



2025:DHC:11289-DB



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

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*Judgment reserved on: 03.12.2025**Judgment pronounced on: 15.12.2025**Judgment uploaded on: 15.12.2025*

+ FAO(OS) 151/2025, CM APPL. 75934/2025, CM APPL. 75935/2025, CM APPL. 75936/2025 and CM APPL. 75937/2025

ANU (SINCE DECEASED) THRU LR .....Appellant

Through: Mr. Anuj Gupta, Adv.

versus

SURESH VERMA (SINCE DECEASED THROUGH LRS) &  
ORS. ....Respondents

Through:

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN  
SHANKAR**

### **J U D G M E N T**

#### **ANIL KSHETARPAL, J.**

1. The present Appeal, filed by the Appellant, assails the correctness of order dated 11.09.2025 [hereinafter referred to as 'Impugned Order'] passed by the learned Single Judge declining the Appellant's [Plaintiff before the learned Single Judge] prayer for a decree under Order XII Rule 6 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] in a partition action. The Appellant/Plaintiff seeks a decree for partition and also for recovery of her alleged share in the rental income from certain properties which she claims form part of the intestate estate of her parents, late Sh. Om Prakash Verma and late Smt. Chandra Wati.

2. The Appeal raises a narrow question, whether the pleadings disclose such clear and unequivocal admissions as would entitle the

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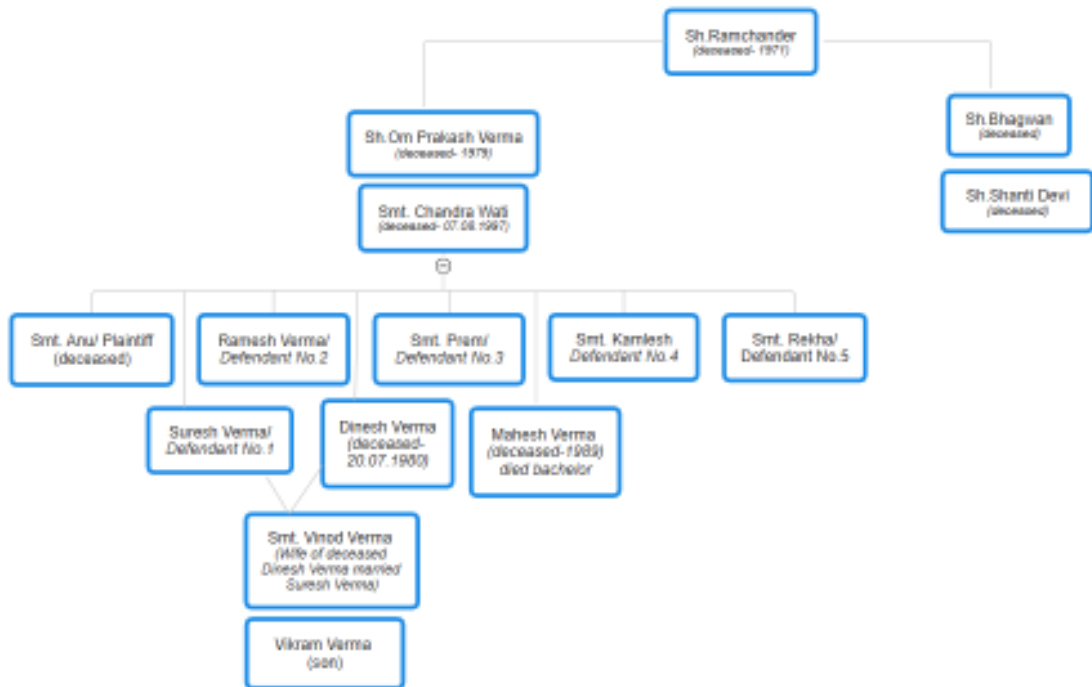


Appellant/Plaintiff to a decree under Order XII Rule 6 of the CPC, or whether substantial factual disputes persist which necessarily require adjudication upon evidence.

### **FACTUAL MATRIX**

3. In order to appreciate the controversy involved, it is necessary to briefly notice the relevant facts. For the sake of convenience, the parties are being referred to as they were arrayed before the learned Single Judge.

