

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17668 OF 2024

Mohan Gangaram Narang,
Age 82 Years, Occupation Not Known,
Residing at A-1/62/2, A1 Type Apartment
Owners Association, Sector 21, Turbhe, Navi
Mumbai – 400 706. Currently residing at
Room No. 03, Old Barrack, T-105, Gandhi
Market, Near B.M.C. School, Chembur
Camp,
Chembur, Mumbai.

...Petitioner

Versus

1) City and Industrial Development
Corporation Ltd (CIDCO)
Through Its Chief Managing Director,
Having its Corporate Office at Nirmal
Building
No.2, Nariman Point, Mumbai – 400 021.

2) City and Industrial Development
Corporation Ltd, (CIDCO),
Through, its Estate Manager,
Having its office at CIDCO Bhavan,
C.B.D. Belapur, Navi Mumbai – 400 614.

3) The Secretary,
A-1 Type Apartment Owners Association,
Phase-I B-Row, Sector-21, Turbhe,
Navi Mumbai- 400 705.

4) Rajaram Ramdeo Jaiswar,
An Adult, Occupation – Retired,
Residing at NL-1B, L.I.G. 12/07, Shatkar
Apartment Owners Association,
Sector -10, Nerul, Navi Mumbai – 400 706.

5) Vivek Rajesh Agarwal,
An Adult, Occupation – Not Known,
Residing at JN-1/44/A, Flat No. A-3,
Sector – 09, Near Shabri Hotel,
Sector -15, Vashi, Navi Mumbai – 400 703. ...Respondents

Mr. Harshad Rajeshirke, with Nikhil Rajeshirke, Saurabh
Rajeshirke and Tejasvi Salvi, for the Petitioner.

Mr. Soham Bhalerao, i/b DSK Legal, for Respondent No.1-
CIDCO.

Mr. Nilesh S Bagade, for Respondent No.4.

Mr. Rajaram Jaiswar, for Respondent No.7.

CORAM: N. J. JAMADAR, J.

RESERVED ON : 3rd DECEMBER 2025

PRONOUNCED ON : 26th FEBRUARY, 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith. With the consent of the learned Counsel for the parties heard finally.

2. This Petition under Article 226 of the Constitution of India assails the legality, propriety and correctness of an order dated 12th September 2024 passed by the learned Civil Judge, Thane, on an Application (Exhibit 19) in RCS No. 240 of 2023, whereby the said Application preferred by the Petitioner-Plaintiff for a judgment on admission under Order XII Rule 6 of the Code of Civil Procedure, 1908 (“the Code”), came to be rejected.

3. Shorn of unnecessary details the background facts can be stated as under:

3.1 For the sake of convenience and clarity the parties are hereinter referred to in the capacity in which they are arrayed in the Suit.

3.2 The Plaintiff is the original allottee of a tenement, bearing No. A-1/62/2, Sector 21, Turbhe, Navi Mumbai (“the suit premises”), developed by CIDCO (D1). The Plaintiff has been in lawful possession and occupation of the suit premises. Occupants of the building formed a society, A-1 Type Apartment Owners Association (D3).

3.3 The Plaintiff asserts, Defendant Nos. 4 and 5 with intent to defraud the Plaintiff, prepared false and forged documents. Defendant No. 3- society on the basis of such false and forged documents, issued a NOC for registration of the Deed of Apartment. On the basis of such forged document and NOC, Defendant Nos. 4 and 5 applied to CIDCO (D1) for registration of the Deed of Apartment. Somebody impersonated the Plaintiff and a false and forged Deed of Apartment dated 10th October 2016, was got executed and registered. On the strength of the said Deed of Apartment dated 10th October 2016, Defendant Nos. 4 and 5 executed another forged Conveyance Deed dated 30th November 2016, by making somebody impersonate Plaintiff

before the Registrar of Assurances. Under the said Conveyance Deed the suit premises was fraudulently transferred in favour of Defendant No.4. The Deed of Apartment and the Conveyance Deed are thus not binding upon the Plaintiff.

