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

+ **RFA 200/2026, CM APPL. 13693-13695/2026**

PREETI & ORS.

.....Appellants

Through: Mr. Raj Kumar and Mr. Pramod
Singh, Advocates.

versus

PRIYA

.....Respondent

Through: Ms. Payal Bahl, Mr. Abhijit Mishra,
Mr. Himanshu Tomar, Mr. Vikhyat
Gupta, Mr. Prashant Jaiswal, Mr. Ram
Parvesh Kumar, Advocates.
Mr. Abhijit Mishra, Mr. Ram Parvesh
Kumar, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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27.02.2026

CM APPL. 13694/2026 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The Application stands disposed of.

CM APPL. 13695/2026 (under Section 5 of Limitation Act on behalf of the Appellants seeking Condonation of Delay of 17 days in Re-filing of RFA)

3. An Application has been filed on behalf of the Appellants, seeking condonation of Delay of 17 days, in re-filing the Appeal.
4. For the reasons stated in the Application, the delay of 17 days in re-filing the Appeal, is condoned.
5. The Application is allowed and is disposed of, accordingly.

RFA 200/2026:

6. Regular First Appeal under Section 96(1) read with Order XLI CPC



has been filed against the Judgment and Decree dated 27.10.2025 *vide* which the **Suit of the Plaintiff/Respondent for Possession, has been decreed.**

7. The Plaintiff/Respondent, *Ms. Priya*, filed Civil Suit No.386/2022 for Possession. The ***brief facts*** of the case are that the Plaintiff claimed herself to be the owner of the property bearing No.E-172 (Old No.B-35/1), Krishna Gali, East Babarpur, New Delhi (*hereinafter referred as 'Suit Property'*) which was allegedly, forcefully and illegally occupied by the Defendant, *Ms. Preeti*, who is the elder sister of the Plaintiff, without the consent, permission and authority of the Plaintiff.

8. It was claimed that the Defendant/Appellant had failed to vacate the property despite repeated requests and demands. Hence, **the Suit for Possession was filed.**

9. The **Defendant/Appellant** along with her minor daughters, Defendant No. 2 *Ms. Mahi* and Defendant No. 3 *Ms. Anya*, **filed a joint Written Statement**, wherein she denied all the averments made in the Plaint. The Title of the Plaintiff in the Suit Property, was denied. It was explained that the father of Defendant and Plaintiff, *Late Sh. Brahmpal* had purchased the Suit Property in the name of his wife, *Smt. Chamanvati*, in a fiduciary capacity, from the proceeds raised from the sale of his ancestral property.

10. The Defendant submitted that the Plaintiff and her husband were coveting the suit property, of which the Appellant/Defendant is a co-owner and in which, in the absence of any brother, she had been residing and attending to her ailing mother, who was a cancer patient.

11. It is asserted that the Plaintiff took the mother on 03.04.2022, saying that she also wants to serve her and thereafter, misguided and misled her. The Plaintiff took undue advantage of *Smt. Chamanvati's* illness and mental



condition and got other properties of her father which were purchased in the name of Smt. Chamanvati, sold. Not only this, Plaintiff and her husband, who is in Govt. service, have taken the funds deposited in the FDRs and other investments of the father, and have consumed them.

12. The Plaintiff had illegally and unlawfully taken undue advantage of the ailing mother and **has got a Gift Deed prepared in her favour**, even though Smt. Chamanvati had no legal right to transfer the Suit Property. All other allegations were denied.

13. **The Issues were framed on the pleadings**, as under:

“(i) Whether plaintiff is entitled for decree of eviction/possession of Suit property i.e. E-172 (Old No.B-35/1), Krishna Gali, East Babarpur, New Delhi-110032? OPP

(ii) Whether the plaintiff is entitled for money decree of Rs.25,00,000/- against the defendants as damages/ mesne profits? OPP

(iii) Whether the Gift Deed dated 31.05.2022 is forged and fabricated? OPD

(iv). Whether Lt. Sh. Brahmpal Singh was the owner of the suit property in question? OPD

(v) Relief. OPP”

