

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

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Reserved on: 12th May, 2026
Pronounced on: 18th May, 2026

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RSA 56/2026, CM APPL. 19173/2026**SURAJ MUKHI**

W/o Late Bijay Singh Rana

R/o H.No.889, Main Palam Vihar Road,

V.P.O. Bijwasan, New Delhi

.....Appellant

Through: Mr. Abhishek Kaushik, Mr.Shubham,
Advocates

Versus

1. KAPTAN SINGH

S/o Late Suraj Bhan

2. HARI PARKASH

S/o Late Suraj Bhan

3. RAME

S/o Late Suraj Bhan

All R/o Village Bijwasan, New Delhi

.....Respondents

Through: Mr. Ripu Daman Kaushik, Advocate

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T****NEENA BANSAL KRISHNA, J.**

1. Second Regular Appeal under Section 100 of the Code of Civil Procedure, 1908 (CPC) has been filed to challenge the Judgment dated 09.12.2025 of learned ADJ, who has upheld the Judgment dated 30.11.2022 of learned Civil Judge, who has dismissed the Suit of the Plaintiff/Appellant



for Permanent and Mandatory Injunction for protection of possession and construction of demolished wall, by the defendants.

2. The Plaintiff/Appellant Suraj Mukhi filed a ***Civil Suit No. 297/2018*** for Permanent and Mandatory Injunction.

3. The ***facts in brief as narrated in the plaint*** are that the Plaintiff was the owner in possession of constructed house admeasuring 50 sq. yards out of Khasra No. 141 situated in Lal Dora Abadi, Village Bijwasan, New Delhi (*hereinafter referred to as the "Suit Property"*). Her husband Bijay Singh is the sibling of the Defendants, namely, Kaptan Singh, Hari Parkash and Rame.

4. The Suit Property was gifted to the Plaintiff and her husband late Bijay Singh Rana, by her father-in-law, late Sh. Bhartu Singh by virtue of GPA, Gift Deed, Affidavit and Will dated 20.08.1986. Sh. Bhartu Singh died on 01.07.1989. Sh. Bijay Singh Rana, her husband, also died on 12.09.2000, leaving behind one son Deepak and three daughters, namely, Sunder, Laxmi and Sunita.

5. All the properties owned by late Bhartu Singh, father of the Defendants and late Bijay Singh Rana, were partitioned by him by virtue of a family Settlement during his lifetime. The siblings of Bhartu Singh were living separately in their respective houses, after the aforesaid partition.

6. The Plaintiff visited the Suit Property on 18.10.2018, when the Defendants came at the Suit Property and claimed ownership, they started quarrelling with the Plaintiff and a call was made to PCR and the information was conveyed to P.S. Bijwasan. The Police arrived at the spot and took the parties to the Police Station, where both the parties were asked to produce their documents in support of their claim to the Suit Property.



After inspection of the documents, the Plaintiff was advised to file a Civil Suit against the Defendants, as it was a civil dispute and the Police closed the matter.

7. On 22.10.2018 again the Defendants started a quarrel with the Plaintiff and extended threats to dispossess her. Aggrieved by the threats of the Defendants, the Plaintiff again approached the Police Station on 23.10.2018, but no action was taken.

8. The Plaintiff had requested the Defendants to construct the demolished wall of the Plaintiff, but they declined to do so; rather they extended threats to demolish the suit property, if the Plaintiff further made a request for construction of wall.

9. The Plaintiff claiming to be in possession of the Suit Property, filed a *Suit for Permanent Injunction* for restraining the Defendants from interfering in her peaceful possession and enjoyment of the Suit Property. She also sought *Mandatory Injunction* for directing the Defendants to construct the demolished wall of the Plaintiff or in the alternative to pay the expenses of construction.

10. The **Defendants filed a Written Statement** asserted that Plaintiff was neither the owner nor in possession of the Suit Property. The Plaintiff had prepared forged and fabricated documents, in respect of the Suit Property.