3.4 As the fraud was unearthed, the CIDCO (D1) revoked the NOC and permission to sell. Vide letter dated 14th February 2017, the CIDCO (D1) noted that an impersonator has forged all the ID proof documents, and deceived all the Authorities. CIDCO (D1) thus cancelled the instruments which were registered with the Registrar. However, the Plaintiff was advised that since the documents have been registered, the same could be cancelled only through the orders of the competent Civil Court.

3.5 The Plaintiff has thus instituted a suit seeking a declaration that Deed of Apartment dated 10th October 2016 and 30th November 2016 in respect of the suit premises are false, fabricated and bad-in-law and null and void, and those Deeds of Apartment are not binding upon the Plaintiff and the consequential relief of injunction.

3.6 Defendant No. 4, in whose favour the Deed of Apartment/Conveyance Deed dated 30th November 2016 has

been executed, has appeared before the Court and contested the suit by filing Written Statement.

3.7 The Plaintiff took out an Application for a decree on admission under Order XII Rule 6 of the Code, asserting *inter alia* that the suit has proceeded ex parte against rest of the Defendants. Only Defendant No. 4 has professed to contest the suit by filing Written Statement. In the said Writ Statement, Defendant No. 4, has, however, made clear and categorical admissions, especially in paragraph 22(j) and (m) of the Written Statement to the effect that the Plaintiff is the real owner of the suit property and Defendant No. 4 had purchased the suit property from an impersonator of the Plaintiff. In view of such clear and explicit admissions, there was no propriety in proceeding further with the suit and, thus, a decree on admission be passed.

3.8 Defendant No. 4 resisted the Application.

3.9 After hearing the parties and appraisal of the contentions in the Written Statement, which allegedly contain admission of the claim of the Plaintiff, the learned Civil Judge was persuaded to reject the Application. The learned Civil Judge was of the view that to pass a decree on admission under Order XII Rule 6 of

the Code, the admission must be clear, unambiguous and unconditional. In the case at hand, in the opinion of the Civil Judge, there was no clear admission of the Plaintiff's claim by Defendant No. 4 in his Written Statement.

3.10 The contention that Defendant No. 4 was deceived by an impersonator, was referable to the knowledge which the Defendant gained after enquiry. The Plaintiff has made allegations against the Defendant No.4 that Defendant No. 4 has forged the documents, and there was no admission in relation to the said contention. Thus, a decree on admission cannot be passed.

4. I have heard Mr. Harshad Rajeshirke, the learned Counsel for the Petitioner, and Nilesh S. Bagade, the learned Counsel for Respondent No. 4 and Mr. Soham Bhalerao, the learned Counsel for CIDCO (R1). With the assistance of the learned Counsel for the parties, I have also perused the material on record, especially the pleadings of the parties.

5. Mr. Rajeshirke, the learned Counsel for the Petitioner, submitted that the learned Civil Judge committed a manifest error in declining to pass a decree on admission by taking an erroneous view that there was no clear, unambiguous and

unconditional admission. Taking the Court through the contentions in the Written Statement, especially paragraph 22 (j) and 22(m), Mr Rajeshirke would urge that, the contentions in the Written Statement constitute an unequivocal admission by Defendant No.4. The learned Civil Judge was not at all justified in brushing aside the admission in pleadings, which stand on a higher footing.

6. The refusal to exercise the discretion to pass a decree on admission in the circumstances of the case caused prejudice to the Plaintiff, who is above 80 years of age. No fruitful purpose would be served by proceeding with the suit, in the face of such clear and explicit admission. The learned Civil Judge did not keep in view the object of the provision which empowers the Court to pass a decree on admission, urged Mr. Rajeshirke.

7. Mr Rajeshirke would submit that the attendant circumstances also substantiate the claim of the Plaintiff. Defendant No.3-society has withdrawn the NOC by addressing a communication dated 19th December 2016. The society was deceived into issuing the NOC by tendering false and forged documents. Secondly, the instrument of Deed of Apartment/Conveyance, squarely militates against the bona fide

of the claim of Defendant No.4. Emphasis was laid on the fact that under the Conveyance Deed dated 30th November 2016, Defendant No. 4 had allegedly paid the consideration of Rs.10 Lakhs, somewhere in the year 1998 towards full and final sale price. This recital in the Conveyance Deed regarding the payment of consideration prior to 18 years, indicates the falsity of the claim of Defendant No.4 that he was a bona fide purchaser for value without notice and thus a victim of fraud allegedly played by the impersonator of the Plaintiff.

