IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 31st July, 2026*
Pronounced on: 27th October, 2026
Uploaded on: 30th October, 2026

CNR No. DLHC010098772020

\+ **RSA 9/2020 & CM APPL.3098/2020**

Shri. V P Tandon Through his LRs

a. **Mrs. Praveen Chawla**
Wife of Mr. Raj Kumar Chawla
Daughter of Late Shri V.P. Tandon
Resident of 117-A, Central Avenue
Sainik Farms, New Delhi-110062;

b. **Mrs. Meena Khanna**
Wife of Mr. Varinder Khanna
Daughter of Late Shri. V.P. Tandon
Resident of B-20, Bhagwati Housing Society,
Santa Cruz West, Linking Road Extension,
Mumbai -40054.

c. **Rakesh Tandon**
Son of Late Shri V.P. Tandon
Resident of B-233, Greater Kailash – I,
New Delhi -110048

d. **Rajesh Tandon**
Son of Late Shri V. P. Tandon
Resident of B-233, Greater Kailash-I

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New Delhi -110048 **…**Appellant

Through: Mr. Arun Vohra and Mr. Dilip Kumar, Advs.

versus

1. **VED PRAKASH**
   Son of Late Shri Rameshwar Pal
   Resident of 138 B, Zamrudpur,
   New Delhi -11048
2. **Sukh Pal**
   Son of Late Shri Rameshwar Pal
   Resident of House No. 10, Zamrudpur,
   New Delhi -110048 …Respondents

Through: Mr. Shashi Shanker, Mr. Arnav Dhama, Ms. Apoorva Mishra, Mr. Priyank Tiwari, Mr. Manish, Advs.

 # CNR No. DLHC010160512020

+ RSA54/2020 & CM APPL. 9888/2020 & CM APPL. 65178/20230

1. **VED PRAKASH**
   Son of Late Shri Rameshwar Pal
   Resident of 138 B, Zamrudpur,
   New Delhi -11048
2. **Sukh Pal**
   Son of Late Shri Rameshwar Pal
   Resident of House No. 10, Zamrudpur,
   New Delhi -110048 …Appellants

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Through: Mr. Shashi Shanker, Mr. Arnav Dhama, Ms. Apoorva Mishra, Mr. Priyank Tiwari, Mr. Manish, Advs.

versus

Shri. V P Tandon (Since Deceased) Through his LRs

a. **Mrs. Praveen Chawla**
   Wife of Mr. Raj Kumar Chawla
   Daughter of Late Shri V.P. Tandon
   Resident of 117-A, Central Avenue
   Sainik Farms, New Delhi-110062;

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   Resident of B-233, Greater Kailash-I
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…Respondent

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Through: Mr. Arun Vohra and Mr. Dilip Kumar, Advs.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The ***Regular Second Appeal No. 54/2020*** under Section 100 of Code of Civil Procedure, 1908 *(hereinafter referred to as 'CPC')* has been filed by ***Plaintiff/Ved Prakash and Sukhpal*** against the Judgment dated **15.11.2019** of the learned *Additional District Judge*, whereby the learned *ADJ* partly set aside the Judgment and Decree dated **12.10.2018** of the learned Civil Judge to the extent of decree for possession, but granted arrears to Plaintiffs of rent @ Rs. 242 per month along with interest @ 15% per annum, for the three years preceding to the date of filing of the suit and *pendente lite* till the date of realisation.

2. The ***Regular Second Appeal No. 9/2020*** under Section 100 CPC has been filed by ***Defendant/V.P. Tandon*** against the Judgment dated **15.11.2019** of the learned *Additional District Judge*, whereby the learned *ADJ* awarded the damages of Rs. 2,00,000/- in the favour of the Plaintiff/ Ved Prakash and Sukhpal.

3. The *Plaintiffs/Ved Prakash and Sukhpal* had filed ***Civil Suit No. 461 of 2014*** (**C.S. No. 51388/2016**) for *Recovery of Possession, arrears of rent* of Rs. 1,40,000/- with effect from January 2013 to August 2014 besides outstanding electricity and water charges; d*amages/mesne profits @ Rs. 1,000/- per day* w.e.f. 01.10.2014 till the peaceful possession is handed over

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to the Plaintiff and for restraining the Defendant from creating third party rights, in the suit property.

