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

+ RFA 334/2026, CM APPL. 23050/2026 (under Order XLI Rule 5 CPC), CM APPL. 23051/2026 (Exemption)

HANSRAJ

S/O LATE RAM CHANDER

R/O H.NO. 292, POLE NO. 110

VILLAGE KAKROLA

NEW DELHI-110078

....Appellant

Through: Mr. Abhishek Kaushik, Advocate.
versus

1. PREM PRAKASH

S/O LATE SHRI LAJJA RAM

R/O H.NO. WZ-425

VILLAGE BAISAI DARAPUR

NEW DELHI-110015

2. ANIL KUMAR

S/O LATE SHRI VIJENDER KUMAR

R/O H.NO. WZ-425

VILLAGE BAISAI DARAPUR

NEW DELHI-110015

3. LAND ACQUISITION COLLECTOR (LAC)

SOUTH-WEST, KAPASHERA

OLD TAX BUILDING

NEW DELHI-110023

.....Respondents

Through: Mr. Manish Tanwar, Advocate for R1
& R2.

Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr. Sunil Kumar Jha,
Mr. Mohd Sueb Akhtar, Advocates
for R-3/LAC.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA



ORDER

09.04.2026

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CM APPL. 23052/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

RFA 334/2026:

3. Appeal under *Section 96* read with *Order XLI* read with *Section 151* of the *Code of Civil Procedure, 1908* (hereinafter referred to as '*CPC*') has been filed on behalf of the Appellant against the Order dated 20.01.2026 whereby the learned Additional District Judge, New Delhi, *has rejected the Suit of the Plaintiff / Appellant for declaring the Sale Deed dated 27.06.1970 as null and void, and for Permanent Injunction.*
4. The Plaintiff / Appellant filed a Suit No. CS DJ 792/24 *for the Declaration of the Sale Deed dated 27.06.1970 as null and void, and Permanent Injunction to restrain the Defendants / Respondents from the illegal dispossession of the Plaintiff / Appellant.*
5. The *facts in brief as stated in the Plaint* are that Late Mr. Ram Chander s/o Mr. Hari Singh, father of the Plaintiff, was the owner and in possession of land measuring 17 Bigha and 4 Biswa *vide* Mustali No. 30 bearing Khasra No.30/16 (4-4); 17/1 (4-1); 17/2 (0-6); 24 (4-13); 25/2 (4-0), Village Kakrola, Tehsil Mahrauli, New Delhi-110075 (*hereinafter referred to as 'Suit Property'*). Mr. Ram Chander died on 10.08.1984. Thereafter, the Suit Property was inherited by the Plaintiff along with his mother, Smt. Roshni Devi.
6. The Plaintiff was seven years old at the time of the death of his father. The Suit Property was managed by the mother, Smt. Roshni Devi, after the



demise of the husband. However, she was an illiterate lady and was of senile age. *The mother died on 03.05.2023*, and thereafter, the Plaintiff came at the helms of the affairs and started managing the property.

7. In February, 2020, the Plaintiff came to know that the Suit Property is lying vacant, and had been acquired by the DDA *vide* Award No. 1/93-94, but the DDA has not awarded any compensation to the father of the Plaintiff and the family members. On 24.02.2020, the Plaintiff sent a Legal Notice to DDA, but no reply was received.

8. Thereafter, the Plaintiff filed a *Civil Suit bearing CS SCJ/772/2020*, titled *Hans Raj vs. DDA & Ors.*, in the Court of learned Senior Civil Judge, New Delhi. The DDA after receiving the Summons, filed *the Written Statement on 29.01.2022* wherein it was submitted that the DDA had acquired a part of the Suit Property *i.e.*, Khasra No. 30/24 (4-13) and 25/2 (0-4), and handed over the possession of the same, to the Land Acquisition Controller (*hereinafter referred to as 'LAC'*), on 26.08.1992. The remaining part of the Suit Property bearing Khasra No. 30(0-16); 17 (0-1); 17(0-2), was not acquired.

9. From this Written Statement, the Plaintiff came to know that the compensation for the land was deposited with the Defendant No. 3. The Plaintiff on 19.04.2022 gave a Notice to the LAC / Defendant No. 3, but no Reply was received.

10. Thereafter, the Plaintiff amended his Suit thereby to implead the LAC, Kapashera, New Delhi, as a party to the Suit, and till date, the LAC has not filed any Written Statement.

11. In the month of June, 2024, the Plaintiff and his sons went to the Suit Property, and found that some labourers were doing construction / repair



work over the Suit Property. The Plaintiff was told that the land belonged to the said person, being the owner of the Property. On confrontation with the labourers, they told the Plaintiff that they had been engaged by the Defendants.