8. In opposition to this Mr. Bagade, the learned Counsel for the Respondent No.4 stoutly supported the impugned order. It was contended that in the Written Statement, Defendant No. 4 has nowhere admitted that the Plaintiff is the real owner of the suit premises and the instrument in question are forged. What the Defendant No.4 has contended is that Defendant Nos. 1 and 2 had apprised him about the allegations of the Plaintiff. Therefore, the contentions in paragraph 22(j) and (m) of the Written Statement, which are referable to someone else's knowledge and understanding, cannot be considered as admission, by the Defendant No.4.

9. On the contrary, Mr Bagade would urge, Defendant No.4 has categorically denied the case set up by the Plaintiff. In substance, there was no clear admission, and the contentions in the Written Statement especially paragraph 22(j) and (m) were based on narration of facts by other persons. It was further submitted that, whether Defendant No. 4 has been deceived by the Plaintiff or the alleged impersonator is required to be adjudicated at the trial. Therefore, the impugned order does not warrant any interference in exercise of the supervisory jurisdiction.

10. To appreciate the aforesaid submissions in a correct perspective, at the threshold, it may be apposite to extract the contentions in paragraphs 22(j) and 22(m) of the written statement filed by the defendant No.4, which the plaintiff claims contain the admissions on the strength of which a decree can be passed. They read as under:

“22(j) When the Defendant No.4 tried to enquire with the officials of the Defendant Nos. 1 and 2 about the suit premises, he came to know that the Plaintiff approached the Defendant Nos. 1, 2 and 3 and requested for the cancellation of Deed of Apartments/Conveyance Deed, dated 10/10/2016 and 30/11/2016. Further the Defendant No. 4 also came to know that the person from whom he purchased the suit premises is not the real owner of the suit premises and the Plaintiff is the Real Owner of the suit premises. He also came to know that the Plaintiff is the real Mr. Mohan Gangaram Narang and the one from whom he purchased The Suit Premises is impersonator of Mr. Mohan Gangaram Narang.

22(m) The Defendant No. 4 is an old aged person and paid the amount of Total Consideration out of his retirement money and savings. He suffered huge financial losses from the said transaction and he is getting punished for no fault on his part. The Defendant No.4 acted in good faith throughout the transaction and been cheated/deceived by the Defendant No. 5 and the impersonator of Mr. Mohan Gangaram Narang. The Defendant No. 4 is the victim of the negligence of the Plaintiff and the Defendant Nos. 1, 2 and 3.”

11. It would be immediately necessary to note the reasons which dissuaded the learned Civil Judge from exercising the discretion to pass a decree on the basis of aforesaid purported admissions. The learned Civil Judge was of the view that there was no clear admission. Secondly, on the basis of the fact that the defendant came to know about the real owner of the suit property and an impersonator of the plaintiff sold the suit property, an inference of admission cannot be drawn and suit decreed. Thirdly, the plaintiff has made various allegations against defendant No.4 including that, defendant No.4 has forged the instruments and, thus, it would be appropriate not to exercise the discretion as those issues need to be adjudicated on the basis of evidence.

12. Whether the aforesaid approach of the learned Civil Judge is justified? Or, the discretion not to pass the decree on admission requires correction?

13. Before exploring an answer to the aforesaid question, the contours of the power to pass a judgment on admission deserve to be kept in view. Order XII Rule 6 of the Code reads as under:

“Order XII Rule 6. Judgment on admissions.—

(1) Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question-between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

14. The text of sub-rule (1) of Rule 6 of Order XII, on its plain reading, makes it abundantly clear that, the legislature has designedly conferred jurisdiction on the Court to pass a judgment on admission. The phraseology underscores that the source of admission is not of material significance. Firstly, the admissions can be found either in the pleadings or otherwise. Secondly, the insistence for admission being in writing is done away with. The admission may be oral or in writing. Thirdly, the stage of the suit does not matter. The Code expressly empowers the Court to pass judgment on admission at any stage of the suit. The said aspect is further reinforced by the words *“without waiting for the determination of any other question between the*

parties". Fourthly, the party, in whose favour the admission is made, need not apply. The Court, on its own motion, can pass a judgment on admission if it comes to the conclusion that the claim or part of the claim of one party is admitted by the other. Lastly, the exercise of the said power is undoubtedly discretionary. But, in view of the wide ambit and unhinged nature of the powers conferred on the Court to pass a judgment on admission, the Court may not be justified in refusing the relief where a case falls within the four corners of the said provision. The Court is required to be alive to the object of the provisions namely to give an expeditious relief to a party when its claim is admitted by the adversary.

