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

+ RSA 35/2026, CM APPL. 10146/2026 & 10147/2026

SH. RAM CHARAN YADAV

S/o Sh. Mahadev,

R/o K-27, Budh Vihar, Phase-2,

Sharma Colony, New Delhi.

.....Appellant

Through: Appearance not given.

versus

1. SMT. JAVITRI DEVI
W/o Late Sh. Ved Prakash Chauhan;

2. SH. ANIL KUMAR
S/o Late Sh. Ved Prakash Chauhan;

Both R/o 17/13, Old Rajinder Nagar, New Delhi.

3. SMT. SARITA
W/o Sh. Sudhir,
R/o F-259, Pandav Nagar, New Delhi,

4. SMT. SUNITA
W/o Sh. Ramesh
R/o A-11042, Subhash Park, Shahdara, Delhi.Respondents
Through: Appearance not given.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **13.02.2026**

1. Regular Second Appeal under Section 100 CPC has been filed on behalf of the Appellant/Defendant, against the *Judgment dated 17.12.2025 of the learned District Judge*, who has upheld the Judgment and Order dated 14.09.2016 of the learned Civil Judge *whereby the Suit for Possession*



and Damages, has been decreed.

2. The Suit No. 96255/2016 for *Possession and Rs.60,000/- towards damages and Mesne Profits along with Cost*, was originally Shri Ved Prakash Chauhan, the Plaintiff who subsequently died during the pendency of the Suit and was represented by his Legal Heirs/Respondents.

3. The Plaintiff Ved Prakash Chauhan, aged about 70 years, stated that he was inducted as a tenant in respect of property bearing No4/52, Gali No.4, Anand Parbat Industrial Area, New Delhi under Ramjus Foundation vide Lease Deed duly executed between him and Ramjus Foundation.

4. The *Defendant/Appellant Ram Charan Yadav* was carrying on his business from the adjoining Shop bearing No.4/53, Gali No.4, Anand Parbat Industrial Area, New Delhi. The Plaintiff and Defendant had cordial relationship, being the immediate neighbors. In March 1982, the Defendant/Appellant approached the Plaintiff to allow him to use part of the premises temporarily, for a short period. Being a neighbor, the Plaintiff gave a small portion of his premises to the Defendant, for a period of two months. However, the Defendant turned dishonest and started claiming that he had been inducted as a tenant @Rs.200/- per month. All the efforts of the Plaintiff to get back the Possession failed.

5. The Defendant in continuation of his illegal acts, locked the premises and shifted his business from Anand Parbat to Budh Vihar. Despite having shifted his business, the Defendant kept the Suit premises locked and refused to return the Possession.

6. The Plaintiff further explained that Ramjus Foundation was in litigation with DDA, in respect of the properties in the area. The Ramjus Foundation lost the proceedings and DDA was considering allotting the



properties to the persons who were in possession after charging the Development Charges.

7. The **Defendant filed Civil Suit No.88/2001 for Permanent Injunction** against the Plaintiff, on the false allegations with an objective of creating a tenancy right in the premises, to get the benefit from DDA in future. The Plaintiff appeared in the said Suit, but the Defendant orally agreed to settle the issues with the Plaintiff outside the Court, and ***the Suit was withdrawn by the Defendant, on 08.03.2022.***

8. The Defendant agreed to vacate the premises within one month of withdrawal of the Suit. However, he failed to do so; hence the Defendant is liable to pay Rs. 2,000/- per month, to compensate for the loss of the Plaintiff. Moreover, he has continued in illegal Possession of the property.

9. Two Legal Notices dated 02.08.2004 and 17.08.2004, had been served upon the Defendants to vacate the premises, which he failed to do.

10. *Hence, the Suit for Possession, Damages and Mesne Profits @ Rs.5,000/- per month w.e.f May 2002 was filed by the Plaintiff/Respondent.*

11. The **Appellant/Defendant contested the Suit and filed the Written Statement**, wherein he asserted that the Plaintiff *had not come to the Court with clean hands and suppressed material facts*. It was claimed that the Defendant was a tenant under the Plaintiff Shri Ved Prakash Chouhan, in respect of one Shop/Factory space admeasuring 7.3” X 13’ forming part of Plot No.4/52, Gali No.4, Factory Road, Anand Parbat Industrial Area, New Delhi, on a monthly rent of Rs.200/- since 1978, in which he was carrying on his business as Proprietor, under the name and style of M/s Bharat Safe Company, which was registered under the Delhi Shops and Establishment Act, 1954, vide Registration Certificate dated 23.02.1980.



12. He also got the License from MCD, for carrying out the commercial activities i.e. for manufacturing of Safe and Machines vide License dated 31.03.1984.

