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

+ **RSA 53/2026, CM APPL. 17766/2026**

RAMESH CHAND

.....Appellant

Through: Mr. Dinesh Kumar, Ms. Parinita Rout
& Mr. Sanchit Shrivastava, Advs.

versus

BRAHM PRAKASH (DECEASED) THR LRS

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

25.03.2026

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1. Second Appeal under *Order XLII* read with *Section 100* of the *Code of Civil Procedure, 1908*, has been filed on behalf of the Appellant against Judgment of learned Principal District Judge dated 27.01.2026, who had dismissed the Appeal arising out of the dismissal of the *Suit of the Plaintiff / Appellant for Declaration, Permanent and Mandatory Injunction*, by the learned Trial Court dated 24.12.2021.
2. The Plaintiff / Appellant had filed a Suit bearing **CS No. 4276/15** initially for *Permanent Injunction*, which was amended to *Suit for Declaration, Permanent, and Mandatory Injunction*.
3. The Plaintiff / Appellant claimed himself to be an absolute and rightful owner of the constructed House No. 268/80, numbering 362/80, on land admeasuring 60 square yards out of Khasra No.622/5, comprising of three rooms set, situated in the abadi of Lal Dora, Village Mandoli, Illaqa Shahdara, Delhi (*hereinafter referred to as 'Suit Property'*).
4. It was explained that the Plaintiff / Appellant had purchased this



property from Shri Chatar Singh, father of Defendant Brahm Prakash, on 28.07.2003 for a sale consideration of Rs.1,25,000/- through GPA, Agreement to Sell, Affidavit and Receipt.

5. Defendant Brahm Prakash, being the brother-in-law of the Plaintiff, was allowed to reside in the Suit Property as a Licensee at his request. It came to the knowledge of the Plaintiff that the Defendant and his family members intended to grab the Suit Property. Allegedly the Plaintiff came in contact with one Phool Singh on 22.01.2013, who informed that the Defendant was likely to sell the Suit Property, even though he had no right, title, interest in the same. On 15.09.2012, the Plaintiff confronted the Defendant, but was threatened with dire consequences.

6. A Legal Notice dated 23.01.2013 was issued to the Defendant requesting him not to create any third-party interest in the Suit Property.

7. Thereafter, *a Suit was filed seeking relief of Declaration of the Plaintiff as the absolute and legal owner of the Property; Mandatory Injunction for directing the Defendant to hand over the vacant and physical possession of the Suit Property and for Permanent Injunction to restrain the Defendant from creating third party interest in the Suit Property.*

8. **The Defendant contested the Suit by filing his Written Statement,** wherein a *preliminary objection* was taken that the Plaintiff has no *locus standi* to file the present Suit, as he has no right, title, or interest in the Suit Property. It was claimed that the Suit of the Plaintiff was not maintainable, as Late Shri Chatar Singh, father of the Defendant, did not execute any document in respect of Suit Property, in favour of the Plaintiff.

9. Furthermore, Shri Chatar Singh had no authority or right to execute the alleged documents, because it is Smt. Bhagwati Devi, mother of Shri



Chatar Singh, who was the owner of the Suit Property and she had died intestate. The Defendant had no concern with the Suit Property bearing No.268/80, which is in the possession of Shri Satish Kumar. The Suit Property bearing No.362/80, is separate property and in possession of the defendant.

10. Moreover, the *Suit was barred by limitation*, and was beyond the pecuniary jurisdiction of the Court. The Suit was therefore, claimed to be liable to be dismissed.

11. The Plaintiff reaffirmed the assertions made in the Plaint, in his **Replication.**

12. The *issues on the pleadings were framed on 03.03.2015*, which are as under:

“A. Whether the Suit of the Plaintiff is barred by limitation? OPD.

B. Whether the Court has no Pecuniary Jurisdiction to try this Suit? OPD.

C. Whether the Plaintiff is entitled to the Decree of Declaration as prayed for? OPP.

D. Whether the Plaintiff is entitled to the Decree of Mandatory Injunction as prayed for? OPP;

E. Whether the Plaintiff is entitled to the Decree of Permanent Injunction as prayed for? OPP.

F. Relief.”

13. The Plaintiff, in support of his case, examined himself as *PW-1*.

14. *PW-2 Shri Subhash* was an independent witness.

15. *PW-3 Shri Gopal Dutt*, Record Keeper, Sub Registrar IV, Seelampur,



Delhi, proved registered GPA dated 28.07.2003 in respect of Khasra No.622/5, Village Mandoli, *Ex.PW1/4*.

16. The Defendant, in support of his case, examined himself as *DW-1* and proved the requisite documents.

17. *DW-2 Shri Satish* was examined in corroboration of the Defendant's claim.

18. Learned Civil Judge held that the Suit was filed within the limitation and the Court has the jurisdiction to try the Suit. It was further observed that the documents, on the basis of which the Plaintiff / Appellant was claiming to be declared as owners, were GPA, Agreement to Sell *etc.*, dated 28.07.2003, executed in favour of Shri Chatar Singh, father of Defendant Brahm Prakash.

19. However, *firstly*, there can be no declaration of ownership on the basis of documents like GPA *etc.*, which are not documents of Sale Deed and also as per record, Smt. Bhagwati Devi, mother of Shri Chatar Singh, was the owner and after her demise, Shri Chatar Singh along with other legal heirs became the owners of the Property and the documents could not have been executed only by Shri Chatar Singh. Moreover, identity of the Suit Property had not been proved. Also, Plaintiff / Appellant was not found in possession of the Suit Property.