15. A profitable reference, in this context, can be made to the judgment of the Supreme Court in the case of ***Uttam Singh Duggal & Co. Ltd. Vs. United Bank of India & Ors.***¹, wherein the object of the aforesaid rule was expounded and the approach expected of the Court was delineated, in the following words :

"12 As to the object of the Order 12 Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said rule, it is stated that where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled. We should not unduly narrow down the meaning of

1 (2000) 7 SCC 120

this Rule as the object is to enable a party to obtain speedy judgment. Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission to succeed.”

(emphasis supplied)

16. The aforesaid pronouncement was followed by the Supreme Court in the case of *Karam Kapahi & Others Vs. Lal Chand Public Charitable Trust* ². The Supreme Court traced the historical backdrop of the said provision, including the amendment introduced therein by the Amendment Act, 1976, pursuant to the recommendations of the Law Commission, and instructively enunciated the true nature and import of the said provision. The observations of the Court are as under :

“37. The principles behind Order 12 Rule 6 are to give the plaintiff a right to speedy judgment. Under this Rule either party may get rid of so much of the rival claims about ‘which there is no controversy’ [See the dictum of Lord Jessel, the Master of Rolls, in Thorp versus Holdsworth in (1876) 3 Chancery Division 637 at 640].

38. In this connection, it may be noted that order 12 Rule 6 was amended by the Amendment Act of 1976. Prior to amendment the Rule read thus:-

"6. Judgment on admissions. - Any party may, at any stage of a suit, where admissions of facts have been made, either on pleadings or otherwise, apply to the Court for such judgment or order as upon such admission he may be entitled to, without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment, as the Court may think just."

39. In the 54th Law Commission Report, an amendment was suggested to enable the Court to give a judgment not only on the application of a party but on its own motion. It is thus clear that the amendment was brought about to further the ends of

justice and give these provisions a wider sweep by empowering judges to use it `ex debito justitiae, a Latin term, meaning a debt of justice. In our opinion the thrust of the amendment is that in an appropriate case, a party, on the admission of the other party, can press for judgment, as a matter of legal right. However, the Court always retains its discretion in the matter of pronouncing judgment.

40. If the provision of order 12 Rule 1 is compared with Order 12 Rule 6, it becomes clear that the provision of Order 12 Rule 6 is wider in as much as the provision of order 12 Rule 1 is limited to admission by 'pleading or otherwise in writing' but in Order 12 Rule 6 the expression 'or otherwise' is much wider in view of the words used therein namely: 'admission of fact.....either in the pleading or otherwise, whether orally or in writing'.

41. Keeping the width of this provision in mind this Court held that under this rule admissions can be inferred from facts and circumstances of the case [See Charanjit Lal Mehra and others v. Kamal Saroj Mahajan (Smt.) and another, (2005) 11 SCC 279 at page 285 (para 8)]. Admissions in answer to interrogatories are also covered under this Rule [See Mulla's commentary on the Code, 16th Edition, Volume II, page 2177].

42. In the case of Uttam Singh Duggal & Co. Ltd., v. United Bank of India and others, (2000) 7 SCC 120, this Court, while construing this provision, held that the Court should not unduly narrow down its application as the object is to enable a party to obtain speedy judgment.

43. In that case it was contended on behalf of the appellant, Uttam Singh Duggal, that:

(a) Admissions under Order 12 Rule 6 should only be those which are made in the pleadings.

(b) The admissions would in any case have to be read along with the first proviso to Order 8 Rule 5 (1) of the Code and the Court may call upon the party relying on such admission to prove its case independently.

(c) The expression 'either in pleadings or otherwise' should be interpreted ejusdem generis. [See para 11, pages 126-127 of the report]

Almost similar contentions have been raised on behalf of the Club. In Uttam Singh (supra) those contentions were rejected and this Court opined no effort should be made to narrow down the ambit of Order 12 Rule 6.

