



2026:DHC:2159



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

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Reserved on: 24th February, 2026

Pronounced on: 16th March, 2026

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RFA 173/2025 & CM APPL. 10681/2025

NEERAJ KUMAR JAGGI

S/o Late Sh. Nand Lal,

R/o H. No. WZ-H-45, First Floor,

Arya Samaj Road, Uttam Nagar

.....Appellant

Through: Mr. Girish Kumar, Adv.

versus

ARUN KUMAR

S/o Late Nand Lal,

R/o H. No. K-36, Upper Ground Floor,

Gali No. 4, Bal Udyan Road, Uttam Nagar

.....Respondent

Through: Mr. Sandeep Bajaj, Mr. Rishabh Dua,
Mr. Harikesh Anirudhan and
Mr. Mayank Biyani, Advocates

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed against the Order dated 08.01.2025 whereby the Suit of the Plaintiff for Possession has been decreed by the Learned District Judge, under Order XII Rule 6 CPC.



2. The Respondent/Plaintiff, Arun Kumar had filed a Civil Suit No. CS DJ No. 517821/2016 for *Possession, Mesne Profits and Permanent Injunction* in respect of the first floor of property bearing No. A-45, Mangal Bazar, Uttam Nagar, New Delhi (*hereinafter referred to as Suit property*).

3. The **case of the Plaintiff/Respondent** was that he was the owner of the entire builder property bearing No. H-45, Mangal Bazar Road, Uttam Nagar, *vide* a registered Sale Deed dated 30.09.2005. He had spent more than Rs.4,00,00/- on re-construction and renovation of the property, which now consists of five shops and one residential unit on the ground floor, which is in possession of the Defendant. He kept one shop for his own use, in future. However, keeping in mind the old age of the father, he accommodated his father and also his younger brother Neeraj Jaggi/Appellant and his family.

4. In the year 2006, wife of the Plaintiff expired after long ailment and treatment which mentally and emotionally shattered the Plaintiff and he got busy in upbringing of his minor children.

5. In the meanwhile, the relationship between the Plaintiff and his father became strained, and his father instituted a *Civil Suit No. 344/2011* for *Declaration and Permanent Injunction* against the Plaintiff. Ultimately, the stress of the strained relationship with the father resulted in a major paralytic attack, and the left side of his body was paralyzed, in September 2011, making him disabled that he had difficulty in walking, writing, and doing his daily chores. The situation worsened with time. His father died on 16.12.2011, which completely broke the Plaintiff emotionally and mentally, who was already bed-ridden.



6. After the demise of his father, the Defendant/Appellant along with their elder sister Manju Khattar and her husband Sh. Satish Khattar, came to the Plaintiff and took his signatures on certain blank papers, for some legal requirements arising out of death of the father Nand Lal Jaggi. Because of the trust, he signed some documents and blank stamp papers.

7. The Plaintiff further asserted that in July 2013, he was asked by the Landlord to vacate the tenanted premises where he had been residing for the last few months, at the rent of Rs.9,500/- per month. His son, Bhrat approached the Appellant/Defendant to vacate the Suit premises. However, the Appellant as well as the sister Manju and her husband, started *claiming themselves to be the owners of the residential unit*, on the ground floor and one shop. The request of the Plaintiff for peaceful vacant possession of the property in question, did not get any result.

8. Thereafter, the Appellant and his sister Manju Khattar filed a Civil Suit bearing *CS No. 292/2013 for Mandatory Injunction* and made a prayer that Plaintiff be restrained from getting the property vacated, but the Suit was dismissed *vide* Judgment dated 25.11.2014.

9. The Defendant/Appellant, Neeraj Kumar Jaggi was the real brother who has continued to be in illegal possession of the residential complex, on the first floor. All efforts of the Plaintiff to get the possession have proved futile. Hence, the Respondent/Plaintiff Arun Kumar filed the Civil Suit for Possession, Mesne Profits and Permanent Injunction in respect of the *Suit property*).

10. The Defendant/Appellant in his **Written Statement** took the *preliminary objection* that the Suit did not disclose any cause of action and is liable to be rejected. It was claimed that there was a family settlement



dated 15.12.2011 between the parties, after the demise of their father. The Plaintiff had to execute the necessary documents in respect of the property in question in favour of the Defendant, but he has executed only one single document in his favour, on account of paralytic attack, but is now making excuse that he had signed blank signed papers.

11. On merits, it was claimed that Defendant is the lawful owner of the Suit Property as the Plaintiff himself had executed necessary documents of property in his favour.

12. It is denied that he was in illegal possession of the first floor of the Suit Property. It is asserted that according to the Plaintiff, his signatures on the blank papers were obtained after the demise of the father on 16.12.2011, but the Suit has been filed only in the year 2016. There is no explanation why the Plaintiff remained silent for 05 years, if he was claiming that his signatures on the documents, were obtained fraudulently. The Defendant thus denied the assertions made in the Plaint and claimed that the Suit was liable to be rejected.