4. The genealogy relied upon by the Plaintiff, as pleaded in the Plaint, reads as under:



5. The Plaintiff originally instituted the suit seeking partition of seven immovable properties. However, during the course of the proceedings, she confined her claim to three properties situated in



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Raghubarpura, Gandhi Nagar, Delhi, bearing Nos. X/2302, X/61–87, and X/453 [hereinafter referred to as ‘suit properties’].

6. The Plaintiff asserts that property No. X/61–87 is a built-up plot admeasuring 250 sq. yards, whereas the Defendants dispute this and contend that the total area is 165 sq. yards.

7. It is the further case of the Plaintiff that the Defendants occupy a residential portion of property No. X/2302, and that the remaining portions of the suit properties generate an aggregate rental income of approximately Rs. 2.5 lakhs per month, in which she claims a 1/6th share. The Defendants dispute the quantum of rent.

8. A further controversy concerns succession to the estate of late Sh. Om Prakash Verma and late Smt. Chandra Wati. The Plaintiff asserts herself to be one of their six heirs. The family, however, comprises eight children, and the parties are at issue regarding the status of late Sh. Dinesh Verma. According to the Plaintiff, Dinesh Verma died childless in 1980 and his widow, Smt. Vinod Verma, subsequently remarried Sh. Suresh Verma. The Defendants, on the other hand, assert that Sh. Vikram Verma is the son of late Sh. Dinesh Verma, though he has not been impleaded. This alleged heirship dispute has remained unresolved at the stage of the Impugned Order.

### **PROCEDURAL HISTORY BEFORE THE LEARNED SINGLE JUDGE**

9. On 16.04.2015, the learned Single Judge framed the following issues:

*i. Whether the Properties given in the schedule of properties as filed by plaintiff No. 1 along with plaint are liable to be partitioned? If yes.*

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*which all properties and in what share(s) to each of the parties to the suit? OPP*

*ii. Whether the plaintiff is entitled to the relief of mandatory injunction in terms of prayer (3)? OPP*

*iii. Whether on the basis of oral family settlement and oral partition, the properties namely (i) X/2302, Raghupura. Gandhi Nagar, Delhi came to the share of defendant No. 1 & 2 to the exclusion of other parties to the suit? OPD-1 & OPD-2*

*iv. Whether the properties bearing Nos. (i) G-20, South Extension Market, Part-1, New Delhi (ii) X-62-69, Raghupura, Gandhi Nagar, Delhi and (iii) J-6, Ground Floor, Jyoti Nagar (West) Delhi-110094 cannot be the subject matter of a partition suit since it is barred by Section 4 of Benami Transaction (Prohibition) Act 1988? OPD-1 & OPD-2*

*v. Whether the properties mentioned in para 5 of the amended written statements of defendant Nos. 1 & 2 be also partitioned between the parties to the present suit? If yes, in what share(s) to each of the parties to the present suit?*

10. By order dated 17.12.2015, wherein the learned Single Judge examined the above-framed issues, it was observed that the Plaintiff did not contain the requisite averments regarding the title documents under which late Sh. Om Prakash Verma and late Smt. Chandra Wati had acquired ownership of the properties covered under Issue No.4. It was noted that the Defendants had filed documents showing that these properties were not in the names of the parents of the Plaintiff. Consequently, Issue No.4 was deleted, and since Issue No.5 had been framed only as a counter-blast for the benefit of the defendants, Issue No.5 was also deleted. The order held that the Plaintiff had failed to lay any factual foundation demonstrating that the suit properties were part of the estate of her deceased parents, thereby negating her claim in respect of those properties. The findings recorded therein have attained finality as they were not challenged.



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11. In the same order, the learned Single Judge recorded the Plaintiff's statement that the first property mentioned in Issue No.4. i.e., G-20, South Extension Market, Part-I, New Delhi-110049, had been a tenancy under the Plaintiff's father under the Delhi Rent Control Act, 1958. This position was disputed by the Defendants. In view of the deletion of Issue Nos. 4 and 5, the Court granted liberty to the Plaintiff to pursue her rights in accordance with law with respect to this tenancy-related claim regarding property G-20, South Extension Market, Part-I.