44. In Uttam Singh (supra) this Court made a distinction between a suit just between the parties and a suit relating to Specific Relief Act where a declaration of status is given which not only binds the parties but also binds generations. The Court held such a declaration may be given merely on admission (para 16, page 128 of the report). But in a situation

like the present one where the controversy is between the parties on an admission of non-payment of rent, judgment can be rendered on admission by Court.

45. Order 12 Rule 6 of the Code has been very lucidly discussed and succinctly interpreted in a Division Bench judgment of Madhya Pradesh High Court in Shikharchand v. Bari Bai reported in AIR 1974 Madhya Pradesh 75. Justice G.P. Singh (as His Lordship then was) in a concurring judgment explained the aforesaid rule, if we may say so, very authoritatively at page 79 of the report. His Lordship held : (AIR para 19)

“... I will only add a few words of my own. Rule 6 of Order 12 of the Code of civil Procedure corresponds to Rule 5 of Order 32 of the Supreme Court Rules (English), now rule 3 of Order 27, and is almost identically worded (see Annual Practice 1965 edition Part I. p. 569). The Supreme Court Rule came up for consideration in *Ellis v. Allen* (1914) Ch 904. In that case a suit was filed for ejectment, mesne profits and damages on the ground of breach of covenant against sub-letting.

Lessee's solicitors wrote to the plaintiff's solicitors in which fact of breach of covenant was admitted and a case was sought to be made out for relief against forfeiture. This letter was used as an admission under rule 5 and as there was no substance in the plea of relief against forfeiture, the suit was decreed for ejectment under that rule. Sargant, J. rejected the argument that the rule is confined to admissions made in pleadings or under rules 1 to 4 in the same order (same as ours) and said:

"The rule applies wherever there is a clear admission of facts in the face of which it is impossible for the party making it to succeed."

Rule 6 of Order 12, in my opinion, must bear the same construction as was put upon the corresponding English rule by Sargent, J. The words "either on the pleadings or otherwise" in rule 6 enable us not only to see the admissions made in pleadings or under Rules 1 to 4 of the same order but also admissions made elsewhere during the trial."

46. This Court expresses its approval of the aforesaid interpretation of Order 12 Rule 6 by Justice G.P. Singh (as His Lordship then was). Mulla in his commentary on the Code has also relied on ratio in *Shikharchand* (supra) for explaining these provisions.

47.

48. However, the provision under Order 12 Rule 6 of the Code is enabling, discretionary and permissive and is neither mandatory nor it is peremptory since the word "may" has been used. But in the given situation, as in the instant case, the said

provision can be applied in rendering the judgment.”
(emphasis supplied)

17. It would be contextually relevant to note that the primary requirement of there being a clear and unambiguous admission by one party is a jurisdictional condition for the Court to exercise the discretion under the aforesaid rule. This aspect was highlighted by the Supreme Court in the case of **Jeevan Diesels and Electricals Limited Vs. Jasbir Singh Chadha (HUF) & Anr.**³ wherein, the Supreme Court underscored the necessity of applying the principles in **Karam Kapahi and Ors. V/s. Lal Chand Public Charitable Trust**⁴ to the facts of the given case.

Paragraph No.10 reads as under :

“10. The learned counsel for the respondents-plaintiffs relied on a judgment of this Court in **Karam Kapahi & Others vs. M/s. Lal Chand Public Charitable Trust & Another** reported in 2010 (3) SCALE 569 and contended that in view of the principles laid down in that case, this Court may affirm the judgment of the High Court in the instant case. This Court is unable to accept the aforesaid contention. In **Karam Kapahi** (supra) a Bench of this Court analyzed the principles of Order 12 Rule 6 of the Code and held that in the facts of that case there was clear

3 (2010) 6 SCC 601

4 (2010) 4 SCC 753

admission on the part of the lessee about non-payment of lease rent. The said admission was made by the lessee in several proceedings apart from its pleading in the suit. In view of such clear admission, the Court applied the principles of Order 12 Rule 6 in the case of Karam Kapahi (supra). The principles of law laid down in Karam Kapahi (supra) can be followed in this case only if there is a clear and unequivocal admission of the case of the plaintiff by the appellant. Whether or not there is a clear, unambiguous admission by one party of the case of the other party is essentially a question of fact and the decision of this question depends on the facts of the case. This question, namely, whether there is a clear admission or not cannot be decided on the basis of a judicial precedent. Therefore, even though the principles in Karam Kapahi (supra) may be unexceptionable they cannot be applied in the instant case in view of totally different fact situation.”