12. The Plaintiff went to the house of the Defendant No. 1 Prem Prakash, who informed that he and his elder brother, Late Mr. Vijender Kumar s/o Late Mr. Lajja Ram, had purchased the Suit Property from the father of the Plaintiff by virtue of the Registered Sale Deed on 27.06.1970. There were some heated arguments. Thereafter, the Plaintiff inspected the revenue records in the office of Halka Patwari, from where he came to know that the mutation of the Suit Property was entered in the name of the Defendant No. 1 and his brother in the year 1970, on the strength of the Sale Deed dated 27.06.1970, executed in their favour, by the Plaintiff's father.

13. The Plaintiff then got the certified copy of the Sale Deed and on inspection, found that there were thumb impressions of the father on the Sale Deed, but there were no signatures, whereas the father of the Plaintiff used to put his signatures on the documents, and never his thumb impressions.

14. The Plaintiff asserted that in the year 1970, his father was not in good health, and was also not in a position to visit the office of Sub-Registrar. He was bed ridden and was of unsound mind in the year 1970. Furthermore, the consideration for the sale of the Suit Property was shown as Rs.6,000/-, which is much less than the market value prevailing at that time.

15. In the year 1983, Late Sh. Ram Chander, father of the Plaintiff, had executed a Lease Deed in favour of *M/s Om Prakash Diwan and his partner, Mr. Vijender Kumar, of another land admeasuring 30 Bighas 6 Biswa, adjoining to the Suit Property*, for the purpose of Brick-Kilan, excavation of



earth for up to six feet for five years, commencing from 01.06.1983 upto 31.05.1988, at the rate of Rs.8,000/- per year, which was duly registered.

16. After inspecting the Sale Deed, the Plaintiff had felt a smell of foul play. He also came to know upon enquiry from the Defendant No. 1, that the Firm M/s Bal Kishan and Company, was run by one Shri Bal Kishan, brother of the Defendant No. 1, and the uncle of the Defendant No. 2. Mr. Bal Kishan was the attesting witness in the Sale Deed.

17. Moreover, Shri Bal Kishan, never handed over the physical possession of Suit Property to Mr. Ram Chander by way of cancelling the Lease Deed. Hence, he could not hand over the possession, to the vendees. Mr. Bal Kishan took part in getting the mutation of the Suit Property in the name of his brothers, Mr. Prem Prakash and Mr. Vijender Kumar, on the strength of the Sale Deed, by moving an application, and he himself delivered the original Sale Deed to the concerned *Halka Patwari*. The other attesting witness on the Sale Deed, was also the close relative of the vendees. The thumb impressions on the Sale Deed as vender, was put either by the vendees, or by the attesting witnesses, and not by the father of the Plaintiff.

18. In the light of the aforesaid circumstances, the Plaintiff filed the present Suit and ***sought a Declaration that the Sale Deed dated 27.06.1970, be declared as null and void, and that the Defendants be restrained from illegally dispossessing the Plaintiff from the Suit Property.***

19. The Suit was contested by the Defendants / Respondents who filed their ***Written Statement.***

20. They had also filed an Application under ***Order VII Rule 11 CPC*** wherein it was claimed that the Suit was liable to be rejected as being barred



by *Section 31 CPC*. Also, *it was barred by limitation as the Suit has been filed after 55 years*. The Suit was also asserted to be barred under *Order VII Rule 1(i) CPC* as the statement of the value of the subject matter of Suit for the purpose of jurisdiction and Court Fee, was not mentioned. The Plaintiff was duty bound to furnish detailed and precise description of the property of the subject matter, but *no site plan* has been filed.

21. The learned District Judge considered the rival contentions and observed that **the Suit was patently barred by limitation**. It was also observed that the Suit was filed only for *Declaration and Permanent Injunction, but no Possession was sought*. The Suit as framed was therefore, not maintainable. *Consequently, the Suit of the Plaintiff was rejected*.

22. The Plaintiff / Appellant has **filed the Appeal** wherein the *grounds of Appeal* are that the Plaint disclosed a complete and triable cause of action, and the Suit could not have been rejected. The Plaint specifically pleaded discovery of the fraudulent Sale Deed, illegal mutation, and subsequent interference by the Defendants, which constituted a valid cause of action.

23. The learned Trial Court exceeded its jurisdiction by disbelieving the averments made in the Plaint, whereas at this stage, all the averments made in the Plaint are to be assumed as true and correct.

24. It has not been considered that the present case was founded upon fraud, concealment, and fabrication of documents, and therefore, in view of *Section 17 of the Limitation Act, 1963*, the period of limitation would commence only from the date of discovery of fraud, *i.e.*, July, 2024, when the Appellant obtained certified copies of the alleged Sale Deed and the mutation.



25. It is a settled law that fraud vitiates all proceeding and limitation does not run against a party who has been kept in ignorance of the fraud.

