed do not transfer any right or interest in the suit premise. From the pleadings set out by the plaintiff legal right to sue is not emerged so as to seek declaration and possession with respect to the suit premise. The general power of attorney issued by P. K. Chander Sheikher is for some specific purpose and any right with respect to the property has not been transferred in the name of the plaintiff. Even the partnership deed concerning the said kiosk does not give any right in favour of the plaintiff to seek declaration and possession with the respect to the kiosk/suit premises. Ld Sr. Civil Judge correctly observed that plaintiff has failed to show any document in her favour that would vest her with the right to claim declaration and possession with respect to the kiosk / suit premises.

* * * * *



*“18. With the aforesaid observations, I find no reason to interfere with the order of Ld. Senior Civil Judge dated 27.10.2022. The suit of the plaintiff has been rightly rejected for want of cause of action. **It is also important to note that plaintiff has not brought the present suit under the provisions of Specific Relief Act seeking possessory rights as also such suit is not maintainable against the respondents/ defendants, who are government entities.**”*

(emphasis supplied)

10. Furthermore, learned counsel for the appellant has drawn attention of this court to the copies of certain licenses issued by the NDMC in the favour of the appellant. He has also drawn attention to several challans, which evidence payment of license fee and house tax in relation to the kiosk, citing those challans as the basis of appellant's right to claim possession of the kiosk.
11. However, upon a conspectus of the foregoing, and based on the documents on record, and after considering the submissions made, this court is unable to discern any error in the judgments of the learned trial court or the learned first appellate court.
12. Insofar as the proposed questions of law set-out in para 2 of the memo of appeal are concerned, this court is of the view that those questions are wholly misconceived inasmuch as they refer to a situation where a person is seeking protection against illegal dispossession. However, the appellant in the instant case had already been dispossessed from the kiosk and the essence of the claim in the plaint was for the appellant to be put back in possession of the kiosk.



13. As a sequitur to the above, this court is unable to discern any question of law, much less any substantial question of law, that arises in the present second appeal.
14. The appeal is accordingly dismissed at the stage of issuance of notice itself.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 12, 2025/ak