20. In respect of relief of Declaration, after discussing the evidence, it was held that the Plaintiff failed to discharge the onus and accordingly, the *Declaration, in favour of the Plaintiff, was declined.*

21. For the same reasons, *the Relief of Mandatory Injunction* for directing the Defendant, to handover the possession and to restrain him from creating third party right, *was declined.*



22. It was **thus, held that Plaintiff had not been able to prove his case, and consequently, *the Suit for Declaration, Permanent and Mandatory Injunction was dismissed.***

23. Aggrieved by the said Judgment, RCA bearing No. **DJ No.1/2022** was filed on behalf of the Plaintiff / Appellant. Learned District Judge considered the evidence and the documents of the parties and after due discussion, concurred with the findings of the learned Civil Judge and upheld the Judgment of the learned Civil Judge dated 27.01.2026.

24. Aggrieved by the said dismissal of the Suit, ***present second Appeal has been preferred.***

25. **Substantial questions of law raised in present Second Appeal** are as under:

(i) *Whether the documents of transfer that is registered Power of Attorney, Possession Receipt, etc. can be the basis for declaration of title in favour of the Plaintiff and that Judgment dated 11.10.2011 of Suraj Lamp & Industries Pvt. Ltd. vs. State of Haryana, JT 2011 (12) SC 564, has no application to the present case.*

(ii) *Whether the transferor and the witness himself can deny the transfer of immovable property made in 2003 by raising the Plea of no documents of title, in terms of Suraj Lamp (supra).*

(iii) *Whether the dispute in respect of number of the property has been adjudicated correctly, even though the Defendant had admitted the Site Plan, Khasra No., which shows the same property to be having two numbers.*

Submissions heard and record perused.

26. The Plaintiff / Appellant had sought to be declared an owner in respect of the Suit Property which was purchased by him from Shri Chatar



Singh, father of Defendant, for a sale consideration of Rs.1.25 lakhs through GPA, Agreement to Sell and Receipt dated 28.07.2003.

27. Learned Civil Judge as well as learned District Judge, on appreciation of the evidence, found *firstly* that there was no proper identification of the Suit Property. While the Plaintiff claimed that both 268/80 and 362/80 were the address of the same Suit Property, but Defendant No.1, in his testimony, deposed that these were two separate Properties and that he was in possession of 362/80. He was not cross-examined by the Plaintiff. *DW-2 Shri Satish* corroborated that these are two separate premises; and that there was no substantial cross-examination of this witness.

28. It was thus, concluded that the Properties Number 268/80 and 362/80 were two separate properties, and the Plaintiff had not been able to establish the identity of the Suit Property. *Both the Courts, on due appreciation, had arrived at a conclusion, which cannot be faulted.*

29. The next important aspect was that the property was purchased through Agreement to Sell, GPA, *etc.*, which are *Ex.PW-1/3* and *1/4*. However, it was observed by both the Courts that these documents did not specify the Property Number and therefore, these documents were not of any support / help to the Appellant to establish the identity of the Suit Property.

30. It was also rightly held that the declaration of ownership was sought, on the basis of GPA, Agreement to Sell *etc.*, It is a settled law as formulated in the case of Suraj Lamp & Industries Pvt. Ltd. vs. State of Haryana, JT 2011 (12) SC 564, that these documents may give a right to a person to get the Agreement to Sell specifically performed for getting the Sale Deed executed and may also be a protection of the possession under *Section 53A of the Transfer of Property Act, 1882*. However, these documents in the



absence of any Sale Deed, cannot be a basis for declaration of ownership in favour of the Plaintiff / Appellant. **Two Courts have rightly appreciated the law and denied the Decree of Declaration.**

31. It may also be noted that Khasra Girdawari *Ex. PW1/2* had been produced in evidence by the Plaintiff himself, wherein Smt. Bhagwati Devi, mother of Defendant No.1 was shown as the *Assami*. Sh. Chattar Singh was not reflected as a person entitled to the Suit Property. Learned District Judge noted that even after the demise of Smt. Bhagwati Devi, Defendant No.1 would have inherited the property, but that would be along with other legal heirs, who were not even the co-signatories to the documents. *Therefore, both the Courts had duly appreciated the law and applied them to the facts to conclude that the Appellant was not entitled to any declaration.*

32. Another aspect **was in regard to the possession.** It was found that the Plaintiff had claimed that initially he had occupied the Suit Property, after having purchased it in 2003, but was unable to produce any document to show that he was ever in possession of the same. On the other hand, Defendant had produced his *Ration Card Ex.DW-1/4* and *Voter I Card Ex.DW-1/5* which show the property as 362/80. **It was rightly concluded that the possession had been shown only of Defendant and not of the Plaintiff, and consequently, the Plaintiff was not entitled either to Mandatory or Permanent Injunction.**

33. From the aforesaid discussion, it emerges that there is no substantial question of law raised in the present Second Appeal. The questions proposed by the Appellant in his Second Appeal are in fact a challenge on facts, and do not raise any substantial question of law.

34. The Appeal is dismissed, being without merits. Pending Applications



are disposed of, accordingly.

MARCH 25, 2026/JYH/R

NEENA BANSAL KRISHNA, J.