13. The Plaintiff in the **Replication**, reiterated his assertions as made in the Plaint.

14. Thereafter, the Defendant/Appellant failed to appear and was proceeded *ex parte vide* Order dated 10.10.2019.

15. The Plaintiff in support of his case, adduced the documents and proved the documents.

16. Thereafter, an Application under Order IX Rule 7 CPC was filed on behalf of the Defendant, which was allowed *vide* Order dated 04.09.2024.

17. Thereafter, the learned District Judge heard the arguments on decreeing the Suit under Order XII Rule 6 CPC.



18. In the impugned Order dated 08.01.2025, learned District Judge observed that the Plaintiff/Respondent admittedly had a registered Sale Deed in his favour. The two documents, namely, *Rajinama dated 21.04.2005* and the *Declaration dated 26.04.2005*, did not create any ownership right in favour of the Defendant and these documents even if taken to be true, do not create any ownership right in the Defendant. Therefore, ***the Suit for possession was decreed vide the impugned Judgment dated 08.01.2025 under Order XII Rule 6 CPC.***

19. Aggrieved by the said judgment, the Appellant filed the present Appeal. The **grounds of challenge** are that on 26.03.2011, Sh. Nand Lal Jaggi, father of the Appellant has filed a Civil Suit No. 344/2011 for Declaration and Permanent Injunction against the Respondent and his friend R.K. Chopra, in respect of property in question, by claiming that the Respondent in collusion and connivance with R.K. Chopra, had forged the property documents, but the Suit was eventually withdrawn on 17.01.2012, pursuant to a settlement between the parties.

20. On 15.12.2011, the Respondent executed a family settlement in favour of the Appellant and his two sisters, Manju Khattar and Anita Malhotra. He executed a GPA and Will dated 06.02.2012 in favour of the Appellant in respect of the properties in question.

21. However, he thereafter, filed the Suit for possession on the basis of registered Sale Deed dated 30.09.2005, having purchased the property from R.K. Chopra. The impugned Order is bad in law and contrary to the provisions of law. It has been filed merely to extract money or usurp the property in question.



22. It has never been admitted by the Appellant that the Respondent was the owner of the property. In fact, the family Settlement dated 15.12.2011 between the Appellant and two sisters, has not been considered. The Appellant has been in possession of the Suit Property for more than 17 years and the *Suit is barred by limitation*. The *requisite Court Fee* as per the market rent, has also not been paid by the Respondent.

23. Reliance is placed on Himani Alloys Ltd. vs. Tata Steel Ltd. (2011) 15 SCC 273, and Hari Steel & General Industries Ltd. vs. Diljit Singh (2019) 20 SCC 425 wherein it is held that Order XII Rule 6 CPC is meant for speedy disposal of the Suit only where there is a clear, unambiguous, unequivocal and unconditional admission, or else the Court must not exercise its discretion of giving the Judgment on the basis of admissions.

24. Reliance is also placed on Rajesh Kumar Mitra vs. Karnani Properties Limited, 2024 SCC OnLine SC 2607 Civil Appeal Nos. 3593-3594/2024 dated 20.09.2024, wherein the Apex Court has reiterated that judgment on admission cannot be given on the basis of ambiguous and conditional admissions, under Order XII Rule 6 CPC.

25. The defence taken by the Appellant/Defendant involves mixed questions of fact and law and cannot be termed as admission. *Therefore, a prayer is made that the Judgment dated 08.01.2025 under Order XII Rule 6 CPC, be set aside.*

Submissions heard and record perused.

26. The Plaintiff/Respondent is undeniably the owner of the property by virtue of a registered Sale Deed dated 30.09.2005, having purchased it from Sh. R.K. Chopra, for a sale consideration of Rs.1,70,000/-. The Sale Deed also indicates the manner in which the payment had been made through 03



cheques. This Sale Deed is not challenged and unequivocally proves that the Plaintiff/Respondent was the owner of the said property.

27. The Defendant vaguely claimed in his Written Statement that there were various documents, to show that the Plaintiff was not the owner of the property. However, there is no detail of any document mentioned in the Written Statement.

28. However, the record shows that the Defendant had placed reliance on one document titled as *Rajinama dated 21.04.2005* wherein it was recorded that *“there was a glass shop in between the Plaintiff and the Defendant and that the same would be vacated by the Plaintiff, whatever time it takes. As soon as the shop is vacated, will get the papers of the house and shop registered in my name within fifteen to twenty days. Will get water, electricity connection and also construct stairs. Rest of the part of the house, I and my children will have no concerns. Will get the inner wall constructed. Both the walls of the shop will remain common.”*

29. The second document relied upon by the Defendant was a ***Declaration dated 26.04.2005***, which read as under:-

“1. That my father is rightful owner of Built-up Property bearing No.WZ-H-45, Near Arya Samaj Mandar, Uttam Nagar, New Delhi-59.