14. The evidence was led by both the parties.

15. **The Plaintiff/PW-1, Ms. Priya**, deposed that she is the owner of the Suit Property *vide* Gift Deed dated 31.05.2022, Ex. PW1/2, from her mother Smt. Chamanvati, and that Defendant No. 1 *Ms. Preeti* with her minor daughters (Defendant No. 2 *Ms. Mahi*, Defendant No. 3, *Ms. Anya*) illegally occupied the Suit Property without consent since May 2022. She further deposed that Defendants continuously harass her mother, manhandle her, and threaten her husband *Mr. Sonu Kumar* with false cases under the POCSO Act 2012 and other criminal implications.



16. **PW-2 Mr. Vijay Anand**, a witness to the Gift Deed, deposed that he accompanied Smt. Chamanvati, Ms. Priya, and Mr. Sachin Kashyap to the Registrar's office on 31.05.2022 for registration of the Gift Deed Ex. PW1/2, and denied that Smt. Chamanvati was mentally unsound or acted under threat, coercion, or undue influence.

17. **PW-3 Mr. Sachin Kashyap**, a relative of the Plaintiff's husband and second witness to the Gift Deed Ex. PW1/2, deposed that Smt. Chamanvati was keeping well at the time of execution and denied any threat or coercion, while admitting that the stamp paper bears Ms. Priya's name as purchaser though payment was made by Smt. Chamanvati.

18. **PW-4 Dr. Tayyaba Tanvir** deposed about the health and physical well-being of Smt. Chamanvati.

19. **The Defendant/DW-1, Ms. Preeti** deposed that she is in possession of the Suit Property as the elder daughter of Late Sh. Brahmpal Singh, the Gift Deed Ex. PW1/2 relied upon by the Plaintiff, is forged and fabricated and that Smt. Chamanvati was mentally unstable and unfit to execute such a document.

20. The learned Trial Court after considering the evidence, decreed the **Suit for Possession of the suit property**, in favour of the Plaintiff and granted **damages to the tune of Rs.11,000/- per month**, from the date of filing of the Suit till the date of handing over of the vacant Possession to the Plaintiff, against the Appellant/Defendant.

21. Aggrieved by the said Judgment and Decree, **the present Appeal has been preferred, wherein the grounds of challenge** are that it has been erroneously held that Smt. Chamanvati was the absolute owner, on the strength of registered Sale Deed in her favour.



22. It has not been considered that she was a housewife with no independent source of income, and the property had been purchased from the funds provided by Late Shri Brahmpal Singh.

23. The *Bayana* advance Receipts showing Agreement by Sh. Shiv Kumar to sell the property to Appellants' father, Late Shri. Brahmpal Singh, has been brushed aside by merely observing that Sh. Shiv Kumar was a Property Dealer, who had not been examined. The Gift Deed dated 31.05.2022 has been erroneously relied by the Appellant ignoring the serious challenge to the Title of the donor, on the basis of she being a *Benamidar* with no independent means. It has not been appreciated that the Appellants are in settled Possession and are claiming ownership rights.

24. The Appellant also submits that, the Gift Deed has been accepted merely because the attesting witnesses **PW2, Shri. Vijay Anand** and **PW3 Shri Sachin Kashyap**, supported the Plaintiff. However, the suspicious circumstances surrounding the execution of the Gift Deed, have not been examined.

25. The medical witness **PW4 Dr. Tayyaba Tanvir**, did not issue any regular prescription. The Court itself noted the infirmities but still relied upon the Doctor's testimony, to negate the Appellant's plea of lack of property mental capacity or undue influence. No due weight has been accorded to the long, continuous and peaceful possession of the Appellants.

26. Smt. Chamanvati had initiated Domestic Violence proceedings and Order dated 27.07.2022 of the learned M.M., has been read one sidedly, to support the Plaintiff without considering whether they were themselves were a product of family pressure and whether they overwrite the substantial rights of the Appellant.