18. In the case of *Himani Alloys Limited vs. Tata Steel Limited*⁵, the Supreme Court emphasise the discretionary nature of the jurisdiction under Order XII Rule 6. The enunciation of law in paragraph 11 of the said judgment is instructive and, thus, extracted below:

“11. It is true that a judgment can be given on an “admission” contained in the minutes of a meeting. But the admission

5 (2011) 15 SCC 273.

should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear "admission" which can be acted upon. (See also *Uttam Singh Duggal & Co. Ltd. vs. United Bank of India* [2000 (7) SCC 120], *Karam Kapahi vs. Lal Chand Public Charitable Trust* [2010 (4) SCC 753] and *Jeevan Diesels and Electricals Ltd. vs. Jasbir Singh Chadha* [2010 (6) SCC 601]. There is no such admission in this case."

19. In the case of ***S. M. Asif vs. Virender Kumar Bajaj***⁶, a three-Judge Bench of the Supreme Court again postulated that the words, "may" and "make such order or give such judgment as it may think fit" implied in Order XII Rule 6, show that the power under Order XII Rule 6 is discretionary and cannot be claimed as a matter of right. Judgment on admission is not a matter of right and rather is a matter of discretion of the Court. Where the defendants have raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order XII Rule 6 CPC. The said rule is an enabling provision which confers discretion on the Court in delivering a quick judgment on admission and to the extent of the claim admitted by one of the parties.

6 (2015) 9 SCC 287.

20. The aforesaid being the nature of the discretionary jurisdiction conferred on the Court, the purported admissions in the written statement are required to be appreciated. In addition to the contentions in paragraph 22(j) and 22(m) (extracted above), the contentions in paragraph 22(k) and 22(l) also deserve to be noted. They reads as under:

“(k) It was very much shocking and surprising for the Defendant No.04) that he was been cheated/deceased by the Defendant No.05) and the impersonator of **MR. MOHAN GANGARAM NARANG**. The Defendant No.04) has acted in good faith and suffered the loss of Lakhs of Rupees. Further he also came to know that the Defendant No. 01) & 02) sealed The Suit Premises.

(l) There is a negligence on the part of the Plaintiff and also on the part of the Defendant No. 01) 02) & 03), It is really not digestible that someone has sold The Suit Premises of the Plaintiff and the Plaintiff is not aware about it. Even the Defendant No. 01), 02) & 03) gave their No Objection Certificates (N. O. C) and later withdrawing/cancelling it. It was the duty of the Defendant No. 01), 02) & 03) to check and confirm the identity of the Owner of The Suit Premises before issuing their No Objection Certificates (N. O. C.) for any such transaction. The same is not possible without the involvement of the Officials/ Members of the Defendant No. 01), 02) & 03) in cheating/ deceiving the Defendant No. 04) and hence the detail investigation to that effect is necessary. Later the Defendant No.01), 02) & 03) cancelled their **No Objection Certificates (N.O.C)** without considering the grievances of the Defendant No.04).”

21. Do these contentions constitute clear, unequivocal and unambiguous admissions?

22. From the perusal of the contentions in paragraph 22(j) of the written statement, it becomes evident that they are in three

parts. First, the defendant No.4 made inquiries with the officials of the defendant Nos.1 and 2 and thereupon he came to know that the plaintiff approached the defendant Nos.1 to 3 and requested for the cancellation of the instruments. In the second part, the defendant No.4 contends he also came to know that the persons from whom the defendant No.4 purchased the suit flat was not the real owner thereof and the plaintiff was the real owner. Thirdly, the defendant No.4 came to know that the plaintiff is the real Mohan Gangaram Narang and the one from whom he purchased the suit premises was an impersonator.