26. The issue of limitation has been erroneously decided by the learned Trial Court at the threshold, even though the Plaintiff had specifically pleaded about knowledge of fraud, only in July 2024. The question of *limitation was a mixed question of fact and law* and could not have been determined without giving an opportunity to the Plaintiff to adduce evidence.

27. Furthermore, the learned Trial Court has misapplied *Article 60 of Limitation Act, 1963*, which relates to transfers made by a guardian whereas the present case pertains to an alleged fraudulent Sale Deed purportedly executed by the Plaintiff's father, and thus, *Article 60 of the Limitation Act, 1963*, had no application.

28. The alleged contradictions highlighted in the impugned Order were only minor inconsistency in the pleading, and could not form ground for rejection under *Order VII Rule 11 CPC*. There were specific averments in the Plaint asserting possession, and thus, the learned Trial Court could not have concluded that the relief of Possession ought to have been sought by the Plaintiff.

29. Therefore, it is prayed that the impugned Order be set aside and the Suit be sent back to be tried on merits.

30. *On advance Notice, learned counsel for the Respondents, has appeared.*

Submissions heard and the record perused.

31. Simply put, the Plaintiff / Appellant is challenging the Sale Deed dated 27.06.1970 executed by his father in favor of Defendants, as null and



void.

32. The first and foremost aspect which is evident is that the Appellant is claiming his title through his father, who had sold the Suit Property on 27.06.1970. After the demise of father, he was survived by the Appellant and the mother. In case there was a challenge to be made in regard to the Sale Deed, the mother was well competent to do so, who as per the Appellant himself, was at the helm of the affairs after the demise of the father. He then made a desperate attempt to cover this aspect by asserting that she was an illiterate lady and was of senile age. When the Appellant himself was seven years old at that time, the mother could not have been old at that time, especially when she had died in 03.05.2023. The mother did not challenge the Sale Deed ever, during her lifetime.

33. Another significant aspect is that the Sale Deed was executed by the father in 1970, but he died in 1984. He, through whom the Appellant is claiming his right, had been managing the properties despite which he never challenged the Sale Deed during his lifetime.

34. Another pertinent aspect is that the mutation of the Suit Property on the basis of the Sale Deed was effected in the name of the Defendants, in the year 1970. To say that the Appellant was not aware of the Sale Deed or the mutation, despite managing the properties, is blatantly not feasible, as per the averments made in the Plaint.

35. It is also significant to note that the Appellant has claimed that his father was keeping poor health, was bed ridden, and was not in a position to execute the Sale Deed. However, not a single medical document has been produced nor is there any cogent evidence to show that the father of the Appellant was not having sound mind to execute the Sale Deed in 1970.



36. It has been rightly observed by the learned District Judge that as per the averments made in the Plaint that, the Plaintiff was born in the year 1977 and therefore, he could not have been in a position to mention anything about the mental health of his father in the year 1970. The Plaintiff himself has stated that in 1983 the Plaintiff's father had leased out the adjoining property to M/s Om Prakash Diwan and his partner, Mr. Vijender Kumar. This itself reflects that the father was not suffering and his averments are self-contradictory. Moreover, there is not a fraction of cogent evidence to support his claim of fraud has been filed or explained. The averment of the father being mentally not fit is, on the face of it, not tenable, as a circumstance to cast suspicion on the Sale Deed.

37. The learned District Judge has rightly noted that the Plaintiff was born in the year 1977, and attained the majority in the year 1995. For him to say that, despite there being mutation in the municipal records, he was not aware about the Sale Deed or the mutation till 2024, is only a desperate attempt to somehow, bring the Suit within limitation. ***The learned District Judge therefore, rightly noted that the challenge to the Sale Deed after 55 years, cannot be stated to be within the limitation.***

38. Another significant aspect is that the Plaintiff had filed the Suit only for *Declaration and Permanent Injunction*, but had not sought the relief of *Possession*. The Supreme Court in the case of Anatula Sudhakar v P. Buchi Reddy through LRs, Appeal (Civil) 6191/2001, held that where there is a cloud raised over Plaintiff's title, and he does not have possession, a Suit for Declaration and Possession, with or without consequential Injunction, is the remedy. *The learned District Judge has rightly noted that while the Suit was filed for Declaration and Permanent Injunction, no relief of Possession was*



claimed.

39. Learned Counsel on behalf of the Plaintiff / Appellant has tried to wriggle out of this legal objection, by claiming that there was a mention of Possession in the Plaint, but merely mentioning about the Possession would not mature into a relief, in the absence of there being any specific prayer claiming the Possession. *The Suit as framed, was therefore, not maintainable in the absence of the relief of Possession.*

40. It is, therefore, concluded that there is no infirmity in the impugned Order and the Appeal is **dismissed**. Pending Applications, if any, also stands disposed of.

NEENA BANSAL KRISHNA, J

APRIL 9, 2026/RS