11. **On merits**, it was asserted that since many years back in a family Settlement, property came to the share of father of the Defendants and the Defendants are in possession since their birth till date. The Plaintiff was claimed to have filed a wrong site plan and also the Suit Property had not



been specified properly. The Local Commissioner could be appointed to ascertain the actual condition of the Suit Property.

12. It was asserted that there were no latrine, bathroom and kitchen in the Suit Property, which was in a dilapidated condition and the property was being used by the Defendants to keep the fodder of their cattle and also the household articles.

13. It was denied that the property had been gifted by Sh. Bhartu Singh to the Plaintiff and her husband Bijay Singh. The Defendants claimed to be in possession since their birth and asserted that the documents relied upon by the Plaintiff, were forced and fabricated. It was therefore, submitted that the Plaintiff had no right title in the Suit Property and she had no right to claim the reconstruction of the wall. It was asserted that the Suit was liable to be dismissed.

14. The Plaintiff in the **Replication**, reiterated her assertions made in the plaint and denied the allegations made in the Written Statement.

15. The **issues on the pleadings were framed on 28.03.2019**, as under:

“(i) Whether the plaintiff is in possession of the suit property i.e. Constructed House (Earth Khana) admeasuring 50 square yards out of Khasra no. 141 situated in the Lal Dora Abadi of Village Bijwasan, New Delhi? (OPP)

(ii) Whether the defendants have demolished the wall of the suit property on 22.10.2018? (OPP)

(iii) Whether the plaintiff has no right, title or interest in the suit property? (OPD)

(iv) Whether the plaintiff is entitled to decree of permanent injunction restraining them from interfering



in peaceful possession of plaintiff over the suit property? (OPP)

(v) Whether the plaintiff is entitled to decree of mandatory injunction directing the defendants to construct the demolished wall of the plaintiff? (OPP)

(vi) Relief.”

16. The **Plaintiff examined herself as PW1** and proved the site plan, GPA, Gift Deed, Will, and other documents as Ex. PW1/A to PW1/J.

17. **PW2-Dinesh Sejwal** identified the signatures of his father on the original GPA and Gift Deed dated 22.08.1986 Ex.PW1/C and the Will dated 22.08.1986 Ex.PW1/E.

18. **Defendant No. 1 Sh. Kaptan Singh** examined himself as DW1, to depose about to the defence as taken in the Written Statement.

19. **DW2 Rohit** from Office of Notary Cell, deposed that there was no person in the name of M.L. Sood enrolled as the Notary and produced the record Ex.DW2/A.

20. **DW3-Rakesh Kumar** produced the documents regarding Mohan Lal Sood and the period of his license from 20.01.1977 to 19.01.1992 and the Notary Register Ex.DW3/A.

21. The **learned Civil Judge** on appreciation of the evidence, observed that the Plaintiff was trying to establish her title in the Suit Property on the basis of GPA, Gift Deed, Affidavit, Will and the Electricity Bill, which were unregistered and cannot affect the title transfer in the Suit Property. It was further observed that there was no evidence to prove that the Plaintiff was in possession of the Suit Property. There was only one Electricity Bill of the year 1992 produced, which was 26 years old.



22. In the absence of oral and documentary evidence, it was held that the Plaintiff failed to prove her possession in the Suit Property. Therefore, it was held that she was not entitled to Permanent Injunction in respect of the demolition of the wall.

23. It was further held that the Plaintiff had failed to prove that the wall of the Suit Property had been demolished by the Defendants. It was thus, held that the Plaintiff had no right, title, interest in the Suit Property. Moreover, she had not even sought a declaration in respect of her title.

24. **The Suit of the Plaintiff was accordingly, dismissed.**

25. The *RCA Civil DJ ADJ 15/2023* was filed against the Impugned Judgment. However, *the learned ADJ concurred* with the findings of the learned Civil Judge and upheld the dismissal of the Suit by the learned Civil Judge. The Appeal was consequently, dismissed.