13. It was asserted that since he was a tenant @ Rs.200/- per month, the *suit was barred under Section 50 DRC Act* and was liable to be dismissed.

14. The Defendant further took a legal objection that the *Suit property was situated in Slum area* and no requisite permission under *Section 19 Slum Improvement and Clearance Act* had been obtained. Therefore, the Suit was not maintainable and liable to be rejected under Order VII Rule 11 CPC.

15. Furthermore, the Suit had been filed by Narender Chauhan, the Authorized Attorney of Ved Prakash Chouhan. However, he was not the authorized Attorney, and the Suit had not been instituted by a duly authorized person. The requisite Court Fee had not been paid.

16. **On merits**, all the averments made in the Complaint were denied and it was reaffirmed that he was a tenant @ Rs.200/- per month. He claimed that Plaintiff along with his nephew, had been adopting illegal methods to harass and forcibly evict him from the Suit premises. It was thus, claimed that the Suit is liable to be dismissed.

17. The Plaintiff in his **Replication** reaffirmed his assertions made in the Complaint.

18. The **Issues** on the pleadings were framed on 16.05.2005 as under:

“(1.) *Whether the present suit is not filed by duly authorized person? OPD*

(2.) *Whether the suit is not properly valued for the purpose of court fees and jurisdiction? OPD*

(3.) *Whether the defendant is tenant in respect of the suit*



*premises at the rate of Rs.200/- per month since 1978?
OPD*

*(4.) Whether this court has no jurisdiction to try the
present suit? OPD*

*(5.) Whether the plaintiff is entitled for a decree of
possession in respect of suit premises as averred in the
plaint? OPP*

*(6.) Whether the plaintiff is entitled for a decree of
Rs.60,000/-? OPP*

*(7.) Whether the plaintiff is entitled for damages, if yes, at
what rate and for what period? OPP.*

(8.) Relief.”

19. The **learned Civil Judge** held that the Suit was filed by the duly authorized person and had been valued correctly for the purpose of Court Fee and jurisdiction. He was further held that the Defendant was not a tenant in the Suit premises but had been permitted to occupy the Suit premises on temporary basis, after which he had failed to vacate the same.

20. Regarding the requisite permission under Slum Improvement and Clearance Act, it was observed that the Defendant being only a permissive user and not a tenant, the Slum Improvement and Clearance Act, was not applicable.

21. Thus, based on the evidence, it was held that the Plaintiff was not entitled to a sum of Rs.60,000/- as claimed by him, *but was entitled to damages @ Rs.200/- per month from the date of filing of the Suit till the date of handing over of the Possession.* Accordingly, the Suit of the Plaintiff was decreed.

22. **Aggrieved, the Plaintiff filed RCA No.61244/2016 before the learned District Judge,** who on re-appreciation of the evidence, *concurred with the findings of the learned Civil Judge and dismissed the Appeal.*



23. Aggrieved, the **present Regular Second Appeal under Section 100 CPC has been filed on behalf of the Appellant/Defendant.**

24. The *grounds of challenge* are that the learned Trial court as well as the Appellate Court, has not appreciated that the Plaintiff/Respondent had admitted that he was neither the owner nor in possession of the Suit Property, while Appellant has been in Possession since 1978 i.e. from which date the tenancy was created. It has further not been appreciated that *Plaintiff/Respondent himself is a trespasser and an illegal occupant*, as the real owner is DDA and had issued a Notification in Hindi Navbharat Times Newspaper dated 12.12.1998, not to give any rent, etc to anyone including Ramjus Foundation.

25. In fact, the Respondent/Plaintiff had created an oral tenancy in the sum of Rs.200/- per month, in favor of the Appellant which has not been correctly appreciated. The learned Trial Court as well as the Appellate Court has wrongly decided on its own assumptions, that the Appellant was not a tenant in the Suit premises.

26. Moreover, the documents of the Appellant showing that he was running a factory in the name and style of M/s Bharat Safe Company, under the Partnership with one Sukhram Yadav vide registered Partnership Deed which was subsequently dissolved, has not been considered. The premises had been registered on 23.02.1980 under Shops and Establishment Act, 1954 and the License had also been granted by the MCD on 31.03.1984. The property falls in the Slum area, and no permission was taken before filing the Suit for Possession.