23. In paragraph 22(k) the defendant No.4 reiterates that “he has been cheated/deceived by the defendant No.5 and the impersonator of Mr. Mohan Gangaram Narang”. The defendant No.4 acted in good faith and suffered loss of lakhs of rupees.

24. In paragraph 22(l) the defendant No.4 has attributed negligence to the officials of defendant Nos.1, 2 and 3 and contends that the transaction was not possible without the involvement of the officials/members of the defendant Nos.1, 2 and 3 in cheating/deceiving the defendant No.4 and, therefore, a detailed investigation was necessary.

25. If these contentions in paragraph 22(j), (k), (l) and (m) are read in juxtaposition with each other, it becomes explicitly clear that the thrust of the defence of defendant No.4 is that he was deceived by defendant No.5 and the impersonator of Mr. Mohan Gangaram Narang. It is imperative to note the contention that the defendant No.4 has been deceived by defendant No.5 and the impersonator of Mohan Gangaram Narang is not a solitary statement. The said contention finds mention in paragraphs 22(k), 22(l) and 22(m).

26. Defendant No.4 has indeed claimed that he came to know that the person from whom he purchased the suit flat is not the real owner and the plaintiff is the real owner of the suit premises and that the plaintiff is the real Mr. Mohan Gangaram Narang and one from whom he purchased the suit flat was the impersonator of the plaintiff. The submission on behalf of the defendant No.4 – respondent No.4 that the aforesaid statements are based on the knowledge of the defendant No.4 which he gathered from the inquiries with the officials of defendant Nos.1 and 2, is required to be appreciated in the light of the fact that there is no specific denial in the written statement that the plaintiff had not known the defendant Nos.4 and 5; there was

no transaction between the plaintiff and defendant No.4 and the defendant No.4 has not paid any consideration to the plaintiff.

27. Thus, the endeavour of Mr. Bagade to salvage the position by canvassing a submission that the aforesaid statement in regard to the plaintiff being the real owner of the suit flat and the person who professed to sell the suit flat to the defendant No.4 was an impersonator was based on the knowledge of the defendant No.4 and not a statement of fact, cannot be acceded to. In addition to aforesaid categorical statements, the defendant No.4 repetitively contends that he had been deceived by defendant No.5 and the impersonator of the plaintiff. Undoubtedly, the defendant No.4 claims to have acted in good faith and suffered the financial loss in the alleged fraudulent transaction. However, that would, at best, furnish a cause of action for the defendant No.4 to proceed against the defendant No.5 and the alleged impersonator of the plaintiff.

28. In the case of *Rajiv Ghosh Vs. Satya Narayan Jaiswal*⁷, the Supreme Court enunciated that the words, “or otherwise” are wide enough to include all cases of admissions made in the pleading or *de hors* the pleadings. The observations in paragraphs 35 to 37 of the said judgment read as under:

7 2025 SCC OnLine SC 751

“35. The words “or otherwise” are wide enough to include all cases of admissions made in the pleadings or *de hors* the pleadings. Under Rule 6, as originally enacted, it was held that the words “or otherwise” without the words “in writing” used in Rule 1 showed that a judgment could be given upon oral or verbal admission also. [See: Beeny, re, (1894) 1 Ch D 499] The Amendment Act of 1976, however, made the position clear stating that such admissions may be “in the pleading or otherwise” and “whether orally or in writing”. Thus, after the amendment in Rule 6, the admissions are not confined to Rule 1 or Rule 4 of Order 6, but are of general application. Such admissions may be express or implied (constructive); may be in writing or oral; or may be before the institution of the suit, after the suit is brought or during the pendency of proceedings.

36. The Division Bench of the Delhi High Court very correctly laid down the following interpretation of the provision of O. 12, R. 6, CPC, in the decision of ITDC Limited v. Chander Pal Sood and Son, (2000) 84 DLT 337 (DB) : (2000 AIHC 1990):

“Order 12, R. 6 of Code gives a very wide discretion to the Court. Under this rule the Court may at any stage of the suit either on the application of any party or of its own motion and without determination of any other question between the parties can make such order giving such judgment as it may think fit on the basis of admission of a fact made in the pleadings or otherwise whether orally or in writing”.