4. The ***facts in brief*** as narrated in the Plaint, was that the Plaintiffs were the absolute owners of the Property bearing No. 1-E, Village Zamrudpur, New Delhi – 110048 *(hereinafter referred to as the suit property)*. It was explained that the property was owned by S. Tarlochan Singh Mehta, who sold the property to Smt. Surinder Kaur, vide Sale Deed dated **16.04.1999** and finally the suit property was purchased by the Plaintiffs.

5. At the time of the purchase of this property from erstwhile owner, Defendant/V.P. Tandon was already existing as a tenant in the suit premises, having been inducted by S. Tarlochan Singh Mehta, the *erstwhile* owner. Thus, the Plaintiffs after purchase of the suit property, stepped into the shoes of the erstwhile owner/landlord and were so recognised by the Defendant.

6. The Defendant continued to make the payment of the rent till November 2007 but, thereafter, defaulted in paying the rent. After much persuasion, the Defendant agreed to clear the outstanding rents and also agreed to enhance the rent. The Defendant paid the rent @ Rs. 7000/- per month till December, 2012 but thereafter, he again stopped paying rent.

7. The Plaintiff claimed that Defendant was having his own property near the tenanted suit premises, from where he was running his office. The Defendant gave major portion of the said premises situated at the backside of the tenanted premises of the Plaintiff on rent and was earning handsomely.

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8. The Plaintiff asserted that their sons had completed their studies and the Plaintiff required the premises, to start their business. Due to the aforesaid reason and also for non-payment of rent, the Plaintiffs served Legal Notice dated **19.08.2014** upon the Defendant, to vacate the suit property and hand over the peaceful possession to the Plaintiffs; to clear the arrears of rent of **Rs 1,40,000/-** w.e.f. January, 2013 till August, 2014 and to pay the mesne damages/profits @ **Rs. 1,000/-** per day w.e.f. **01.10.2014,** till handing over the peaceful possession of the suit property.

9. The Defendant, however, despite service of legal Notice, neither replied to it nor vacates the premises or clear the arrears of rent. Hence, the Plaintiff filed the *Suit for Recovery of Possession, arrears of rent, damages/mesne profits at the aforesaid rates.*

10. The **Defendant/V.P. Tandon in his *Written Statement***, took the *preliminary objections* that the Suit was barred under Section 50 of the Delhi Rent Control Act, 1958 as the rate of rent was much less than Rs. 3,500/- per month. Also, the Suit had not been verified in accordance with *Order VI Rule 15* CPC. Moreover, by virtue of Section 41(h) of the Specific Relief Act, entire claim of the Plaintiff does not have any merit and the Plaintiff is not entitled to any relief.

11. It is further claimed that even if the claim of the Plaintiff is assumed to be correct and true, then also the Plaintiffs were required to intimate the Defendant about the purchase of the property by sending a "*Letter of Atonement"*, which was never tendered to the Defendant. The averments made in the Plaint are vague, unnecessary, scandalous and frivolous which

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are liable to be struck off under *Order VI Rule 16 CPC*. The Defendant is a senior citizen aged about 82 years and has been suffering from innumerable old age ailments including chronic heart disease.

12. The Defendant claimed that he was a tenant of the suit property since last 40 years, at the initial rate of rent as Rs. 200/-, exclusive of water and electricity charges. Moreover, the tenancy was *commercial in nature*, as the Defendant had been using the premises as the godown, right from the date of commencement of tenancy. The original landlord of the suit property, *Smt. Krishan Kaur* had let out the suit property @ Rs. 200/- per month and the Defendant has been enjoying the continuous uninterrupted possession of the suit property, as a *bona fide* tenant. The rent receipt dated **13.07.1981** issued by *Smt. Krishan Kaur* in the capacity of the owner/landlord wherein the rent was Rs. 200/- per month, is annexed. *Smt. Krishan Kaur* sold the suit property to one *Smt. Surinder Kaur,* after which the Defendant started paying rent to *Smt. Surinder Kaur*.

13. It was denied that the Plaintiff are the owner of the suit property; it was asserted that they are not in possession of the even a single document in regard to their title in the suit property. The Plaintiff must produce the title deeds, to substantiate their ownership rights in the suit property.