27. It was explained that the Appellant had tendered the rent of Rs.200/- through money Order to the Respondent, who had refused to accept the



same. He filed a *Civil Suit for restraining the Respondent from forcible dispossessing him but was withdrawn on 08.03.2002.*

28. Both the Trial Court as well as the Appellate Court has failed to consider that it is the Plaintiff who had to stand on his own legs to prove the case. The Appellant had examined himself as DW1 as well as DW4 Rakesh Kumar, who had deposed that the Appellant was inducted as a tenant since 1978. The Registration Certificate of Establishment issued by Delhi Shops and Establishment Act dated 23.02.1980 has been ignored along with other documents. It has also not been considered that the land earlier belonged to Ramjus Foundation and later it vested in DDA, as per the Judgment of the Supreme Court. *A Notification had been issued in the Newspaper to not pay the rent to anyone including Ramjus Foundation.* In fact, DDA is the owner of the Suit land, who has not been impleaded as a party. The impugned Judgment is, therefore, liable to be set aside.

Submissions heard and record perused.

29. The Plaintiff/Respondent had filed a Suit for Possession from the Defendant/Appellant on the ground that he had been given premises No.4/52, Gali No.4, Anand Parbat Industrial Area, New Delhi under Ramjus Foundation, on his request, with an understanding that he would vacate the same in two months, but he failed to vacate the same.

30. The learned Civil Judge as well as the Appellate Court has considered the entire evidence, *to conclude that there was no evidence to show that the Appellant was inducted as a tenant while there was overwhelming evidence to show that he had been inducted as a permissive user for two months.*

31. The learned Civil Judge as well as the Appellate Court considered that there was no document creating the tenancy. While the Appellant claimed



that he had been regularly paying the rent in cash, but there was no cogent evidence in support thereof.

32. The Defendant/Appellant in Order to prove that he was a tenant had sent a Money Order for Rs.200/-, but the same was refused. He had relied upon document i.e. the Postal Receipt of the Money Order dated 19.04.2001 Ex.DW1/6 and the Delivery Report dated 23.04.2001 Ex.DW1/7 to show that he had sent the Money Orders.

33. The Appellate Court held that sending of odd Money Order of Rs.200/-, for one solitaire month after initiation of the dispute, would not prove that the Appellant had been inducted as a tenant. Furthermore, the document i.e. the original Registration Certificate under Delhi Shops and Establishment Act, 1954 Ex.DW1/1 reflected that it had been issued on 23.02.1980, but the Defendant/Appellant admitted in his cross-examination that he did not obtain any permission from the Plaintiff before getting the Certificate. The Certificate Ex.DW1/1 may thus, show that he was in possession of the premises prior to 1981, but was not sufficient to establish the relationship of landlord-tenant.

34. The other document i.e. Legal Notice dated 06.11.2001 Ex.DW1/12 sent by the Plaintiff, stated that the Defendant/Appellant was using a part of the property No4/52, Gali No.4, Anand Parbat Industrial Area, New Delhi for commercial purpose, in Partnership with the Plaintiff. It was further stated that the aforesaid property was given to the Defendant without any security or charges and *he had not been using it for the last four years* or paying his share to the Plaintiff in the business in the name and style of M/s Bharat Safe Company.

35. This document was also duly considered to observe that the dominant



control of the premises remained that of the Plaintiff, which was against the notion of tenancy. From the Notice, it seems that the Defendant only had permission to do the business along with the Plaintiff, which also confirms that he was not a tenant in the Suit premises. *It was also evident that DWI had not been using the premises for business and had practically abandoned it.*

36. The Ld. Appellate Court also noted that the Defendant in Order to show that he was going the business had relied on 3-4 Invoices of minimal amount, but these documents also in no way establish that he was a tenant. It was, therefore, concluded that the Defendant had failed to prove that he was a tenant @ Rs.200/- per month, but he was in the premises as a Licensee of the Respondent. The Defendant, despite service of the Legal Notice to vacate the premises, failed to do so, and was liable to hand over the Possession to the Plaintiff. Considering the contentions of the Plaintiff himself, the Damages @ Rs.200/- per month had been allowed from the date of institution of the Suit till the Possession was handed over to the Plaintiff.

37. In so far as the permission under Section 19 of the Slum Improvement and Clearance Act was concerned, it was held that since the Defendant was not a tenant, the permission for his eviction was not required.

38. Learned Counsel for the Appellant submits that the Appellant has suffered a massive Heart Attack, and he needs some time to remove his machines and hand over the possession and because of his financial situation, he cannot pay the damages.

39. The Appellant is at liberty to raise all these contentions before the Executing Court and seek compromise with the Respondent, which may be considered sympathetically by the Respondent as well as by the Executing



Court.

40. From the aforesaid discussion and the grounds of Appeal, it is evident that there are *no Substantial Questions of Law* raised in the present Appeal and the challenge was only to the merits of the case, which has not merit.

The Appeal is therefore, dismissed.

41. The Appeal stands disposed of accordingly, along with the pending Application(s).

NEENA BANSAL KRISHNA, J.

FEBRUARY 13, 2026/va