2. That my father prepare to give equal share from his above said property to me and my elder brother Shri Arun Kumar.

3. That I am ready to take the cost of my share of the said property in cash from my elder brother Shri Arun Kumar amounting Rs.16,00,000/- (Rupees Sixteen Lacs only) within three months from the date of this declaration and



vacate the premises of my share on receipt of full payment of my share as mutually agreed.

4. That I have received Rs.20,000/- (Rupees Twenty thousand only) from my elder brother, out of Rs.16,00,000/- (Rupees Sixteen only) and the balance payment of Rs.15,80,000/- (Rupees Fifteen Lacs & eighty thousand only) will be made by my elder brother by 30-07-2005.

5. That I will vacate the above property of my share only on receipt of balance payment of Rs.15,80,000/- (Rupees Fifteen Lacs & Eighty thousand only) from my brother Shri Arun Kumar.

6. That on receipt of full & final payment of the above said property of my share I will vacate the same by 30-07-2005 and I and any member of my family member ceased all right, claim & title of my share on the said property.”

30. These two documents are prior to the execution of the Sale Deed dated 30.09.2005, in favour of the Plaintiff. The *Rajinama* dated 21.04.2005 and the *Declaration* dated 26.04.2005, merely reflected an adjustment between the parties, in whatever capacity. When the Plaintiff or the Defendant were not the owners of the property, it is difficult to comprehend how in a Declaration dated, dated 26.04.2005, the Defendant/Appellant, Neeraj Jaggi could assert that the father was the rightful owner of the property in question or that the father had agreed to give equal share in the property to him and to the Plaintiff.

31. It was further stated therein that the Appellant/Defendant was willing to take Rs.16,00,00/- towards his share and after the receipt of the



entire amount, he would vacate the property and would cease to have all rights, claim, title of share in the property.

32. In fact, these two documents while claiming that Nand Lal Jaggi father of the parties, was the owner, but there is no document whatsoever to show that the father ever had ownership rights in the property; rather the Sale Deed dated 30.09.2005, clearly shows that it was the Plaintiff who was the registered owner of the property.

33. The document, i.e., the *Rajinama* dated 21.04.2005 or the *Declaration* dated 26.04.2005, do not create any kind of right in the Appellant. Even if the terms of the Declaration dated 26.04.2005 was admitted, the Appellant could have sought its specific performance within 03 years, i.e., up to April 2008, but he has never ever taken any such step.

34. Furthermore, it is admitted by him that his father, Nand Lal had filed a Suit for Declaration and Permanent Injunction *vide* Civil Suit No. 344/2011, but the same was withdrawn. Now, the filing of the Civil Suit shows that there were claims being made by the Appellant and his father, which were never proved.

35. Interestingly, the Defendant has placed on record one *Family Settlement* dated 15.12.2011 which allegedly was entered into between the Plaintiff and the Defendant/Appellant. Interestingly, this document is only signed by the Respondent/Plaintiff. It declares that he has given his one downstairs shop and backside with shop, to his sisters, Manju Khattar and Anita Malhotra, as a gift. Moreover, the upper floor and the down backside *gali* having a separate entry is given to Neeraj Jaggi, and Manju Khattar and Anita Malhotra would give Rs. 4,00,000/- to Neeraj Jaggi. It also refers that Neeraj Jaggi/Appellant's share comprised of a two room set on the first floor



and roof and a separate entry. The said property will be given in the name of Manju Khattar and Anita Malhotra and it will be their own concern as to how they divide it between themselves, and Arun Kumar and Neeraj Jaggi shall have no concern or claim with respect to the same.

36. First and foremost, this family Settlement, even if accepted on its face value, whether it is considered as a Gift Deed or in Declaration to transfers the property in the name of the Appellant, was creating rights in the favour of parties, which can be effected only by virtue of a registered Sale Deed/Gift Deed, as provided under Section 54 Transfer of Property Act.

37. This self-serving Family Settlement dated 15.12.2011 on which the Appellant has placed reliance, requires compulsory registration under Section 17 Registration Act, to be effective in creating rights in immovable property in a person who otherwise has no right. Without any registration, this document, is of no value and cannot be read in evidence.

38. It may be emphasized that though in the Written Statement there was a vague reference to some documents on which the reliance was placed by the Appellant, there was no specific mention of any of these documents. They were only filed along with the Written Statement in the Suit.

39. The aforesaid discussion shows that these documents, even if admitted on face value, do not create any right, title and interest in favour of the Appellant, in the Suit Property.

40. It has been rightly observed by the Learned District Judge that these documents do not set up any defence and even if proved during the trial, would not improve the case of the Defendant/Appellant from that of a permissive user in the suit property. The Suit of the Plaintiff has been rightly decreed, under Order XII Rule 6 CPC.



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41. There is no merit in the present Appeal, which is hereby, **dismissed** along with any pending Application(s), if any.

42. The Appeal is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 16, 2026

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