14. The Defendant further stated that somewhere in January 2003, he received a letter from *Smt. Surinder Kaur* informing the Defendant that she has sold the property to one *Ved Prakash* and one *Y. S. Verma*, and further about the transfer of title in the suit property to them. However, as a vigilant tenant and being confused by such undated and apparently forged

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information, he immediately wrote a Reply dated **24.03.2003** to all the three persons, namely *Smt. Surinder Kaur*, *Ved Prakash*, and *Y. S. Verma* requesting them to furnish the title deeds and to substantiate the ownership rights. However, till date, none of the three persons have replied to his Letter. Suddenly, the Plaintiffs indolently woke up to their fabricated and cooked up a story, leading to the filing of the present litigation.

15. ***On merits***, a similar defence as taken in the preliminary objections, was reiterated. It was asserted that Plaintiff No.1 is a goonda element in the Zamrudpur vicinity and has been constantly harassing the Defendant, on one pretext or the other. One such example is that the Plaintiffs have let out five shops in the same premises of the suit property intentionally to fish, chicken, and mutton sellers, which is creating massive havoc and problems for the Defendant and other residents in the area. Such pollution spreading activity in the Zamrudpur Area without any license or permission from MCD, DDA, local patwari, etc., is a blatant crime. It was asserted that the fact that the Plaintiffs have not furnished any copy of Receipt issued by them, against the alleged payment of rents by the Defendants from the year 2003 till date, is highly illegal, fraudulent and amusingly perse nonsensical**. It was, therefore, submitted that the suit is liable to be dismissed.**

16. The ***Plaintiffs in the Replication*** denied the assertions made in the Written Statement and claimed that the Defendant is an illegal, unauthorized occupier of the suit property. It was submitted that as far as the ownership is concerned, the same was never disputed as admitted by the defendant, that he wrote one letter in the year 2003 to Plaintiffs and also demanded the

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ownership documents, which itself shows that the change of hands of ownership was in the knowledge of the defendant and only then he tendered rent in respect of the suit property to the Plaintiffs.

17. It was further asserted that the rent of the tenanted property, cannot be Rs. 200/- or Rs. 242/- as alleged by the Defendant, as on one hand the Defendant submitted that the property is a commercial property in the locality of South-East, Delhi and on the other hand, claims that the last rent paid was less than Rs. 3500/-, which is not only contradictory to his own act/conduct, but the same is arbitrary, mischievous and *malafide* in nature.

18. It is asserted that the Defendant has admitted his possession of the tenanted premises, but has failed to tender rent to anyone, including the Plaintiffs. Despite being a tenant in the suit property, the Defendant never attempted to deposit the rent before a court of law, even if his contention was that he was not making the payment of the rents to the Plaintiffs, since 2003. It can be presumed that the Defendant had been paying rent to Plaintiffs, until he stopped making payments in January, 2013. Consequently, when the Plaintiffs demanded the outstanding rent from the Defendant, the Defendant portrayed the demand as a threat, allegedly with *malafide* intent. Therefore, the only efficacious remedy available to the Plaintiffs was to seek possession, by virtue of the Suit.

19. It was denied that the rent was less than Rs. 3,500/- per month or that the suit was barred under Section 41(h) of the Specific Relief Act. In view of the admission that the Defendant has been occupying the Suit Property as a tenant, the other averments made in the Plaint were reaffirmed, and it was

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submitted that the Suit of the Plaintiffs be decreed, under Order XII Rule 6 CPC.

20. The **Learned *Civil Judge*** framed **the issues** *on* **02.02.2015**, as under:

1) *Whether the present suit has been instituted without any cause of action? OPD.*
2) *Whether the present suit is barred by Section 50 of Delhi Rent Control Act, 1958? OPD.*
3) *Whether the present suit is barred by Section 41(h) of the Specific Relief Act? OPD.*
4) *Whether the plaintiffs have approached this Court with clean hands and suppressed material facts? OPD.*
5) *Whether the plaintiffs are not the landlords of the tenanted premise? OPD.*
6) *Whether the plaintiffs are entitled to the decree of recovery of possession of the tenanted premise, as prayed for? OPP.*
7) *Whether the plaintiffs are entitled to recover arrears of rent of Rs. 1,40,000/- as prayed for? OPP.*
8) *Whether the plaintiffs are entitled to recover outstanding electricity and water charges as prayed for? OPP.*
9) *Whether the plaintiffs are entitled to recover mesne profits, for which period and at what rate? OPP.*
10) *Whether the plaintiffs are entitled to permanent injunction as prayed for? OPP.*
11) *Relief.*