12. The order further clarified that all interim orders passed with respect to the properties covered under Issue Nos. 4 and 5 stood vacated. The matter was directed to proceed to trial, and the parties were directed to file their list of witnesses within six weeks. The application under Order XII Rule 6 of the CPC was disposed of as not pressed, with liberty to urge all issues at the stage of final arguments. The stay application was disposed of by confirming the interim order dated 12.07.2011, except for the properties deleted pursuant to the determination of Issue Nos. 4 and 5. Lastly, it was directed that with respect to the 1/6th share of income received by the Defendants from properties which at any stage had been owned by the parents of the Plaintiff, the concerned Defendants would keep such amounts separately, file an annual statement of account in Court, and maintain the amounts either in a specific bank account or with a financial institution, including by placing them in a fixed deposit. The order expressly stated that nothing contained therein was a reflection on the merits of the case.

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13. As regards Issue No. 3, relating to the alleged oral family settlement, the onus was placed on the Defendants, and they were called upon to lead evidence. Thereafter, while moving I.A. No.36427/2014, the Defendants themselves made the following statement:

*4. In view of the fact, this Hon'ble Court vide order dated 17.12.2015 determined the issue Nos. 4 & 5 and held that these issues are no longer within the purview of the present suit therefore, both the issue nos.4 and 5 stand deleted. Therefore, the onus to proof of the preliminary issues also gets discharged. As far as the issue no. 3 is concerned, the onus to proof this issue is affected on defendant, however, it is settled that partition can also be affected under a settlement or oral understanding. Be that as it may, the defendants are not pressing upon this issue, i.e. issue no.03.*

Accordingly, the defendants unequivocally abandoned the plea of an alleged oral family settlement.

14. Subsequently, in the year 2024, the Defendants placed on record affidavits dated 09.02.2024 along with two registered Relinquishment Deeds dated 09.10.2020 pertaining to properties bearing Nos. X/2302 and X/453. By filing I.A. No.36427/2024 under Section 151 of the CPC, the Defendants stated that since Issues No.4 and 5 already stood deleted by the order dated 17.12.2015, and as they were '*not pressing upon Issue No.03*', the Plaintiff ought to be directed to lead evidence first. Shortly thereafter, the Plaintiff moved I.A. No.42971/2024 under Order XII Rule 6 of the CPC seeking a decree on the basis of the assertion that the pleadings contained clear admissions regarding:

- i. the identity and nature of the suit properties,
- ii. her 1/6th share, and



iii. entitlement to rental receipts.

The Defendants opposed the said application, contending that the withdrawal of the plea of an oral family settlement did not obviate the need for a full trial. They argued that substantial disputes remained regarding title, area of the suit properties, entitlement to shares, the question of succession, and the quantum of rental income. Further, it was submitted that the Relinquishment Deeds dated 09.10.2020 could not, by themselves, furnish the foundation for a decree of partition in favour of the Plaintiff, particularly in light of the earlier order dated 17.12.2015, wherein the learned Single Judge had categorically held that the Plaintiff must independently plead and prove how her parents acquired title to the suit properties. The Defendants contended that the Relinquishment Deeds were executed in a different context, and their legal effect, if any, was a matter requiring adjudication; they could not remedy the fundamental absence of pleadings regarding title.

### **CONSIDERATION BY THE LEARNED SINGLE JUDGE**

15. The learned Single Judge considered the rival submissions and, by the Impugned Order dated 11.09.2025, declined to exercise discretion under Order XII Rule 6 of the CPC. The Court relied on paragraphs 5-6 of the Order dated 17.12.2015 and recorded that “the plaintiff has to succeed on his own feet.” It was observed that the Plaint did not contain the essential averments regarding the title documents under which late Sh. Om Prakash Verma or late Smt. Chandra Wati had acquired ownership of the suit properties, and that such omission was fatal at the stage of considering a decree on



admissions. Further, the affidavits dated 09.02.2024 and the Relinquishment Deeds dated 09.10.2020 raised questions as to their legal effect and enforceability which could legitimately be adjudicated in the course of the trial. Accordingly, the Court declined to grant the Plaintiff's prayer for a summary decree; disposed of the application, and reserved the rights of the parties to be adjudicated once evidence was led.

