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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 120/2026, CM APPL. 8043/2026 & CM APPL. 8044/2026

SHAHJAHAN BANU

.....Appellant

Through: Mr. Shivam Gautam, Advocate.

versus

MADHU KINNER

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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05.02.2026

1. **Regular First Appeal** under Section 96 read with Order 41 Rule 1 of CPC, has been filed on behalf of the Appellant to challenge the Order dated 08.01.2026 whereby the learned District Judge has rejected the Suit of the Plaintiff/appellant, under Order VII Rule 11 CPC.
2. The Plaintiff/Appellant had filed a **Suit for Declaration, Possession and Permanent Injunction**. It was stated that she was the legal heir of Late Shri Abdul Rashid @ Guru Dhano @ Basanti Kinner who had purchased the Suit property bearing House No.7A, Khasra No.17/15, situated at Village Kailash Vihar, Panshali, Begum Pur Road, Delhi, which is a property admeasuring 160 Sq. Yds constituting only the Ground Floor from one Kali Ram, on the basis of Agreement to Sell, Will etc. dated 15.07.1991.
3. Abdul Rashid, father of the Plaintiff/Appellant was married and had a wife and daughter i.e. the present Plaintiff. Shri Abdul Rashid left his wife and the Appellant and joined the Kinner Community Delhi. He changed his name from Adbul Rashid to Basanti Kinner and became Guru of Kinner's' at Paschim Vihar. He was renamed as Guru Dhano.
4. He was residing in the Suit property during his life time, but died on 27.07.2009 on account of Cancer. After his demise, one Usha Kinner who



was the Chela of Guru Dhano, forcibly intruded into the Suit property and took possession. This matter came to the knowledge of Abdul Sattar, brother of deceased Abdul Rashid, who filed a Civil Suit No.181/2013 against Usha Kinner for Possession. During the proceedings, Usha Kinner died and the property was illegally and forcibly occupied by Madhu Kinner who is the Chela of Usha Kinner i.e. the Respondent. It is claimed that Abdul Sattar, who had filed Suit No.181/2013, was not the actual heir of Abdul Rashid.

5. It is further stated that deceased Abdul Rashid renounced the world and became the Kinner, at Delhi. Abdul Sattar, his brother performed Nikah with Smt. Maharulnisha, wife of Abdul Rashid. The Plaintiff/appellant asserted that she has been residing in her matrimonial home in District Faizabad, U.P. She has come to know about the Suit property when she along with her husband, visited her maternal house in U.P on 02.10.2024 and was informed by her cousin about the ongoing litigation in Delhi Court. She also came to know that the matter was fixed for Defence Evidence on 28.10.2024.

6. She moved an Application under Order I Rule 10 CPC as well as under Order VI Rule 17 CPC for the Amendment of the Suit, but the Application was dismissed on 12.12.2024 on account of the false Statement made by Tahira Begum, one of the LRs of Abdul Sattar in the Court that there were no surviving legal heirs of Abdul Sattar and she was the sole surviving legal heir. Her Statement was recorded on 12.12.2024.

7. **The LR Tahira Begum and Madhu Kinner**, the Defendant settled the Suit without intimating the other legal heirs. The Settlement Agreement was filed by LR Tahira Begum and Madhu Kinner and through that



Settlement Agreement, the parties are trying to create third party interest as well as an advance money of Rs.5 lakhs each through two cheques, one of them is in favour of Tahira Begum and other is Madhu Kinner, who have received the said amount.

The aforesaid Suit No.181/2013 had been wrongly filed by Abdul Sattar, even though he or his legal heirs had no right, title or interest in the Suit property. The Plaintiff/Appellant was never intimated by her father that he owns the Suit property or that it was in illegal possession of the Defendant.

She has also come to know that there is another Suit property situated in Paschim Vihar, in respect of which Abdul Sattar had filed an Eviction Petition bearing **RC No.E-35/14**, under Section 14(1)(a) DRC Act, but the matter was settled with Tahira Begum, who was impleaded as a party after demise of Abdul Sattar.

There is another **FAO 640/2019** filed by Tahira Begum in respect of another property located in Panshali, Begum Pur Road, Delhi which was also owned by Abdul Rashid.

8. The Appellant being the sole legal heir of deceased Abdul Rashid is entitled to a Declaration of being the owner of the property. She has also sought Possession from the Defendant. Hence, the present Suit was filed for Declaration of being the owner of the property and for Permanent Injunction for restraining the Defendant from creating third party interest.

9. The learned Trial Court rejected the Suit vide Judgment dated 08.01.2026 under Order VII Rule 11, by observing that the Plaintiff had no right, title or interest in the Suit property.

Aggrieved by the said Judgment, the present Appeal has been



preferred. The averments made in the Complaint have been reiterated, as the grounds for Appeal.

Submissions heard and record perused.

10. It is evident from the Plaint itself, that allegedly the Suit property had been purchased by Abdul Rashid vide Agreement to Sell, Will, etc dated 15.07.1991, but these document are only Notarized documents and have not been registered. It is a settled law that mere Agreement to Sell, does not create any ownership in the name of the alleged seller. These Agreement to Sell etc., therefore, did not create any right, title in Abdul Rashid, the father of the Appellant. Therefore, she cannot claim an ownership on the basis of these documents.

11. The Appellant herself has stated that their father Abdul Rashid had renounced the world and shifted to Delhi and become a Kinner. The second aspect which emerges is that according to the Plaint, Usha Kinner had trespassed into the Suit property in 2009 on the demise of Abdul Rashid and thereafter Madhu Kinner has entered into the property. It is the submission of the Appellant herself that the alleged illegal trespass was made in the year 2009 despite which the Suit for Possession came to be filed only in 2024. The Suit for Possession is even otherwise barred by Limitation.

12. The learned District Judge has rightly rejected the Plaint under Order VII Rule 11 CPC. There is no merit in the Appeal, which is here by dismissed.

13. The Appeal stands disposed of along with the pending Application(s).

NEENA BANSAL KRISHNA, J

FEBRUARY 5, 2026/va