21. The **PW-1** *Ved Prakash*, Plaintiff No. 1, tendered his evidence by way of Affidavit, **Ex.PW-1/1**, and proved the following documents:

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Sl. no	Exhibits	Documents.
1	Ex.PW1/A	Site plan
2	Ex.PW1/B (OSR)	Electricity bill
3	Ex.PW1/C (Colly) (OSR)	Educational certificates running into 3 pages
4	Ex.PW1/D (Colly) (OSR)	Training certificate dated 21.03.2013 and four receipts
5	Ex.PW1/E	Office copy of legal notice dated 19.08.2014 running into 3 pages
6	Ex.PW1/F to Ex.PW1/H	Postal receipts
7	Mark PW1/I to Mark PW1/K	Computer printouts of the postal receipt available at the website of India Posts
8	Ex.PW1/L (OSR)	Sale deed dated 16.04.1999 running into 6 pages
9	Ex.PW1/M	Will dated 30.12.2012 running into 2 pages
10	Ex.PW1/N (OSR)	GPA dated 30.12.2002 running into 5 pages
11	Ex.PW1/O (OSR)	Copy of GPA dated nil, 2003
12	Ex.PW1/P (OSR)	Copy of Will dated 26.08.2003 running into 2 pages
13	Ex.PW1/Q (OSR)	Will dated 26.08.2003 running into 2 pages
14	Ex.PW/R (OSR)	Will dated 22.10.2003 running into 2 pages
15	Ex.PW1/S (OSR)	GPA dated 22.10.2003 running into 5 pages

22. PW-2 Vishal Choudhary tendered his Evidence by way of Affidavit, **Ex.PW-2/A** and stated that the average commercial rent for any property in Zamrudpur area fetches rent to the tune of Rs. 25/- per square foot and that as per his knowledge, the area under the occupation of the defendant is around 1000 sq. ft. and the rent of the property should be Rs. 25,000/- per month, approximately.

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23. The **Defendant, *V. P. Tandon* examined himself as DW-1** and tendered his Evidence by way of Affidavit as **Ex. DW-1/A**. He proved the Rent Receipt dated 13.07.1981, **Mark PW1/D1**.

24. The **Learned *Civil Judge***, on appreciation of the evidence, observed that the Defendant had admitted that he was informed by the erstwhile tenant *Smt. Surinder Kaur*, regarding the transfer of ownership of the property to the Plaintiffs. Not only this, the Plaintiffs have proved the chain of documents, Ex. PW-1/L to Ex. PW-1/S, thereby establishing that they are the owners of the suit property. The Defendant had admitted being a tenant in the suit property, for the last 40 years. *Therefore, the relationship of landlord and tenant, was held to be proved.*

25. It was further observed that the Defendant had admitted not paying rent to any person since January, 2013. Considering the fact that the suit property was commercial in nature and it was situated in South-East Delhi, the rate of rent of the suit property cannot be presumed to be less than Rs. 5,000 per month and thus, the Plaintiff was entitled to rent of Rs. 5,000/- per month, qua the suit property from January, 2013 till filing of Suit. Further, Mesne profits were also granted at the same rate, i.e., Rs.5,000/-, per month, from the date of filing the suit till the peaceful and vacant possession was handed over to the Plaintiffs. The Defendants were also restrained from creating third-party rights in the suit property. **The Suit of the Plaintiffs was, accordingly, decreed.**

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26. Aggrieved by the judgment of **learned *Civil Judge*, the *Defendant/V.P. Tandon* preferred a *Regular Civil Appeal* under Section 96 CPC bearing *RCA No. 129 of 2018*.**

27. The **Learned *ADJ*, on re-appreciation of the evidence**, found that the Plaintiffs had proved their documents of title and thus, it was held that the Plaintiff was the owner/landlord of the suit property, and the Defendant was admittedly a tenant. **Therefore, there existed a relationship of landlord and tenant between the parties.**

28. However, on appreciation of evidence, it was found that the plaintiff had miserably failed to prove that the rent was ever Rs.5,000/- or Rs.7,000/-. In fact, the Plaintiff had admitted the Agreement to Sell dated **31.12.2002**, **Ex. PW1/DX1** and Possession Letter dated **31.12.2002**, **PW1/DX2**, wherein the rate of rent was mentioned as Rs. 242/- per month. It was held that Plaintiffs had not placed on record, any written contract showing enhancement of rent from Rs. 242/- to Rs. 7000/- nor any Rent Receipt having signature of the Defendant, to show that he had ever given the rent of Rs. 7000/-. Further, there is no specific stipulation of rental income received from the Defendant, in any other ITRs.