27. The award of Mesne Profits @ 11,000/- per month is unsustainable as there was no evidence led in this regard.

28. Therefore, a prayer is made that the Judgment and Decree dated 27.10.2025 be set aside.

29. **Learned counsel for the Appellant** while claimed that the challenge to the Sale Deed was not tenable vis-à-vis the Benami transaction, however, when specifically asked if he had ever challenged it, he denied doing so and admitted that it has never been challenged.

30. **Learned counsel for the Respondent** has appeared on advance Notice and submitted that the *Appellant had filed a Counterclaim for Declaration, Partition, Mandatory and Permanent Injunction*, which has also been dismissed *vide* Judgment dated 27.10.2025. It is submitted that there is material concealment of facts by the Appellant, only to get an undue advantage and **there is no merit in the present Appeal.**

Submissions heard and record perused.

31. The Respondent/Plaintiff, *Ms. Preeti*, had filed a Suit for possession against the Defendant/Appellant *Ms. Preeti*, who is the real sister of the Plaintiff.

32. The admitted facts are that *Late Sh. Brahmpal* was the father of the parties. On 25.06.2013, *Sh. Brahmpal* entered into an Agreement with *Sh. Shiv Kumar* for purchase of the Suit Property for Rs.97,00,000/- and Rs.50,000/- as a token money *vide* Receipt **Ex. DW-1/B** was paid by *Sh. Brahmpal* to *Sh. Shiv Kumar*. It is not in dispute that the **Sale Deed dated 11.09.2013 Ex. DW-1/P6** was executed in respect of the Suit Property, in the name of *Smt. Chamanvati*, mother of the Plaintiff and Defendant No. 1.

33. The Appellant/Defendant had taken a plea that the Receipt **Ex. DW-**



1/B shows that the money for purchase of the Suit property, had been paid by their father Sh. Brahmpal. It is evident that the property was purchased by the father, though in the name of the mother, Smt. Chamanvati, vide the registered Sale Deed dated 11.09.2013.

34. The Appellant had further contended that indisputably, Smt. Chamanvati was a housewife and had no independent source of income, which further shows that the sale consideration was paid by Late Sh. Brahmpal, though the Sale Deed was executed in the name of the mother.

35. The Appellant, further asserted that the funds had been arranged by the father from the ancestral properties/income. She, therefore, claimed that she was the co-owner in the property, which belonged to the father.

36. The ***First contention*** raised by Appellant, is whether the purchase of the property by the father in the name of the wife, *is illegal and void*. In this regard, it would be pertinent to refer to Section 2(9) of Prohibition of Benami Property Transactions Act, 1988, which defines benami transactions. It reads as under: -

“...S.2. Definitions.—

(9) “*benami transaction*” means,—

(A) *a transaction or an arrangement—*

(a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and

(b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration,

except when the property is held by—

(i) a Karta, or member of a Hindu undivided family, as the case may be, and the property is held for his benefit or benefit of another in the family and the consideration for such property has been provided or paid out of the known sources of the Hindu undivided family;



(ii) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 (22 of 1996) and any other person as may be notified by the Central Government for this purpose;

(iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such property has been provided or paid out of the known sources of the individual;”

37. It is admitted that the father, *Late Sh. Brahmpal* stood in a fiduciary capacity in relation to the mother, *Smt. Chamanvati*. Even if the contention of the Appellant is accepted, it is evident that the property was purchased by the husband in the name of wife in fiduciary capacity, and therefore, it does not fall within the definition of *benami transaction* and cannot be considered as null and void.

38. While the Appellant has averred that *the source of payment was ancestral funds*, she has miserably failed to explain these ancestral funds, as claimed by her.

39. The bald claim that the money from which the property was purchased was ancestral, does not in any way prove her assertion of the property being purchased from the ancestral money, by the father.

40. The Appellant admitted Sale Deed dated 11.09.2013 Ex. DW-1/P6 bears the signatures of *Smt. Chamanvati* at Points ‘A’ and ‘B’. She also admitted that her husband *Sh. Raju Kashyap* was a witness to this Sale Deed.

41. It is admitted by DW-1 in her cross-examination that her husband, *Sh. Raju Kashyap* was the witness to the Sale Deed, which reflects that she was



well aware of the execution of the Sale Deed in the name of Smt. Chamanvati, at the time of its execution in 2013.