## **16. CONTENTIONS OF THE APPELLANT**

Learned counsel for the Appellant contended that the Impugned Order dated 11.09.2025 is legally unsustainable for the following reasons:

16.1 That the pleadings and documents on record, including the Amended Written Statement, affidavits dated 09.02.2024, and registered Relinquishment Deeds dated 09.10.2020, contain clear and unequivocal admissions by the Defendants regarding parental ownership of the suit properties, the status of all legal heirs, and the Appellant's entitlement to her 1/6th share.

16.2 That in a partition suit, proof of title by any co-heir is binding on all other co-heirs, and since the Defendants themselves have admitted ownership, the Appellant is entitled to rely on such admissions for seeking a decree under Order XII Rule 6 of the CPC.

16.3 That the Impugned Order misapplied the principle that the Plaintiff must "succeed on her own feet," by requiring independent proof of title and ownership despite these admissions.



16.4 That the Defendants, having abandoned their sole defence of oral family settlement and not leading any evidence for nearly nine years, cannot be permitted to delay proceedings or resist a summary decree where no genuine factual disputes remain regarding title, shares, or rental income.

### **ANALYSIS & FINDINGS**

17. This Court has carefully perused the material on record. It is observed that material facts remained seriously disputed, particularly with respect to:

- i. the size and description of property X/61–87;
- ii. the existence and extent of rental income;
- iii. the shares of the parties, including the status of alleged heir Sh. Vikram Verma (son of pre-deceased son);
- iv. occupation of portions of X/2302;
- v. admitted or disputed nature of the properties sought to be partitioned.

18. It is well-settled that for a decree under Order XII Rule 6 of the CPC, the admissions relied upon must be unequivocal, unambiguous, and unconditional. The parties must be *ad idem*, and the Court is required to come to a conclusion that the parties are not at issue on any point. The Court must also be satisfied that no substantial issue of fact or law survives for adjudication. In the present case, there is, in fact, a fundamental lack of clarity even regarding what constitutes the suit property and what the Plaintiff's precise share is.



19. The record discloses a lack of consensus on foundational aspects of the suit. The parties are not *ad idem* even as to the identity, extent, and nature of the suit properties, or on the quantum of rent alleged to be received. The suit itself was originally instituted in respect of seven properties but was substantially pruned to three. Disputes which continue to persist with regard to those three properties.

20. Partition suits, by their very nature, require a complete examination of title, boundaries, possession, and shares. Such questions are not amenable to summary adjudication unless admitted without reservation. In these circumstances, the learned Single Judge correctly concluded that the matter did not satisfy the threshold for a decree under Order XII Rule 6 of the CPC. This Court finds no reason to take a different view.

21. In the considered view of this Court, the Appellant has not been able to demonstrate that the pleadings contain any clear, unequivocal and unqualified admissions that would entitle her to a decree. The inconsistencies in the description of property extents, unresolved claims regarding rental receipts, and the contest about the number of heirs, all weigh against such relief.

22. This Court is therefore satisfied that substantial factual disputes remain, necessitating a full trial unless otherwise resolved in accordance with procedural law.

23. Nonetheless, the peculiar circumstances of the case warrant permitting the Appellant to file a more detailed and specific



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application under Order XII Rule 6 of the CPC, if she is able to identify any specific, unambiguous admissions forming the basis for such relief.

### **CONCLUSION**

24. In light of the foregoing discussion, the present Appeal is dismissed. However, in the interests of justice and without expressing any opinion on the merits of such application, the Appellant is granted liberty to file a comprehensive application under Order XII Rule 6 of the CPC, clearly setting out:

- i. the precise size and description of each suit property,
- ii. the basis for her claimed share, and
- iii. the quantum and source of alleged rental income.

25. If such an application is filed, the learned Single Judge shall consider and adjudicate it on its own merits after granting due opportunity to the Respondents.

26. All pending applications stand closed.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**DECEMBER 15, 2025**

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