29. It was observed that it was highly improbable that the rent was enhanced upon mutual agreement between the parties, from Rs. 242/- to Rs. 7000/- per month. Further, the rent cannot be unilaterally enhanced without following the procedure of Section 6 and 8 of the Delhi Rent Control Act and that too, beyond the increase of 10% of the last paid rent in the interval of 3 years at a time. The reasoning of Trial Court that the property cannot be

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presumed to be less than Rs. 5,000/- per month by virtue of being commercial in nature and is situated in South East Delhi, was held to be not based on facts or laws. **It was, thus, concluded that the rate of rent was Rs. 242/- per month and not Rs.7,000/- as was asserted by the Plaintiff and the findings of the Trial Court on the point of rent was wrong.**

30. However, the Learned District Judge observed that the Suit for Recovery of arrears of rent was maintainable, since there existed no provision in the Delhi Rent Control Act in regard to the recovery of arrears of rent. **Consequently, the arrears of rent at the rate of Rs.242/- per month were granted to the Plaintiff from a period of three years immediately prior to the date of institution of the Suit.** Further, it was directed that the Defendant shall also continue making the payment of the rent @ Rs. 242 per month, for the future period. **In addition, damages of Rs. 2,00,0000/- were awarded to the Plaintiff on account of harassment and the conduct of the Defendants.**

31. Aggrieved by the aforesaid Judgment, ***the Defendant/V.P. Tandon has filed a Regular Second Appeal, RSA No. 9/2020***, challenging the Judgment dated **15.11.2019, granting arrears of rent and damages**.

32. The ***grounds of challenge*** are that it has not appreciated that once the suit for possession was held to be barred by law, *then the suit for damages is also barred and damages cannot be awarded.* The damages on account of harassment and conduct of the Defendant, could not have been granted against the Defendant, as it was the Plaintiff who had defaulted in following

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the procedure of law, and it is the Defendant who had been illegally burdened.

33. It was further contended that when the it was held that Suit was governed under the Delhi Rent Control Act as the rent was less than Rs. 3,500/-; *mesne* profits and damages were also barred, and the Suit was liable to be dismissed. It is, therefore, prayed that the Impugned Judgment dated **15.11.2019**, granting damages of Rs. 2,00,000/- against the Defendant, be set aside.

34. ***The Plaintiffs/Ved Prakash and Sukhpal, has also filed a Regular Second Appeal, RSA No. 54/2020,*** as aggrieved by the Impugned Judgment dated **15.11.2019** of the learned *ADJ,* whereby the decree in respect of possession granted by learned *Civil Judge*, had been set aside.

35. The ***first challenge*** is that the Plaintiffs had successfully proved the documents establishing their right in the suit property, to get the property vacated from the Defendant, besides recovering the arrears of rent and damages. The evidence has not been appreciated correctly, and the observations and the findings suffer from perversity and are self-contradictory.

36. It had been ignored by the First Appellate Court that subsequent documents, i.e. the registered General Power of Attorney and Will dated **26.08.2003** executed in favor of the erstwhile owner, and the subsequent Registered Will and General Power of Attorney dated **22.10.2003**executed in favor of the Plaintiffs *qua* the suit property, were proved as **Ex.PW1/P**, **Ex.PW1/Q, Ex.PW1/R**, and **Ex.PW1/S**, respectively. These documents had

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been deliberately suppressed by the Defendant and have not been rightly appreciated by the First Appellate Court.

37. It is claimed that all the witnesses examined by the Plaintiff, clearly deposed in consonance with the facts adduced by the Plaintiff, and there was nothing contradictory in the claim of the Plaintiff despite which, a contradictory Order has been passed by the First Appellate Court.