42. It is also admitted that the Sale Deed was never ever challenged by her in any Court or before any forum. Admittedly, despite being aware of this Sale Deed since the time of its execution, it was never challenged by the Appellant.

43. *The learned District Judge, therefore, rightly concluded that there was a valid Sale Deed in the name of the mother Smt. Chamanvati, who was the absolute owner of the Suit Property.*

44. The Respondent, Ms. Priya, has relied upon Gift Deed dated 31.05.2022 Ex.PW-1/2 executed in her favour by her mother Smt. Chamanvati, to assert that she is the absolute owner of the Suit property. She was extensively cross-examined by the Appellant, wherein she explained that Gift Deed Ex.PW-1/2 was prepared by the family Lawyer Mr. Abhijeet Mishra and was executed at SDM Office, Seemapuri. She further stated that Stamp Duty for purchase of Stamp Paper was paid by her mother, though the paper was purchased in her name.

45. PW-2 *Mr. Vijay Anand* and PW-3 *Mr. Sachin Kashyap* are two attesting witnesses to the Gift Deed, who have deposed that Gift Deed was duly registered at the Office of Sub-Registrar, Shahdara and the same was executed without any force, threat, coercion, misrepresentation or misinformation and that they were present in the Office of Sub-Registrar.

46. Both witnesses were cross-examined *in extenso* by the Appellant, but nothing material could be elicited from their cross-examination, which could point at any suspicion in the execution of the Gift Deed.

47. Therefore, the Gift Deed was duly proved by the Respondent and two



attesting witnesses namely, PW-2 Mr. Vijay Anand and PW-3 Mr. Sachin Kashyap.

48. The *Second contention* on which Gift Deed was challenge by the Appellant, was that Gift Deed was executed under *force, coercion and manipulation*, by the Resopndent and her husband.

49. The Plaintiff as PW-1 in her Affidavit of evidence had explained in detail, that the Appellant had been continuously threatening her and her husband of false implication in POCSO cases. Moreover, the Appellant along with her daughters, had caused injury to the mother, Smt. Chamanvati, who had approached senior Police officials against the conduct of the Appellant, fearing threat to her life. Moreover, the Appellant had left no stone unturned to disturb the peace, dignity and social respect of the Plaintiff, who issued threats of severe consequences to her and loss of reputation, including physical abuse in public.

50. Furthermore, Appellant in her cross-examination admitted that there were Applications filed by the Plaintiff and her husband against the Appellant/Defendant, before there was any dispute regarding Suit property.

51. Furthermore, it was admitted by the Appellant that Complaint bearing CT No.1003/2022 Ex. DW-1/P1 titled as Priya vs. Preeti was filed under Section 384/453/506 IPC in the Court of learned MM, on which the cognizance had been taken. She further admitted that in the said Complaint, the statement of Smt. Chamanvati was recorded, wherein she stated that Ms. Priya/Plaintiff was owner of the Suit property. When confronted with the question, whether learned MM had verified the Gift Deed Ex. PW-1/2 executed in favour of the Plaintiff, as real genuine and authentic, the Appellant did not respond by saying that she did not want to say anything in



this regard.

52. Furthermore, Appellant was confronted with Complaint Case bearing CT No.1214/2022 title Chamanvati vs. Preeti, which was filed before learned MM, Shahdara under Section 12 of DV Act Ex. DW-1/P2. She admitted that this Complaint was filed by her mother, against her.

53. Appellant was also confronted with Complaint dated 17.05.2022 Ex. DW-1/P5 made by Smt. Chamanvati to the DCP, which she claimed to be false.

54. The various complaints made against her by the mother and admissions made by the Appellant in her cross-examination, clearly reflect the acrimony between her and her mother, to the extent of mother filing the Compliant under Domestic Violence Act, against her daughter/Appellant.

55. Such acrimonious relations, explain the execution of the Gift Deed in the name of the Respondent. There is no evidence adduced by the Appellant to show that there was any force or coercion exerted by the Respondent in getting the Gift Deed executed.