37. The use of the expression ‘otherwise’ in the aforesaid context came to be interpreted by the High Court. Considering the expression the Court interpreted the said word by stating that it permits the Court to pass judgment on the basis of the statement made by the parties not only on the pleadings but also *de hors* the pleadings i.e. either in any document or even in the statement recorded in the Court. If one of the parties' statement is recorded under O. 10, Rr. 1 and 2 of the Code of Civil Procedure, the same is also a statement which elucidates matters in controversy. Any admission in such statement is relevant not only for the purpose of finding out the real dispute between the parties but also to ascertain as to whether or not any dispute or controversy exists between the parties. Admission if any is made by a party in the statement recorded, would be conclusive against him and the Court can proceed to pass judgment on the basis of the admission made therein.”

29. The Supreme Court has thus emphasised that the admissions need not be express. The admissions can be implied

or constructive. In the instant case, repetitive assertions of Defendant No.4 that Defendant No.5 and the impersonator of the Plaintiff have deceived Defendant No.4 are impregnated with an implied admission that there was no transaction as such with the Plaintiff. The contentions in para 22(j) to 22(m) of the Written Statement (extracted above), coupled with absence of specific denial of the averments in the plaint that the Plaintiff had not known Defendant No.4, there was no transaction whatsoever between the Plaintiff and Defendant No.4 and the latter had not paid any consideration to the Plaintiff, cumulatively constitute an admission that there was no transaction between the Plaintiff and Defendant No.4 and the instruments in question have not been executed by the Plaintiff in favour of Defendant No.4.

30. The recitals in the Deed of Conveyance dated 30 November 2016 that Defendant No.4 had paid the consideration of Rs.10 Lakhs to the vendor somewhere in the year 1998, further underscores the fact that there was no transaction of whatsoever nature between the Plaintiff and Defendant No.4. The attendant circumstances also cannot be lost sight of. Upon unearthing of the alleged fraud, the Society (D3) has cancelled the NOC vide communication dated 19 December 2016 and

CIDCO (D1) has cancelled the Deed of Apartment dated 10 October 2016. FIR was also directed to be lodged against the suspects and pursuant thereto, FIR No.114 of 2017 has been registered.

31. In the light of the aforesaid developments, if the admissions in the Written Statement are considered, then it becomes explicitly clear that the trial of the suit to the extent of cancellation of the instruments in question is wholly unwarranted. On the basis of the admissions, a judgment to the effect that the instruments are void as there was no transaction between the Plaintiff and Defendant No.4 can be legitimately passed.

32. It is true, there are allegations of forgery qua Defendant No.4 as well in the plaint. However, those allegations need not detain the Court from passing a judgment on admission as Defendant No.4 clearly admits that there was no transaction between Defendant No.4 and Plaintiff and Defendant No.4 has been deceived by Defendant No.5 and the impersonator of the Plaintiff. It would be suffice to clarify that this judgment on admission would not bear upon the guilt of the accused in the

event the prosecution is initiated in pursuance of FIR No.114 of 2017.

33. For the foregoing reasons, this Court is persuaded to partly allow the Petition and pass a decree on admission to the extent of cancellation of the instruments under Section 31 of the Specific Reliefs Act, 1963.

34. Hence, the following order :

: O R D E R :

- (i)** The petition, thus, stands partly allowed.
- (ii)** The impugned order stands quashed and set aside.
- (iii)** The application for judgment on admission stands partly allowed.
- (iv)** There shall be a decree on admission to the effect that the Deed of Apartment dated 10th October, 2016 and the Deed of Apartment/Conveyance dated 30th November, 2016 are void and do not bind the plaintiff and those instruments are ordered to be delivered up and cancelled.
- (v)** The trial Court shall forward a copy of this decree to the Registrar of Assurance in whose office the above

instruments have been registered and the concerned Registrar shall make a note on the copies of the instruments contained in his books the fact of cancellation of the aforesaid instruments.

- (vi) It is, however, clarified that this judgment and decree on admission shall have no bearing on the guilt of the accused in the event prosecution is initiated in relation to subject transactions and the concerned Court shall decide the said criminal case on its own merits and in accordance with law, without being influenced by any of the observations in this judgment.
- (vii) No costs.
- (viii) Rule made absolute to the aforesaid extent.

[N. J. JAMADAR, J.]