26. Aggrieved, **the Second Regular Appeal under Section 100 CPC, has been filed.**

27. The **grounds of challenge** are that the Gift Deed has been wrongly rejected only on the ground of not being registered under Section 123 of the Transfer of Property Act. However, even though the Gift Deed was unregistered, it could still be relied upon for collateral purpose, as per Proviso to Section 49 Registration Act. Reliance is placed on Balram Singh v. Kelo Devi (2022).

28. Furthermore, the learned Trial Court fell in error in framing an issue of title in a Suit for Permanent and Mandatory Injunction, as the title cannot be decided in such a Suit. Reliance is placed on Anathula Sudhakar v. Buchi Reddy AIR 2008 SC 2033.



29. It has not been appreciated that the Defendants have failed to prove their right and interest in the suit property, as no documents have been produced by them in their evidence.

30. The Will Ex.PW1/E executed by the father-in-law of the Plaintiff in her favor, has also not been considered. There is no evidence to disprove the Will Ex.PW1/E. The learned Trial Court has fallen in grave error in not considering the Electricity Bill and the testimony of the Plaintiff to decide the Suit, in her favour.

31. Hence, it is submitted that the impugned Judgment is liable to be set aside.

Submissions heard and record perused.

32. The Plaintiff had filed the Suit of Permanent Injunction for restraining the Defendants from dispossessing her from the Suit Property on the assertion that she had a right, title, interest in the Suit Property. *In order to prove her right, title and interest, she had relied upon Will, Gift Deed and GPA Ex.PW1/C and PW1/E, respectively.*

33. The learned Civil Judge had rightly observed that an unregistered Gift Deed cannot create any right, title, interest in favor of the Plaintiff. Furthermore, she relied on a Will Ex. PW1/E, but it was not proved in accordance with Section 68 Evidence Act, and thus could not be considered in evidence.

34. The learned Civil Judge also rightly relied upon Anathula Sudhakar (Supra) to observe that when there is a cloud on the title of a person, no Injunction can be granted, unless a person seeks a Declaration in respect of a title. The Plaintiff's basis for protection of possession was on title, which was not proved.



35. The Plaintiff had also sought protection of her possession by asserting that she was in possession of the Suit Property. However, the learned Trial Court had rightly appreciated the evidence, to conclude that the Plaintiff had not been able to prove her possession in the Suit Property.

36. The Defendant had not only asserted that the site plan relied upon by the Plaintiff was incorrect, a fact that was admitted by the Plaintiff in her cross-examination, but had also stated that the Suit Property was merely a room in a dilapidated condition, which was being used by them for putting fodder and household articles. The property did not have any latrine, bathroom or the kitchen. There was no rebuttal of the evidence of the Defendants, by the Plaintiff.

37. It has been rightly concluded that the Plaintiff was not able to establish her possession in the Suit Property by any cogent evidence. *The relief of Permanent Injunction was rightly denied to the Plaintiff/Appellant by the learned Civil Judge.*

38. Likewise, the relief of Mandatory Injunction for directing the Defendants to reconstruct the wall, was rejected on the ground that there was no evidence whatsoever produced by the Plaintiff that the wall had been demolished by the Defendants. Furthermore, once the possession itself was not established, the question of demolition or reconstruction of wall in the Suit Property, did not arise.

39. The learned Civil Judge, therefore, rightly dismissed the Suit of the Plaintiff for Permanent and Mandatory Injunction.

40. The learned District Judge had re-appreciated the entire evidence and had come to the same conclusion of there being no cogent evidence, to decide the Suit in favour of the Plaintiff.



41. Both the Courts have recorded a finding on fact of the Plaintiff neither having any title, documents or possession of the Suit Property. In fact, the challenge is only to the findings on fact, which is beyond the scope of the Second Regular Appeal.

42. *There is no substantial question of law raised in the present Appeal.*
There is no merit in the present Second Appeal, which is hereby, dismissed. Pending Applications, if any, are also disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 18, 2026

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