56. The Appellant has next challenged the Gift Deed *by claiming that Smt. Chamanvati, was mentally unstable*. Plaintiff as PW-1 vehemently denied that she was not having the requisite mental capacity. Both PW-2 Mr. Vijay Anand and PW-3 Mr. Sachin Kashyap, the attesting witnesses, had also deposed that Smt. Chamanvati, was not mentally unstable.

57. It is significant to note that Gift Deed has the photographs of Smt. Chamanvati, Plaintiff and two attesting witnesses. From this photograph itself, Smt. Chamanvati seems to be normal and there is no mental incapacity visible from her photograph.

58. Even otherwise, she had appeared before the Sub-Registrar for getting



the Gift Deed registered. It is also a corresponding duty of the Sub-Registrar not only to ensure the genuineness of the signatures and identity of the persons signing the documents, but also that persons executing the documents are of sound mental capacity. There is nothing on record to show that Smt. Chamanvati suffered from any mental incapacity.

59. It is pertinent to note that various Complaints, including DV Act Complaints, thereafter, have been filed by Smt. Chamanvati, which also are a witness to her mental capacity.

60. Not only this, to prove the mental capacity of Smt. Chamanvati, Plaintiff had examined *PW-4 Dr. Tayyaba Tanvir*, who deposed that she was working as Senior Resident in Department of Forensic Medicine and Toxicology, Lady Hardinge Medical College, Shivaji Stadium, New Delhi. Though she admitted that she was not a neuro expert, but was expert in Forensic Medicine and Toxicology. She was a registered Medical Practitioner with Delhi Medical Council. She further deposed that she had examined Smt. Chamanvati on 30.10.2023 (on the day of registration of the Sale Deed), in her professional capacity as a Doctor and had found her alert, responsive, aware about the time, place, relatives, was well dressed in *saree* and was able to conduct herself, as a civilized member of society. She was able to communicate properly, about her state of mind. ***There was no medical impairment and she was mentally sound.***

61. Though this witness was cross-examined, but nothing material could emerge from her cross-examination. Therefore, her testimony additionally supported that Smt. Chamanvati was of sound mental health.

62. Smt. Chamanvati may have suffered Cancer in the year 2022 and may have taken treatment for the same, but that in itself does not lead to any



inference of mental incapacity. Cancer is a physical ailment, which can be treated and any person, who suffers from Cancer, cannot be labeled as a person who is mentally incapable. There is overwhelming evidence to prove that she was mentally sound and capable at the time of execution of the Sale Deed.

63. The aforesaid discussion establishes that genuineness of the Gift Deed dated 31.05.2022 Ex. PW-1/2, under which the Plaintiff/Respondent has acquired an absolute ownership in respect of the Suit Property.

64. In the end, **it is the status of the Appellant in the property**, which needs adjudication. Appellant has admitted that she was occupying the property as the daughter of Smt. Chamanvati and that she had no documents of any kind of title in the Suit Property.

65. From the aforesaid, it emerges that *she was a permissive user* in the property and once the rightful owner/Plaintiff terminated the permissive use, she has no right to continue in the Suit property.

66. Another aspect is the grant of ***mesne profit* @ Rs.11,000/- per month to the Plaintiff/Respondent**. While Plaintiff had claimed damages of Rs.25,00,000/-, but the same had to be assessed on the basis of cogent evidence. Appellant in her cross-examination admitted that she had rented the Suit property to Mr. Surender Gupta and Mr. Yogesh Gupta in the year 2022 and had received rent from them in the capacity of being elder daughter of her parents. From her own testimony, **it is evident that she was deriving the benefit @ Rs.11,000/- per month**.

67. In view of the aforesaid, Learned District Judge has rightly granted *mesne profit* @ Rs.11,000/- per month and rightly decreed the Suit for Possession in favour of the Respondent/Plaintiff.



68. There is no merit in the present Appeal, which is hereby, dismissed along with pending Applications.

NEENA BANSAL KRISHNA, J.

FEBRUARY 27, 2026/va/R