38. The ***second challenge*** is that while on one hand, the Defendant has been directed to pay arrears of rent @ Rs 242 per month from the last 3 years, but it has been directed the Defendant to continue making payment of rent @ Rs. 242/- per month for future period, to the Plaintiffs. The damages of Rs. 2,00,000/- have been awarded in favour of the Plaintiffs @ Rs. 5,000/- per month for illegal retention of the suit property by the Defendant, for a period of more than 40 months, despite which the rate of rent has been erroneously held as Rs. 242/- per month.

39. It is, therefore, prayed that the Impugned Judgment and Decree dated 15.11.2019, be set aside.

40. The ***Plaintiffs/Ved Prakash and Sukhpal*****, in their *Written Submissions***, submitted that the evidence has been rightly appreciated by the learned Civil Judge in deciding the Civil Suit and holding that no bar of Section 50 of the Delhi Rent Control Act, was attracted.

41. The Plaintiffs had been rightly held to be the landlord of the suit property and defendant was the tenant. It was, therefore, rightly held that the Plaintiff were entitled to possession. It was further held that the tenant had not admittedly paid the rent, at least since January, 2013. Considering

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the commercial nature of the suit property, the rent of the suit property cannot be presumed less than Rs. 25,000/- per month, though the learned *Civil Judge* presumed it to be not less than Rs. 5,000/- per month. The learned *ADJ* erroneously interpreted the Income Tax Returns filed by the Plaintiff from time to time, to conclude *that rate of rent as claimed, was not established.*

42. The learned *ADJ* observed that the conduct of the tenant in not depositing or tendering the rent, was only with a view to harass the landlord or to extort money. Considering the conduct of the Defendant, a sum of Rs. 2,00,000/- has been awarded to the Plaintiff as damages. It is asserted that if Rs. 2,00,000/- is divided by 36 months, the amount comes to Rs. 5,555/- per month, which is more than Rs. 3,500/- per month and thus, Civil Court had the jurisdiction to decree the Suit of the Plaintiff. It is asserted that the Judgment of the learned *ADJ* is erroneous and is contrary to the evidence as was rightly appreciated by the learned *Trial Court,* to decree the Suit of the Plaintiff for possession.

43. The First Appellate Court exceeded its jurisdiction under Section 96 CPC and interfered with the findings of the learned *Civil Judge*, which has recorded the evidence, observed the demeanour of witnesses, and appreciated the testimony firsthand. Furthermore, there was no perversity demonstrated in the findings of the learned *Civil Judge*. Despite this, the First Appellate Court has merely substituted its own interpretation of evidence, which is impermissible in law. The learned *Civil Judge*'s

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conclusion regarding enhancement of rent, was a finding of fact which ought not to have been interfered casually.

44. It is claimed that the First Appellate Court wrongly concluded that the Plaintiff were unable to prove the enhancement of rent from Rs. 242/- to Rs. 7,000/-. The oral testimony of the Plaintiffs, commercial nature of the property, prolonged possession, and market realities had been completely ignored. The property is commercial in nature, having several rented portions and is having substantial rental income from such rented units.

45. Admittedly, the property belonging to the Defendant, has a rental income of Rs. 40,000/- per month, which has the same dimension and locality. It is wholly unrealistic and contrary to ordinary human conduct, to presume that a commercial property in South Delhi, continued with the rent of Rs. 242/- per month for decades.

46. The learned *ADJ* incorrectly insisted upon documentary proof for enhancement of rent. There is no legal requirement that enhancement of rent must always be written, registered, or evidenced by formal receipts. The tenancy Agreement can be oral, and enhancement of rent may also be oral, which may be proved through conduct, surrounding circumstances, admissions, and oral evidence. The learned *ADJ* adopted an unduly technical approach, inconsistent with settled tenancy laws.

47. The tenant had miserably failed to produce any documentary evidence to prove the rate of rent as Rs. 242/- per month. No rent receipts, rent deposits, or any proceedings *qua* deposit of rent before the Rent Controller

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or proof of statutory tenancy or proof of payment after the year 2007, had been produced.

48. The burden shifted upon the Defendant/Tenant once the Plaintiffs/Landlord established the *prima facie* case of enhancement of rent. An adverse inference in terms of Section 114(g) of the Evidence Act ought to have been drawn against the Defendant. However, the learned *ADJ* wrongly penalized the Plaintiffs for want of documentary evidence, while ignoring the Defendant's own failure to produce any records.

49. It is asserted that the learned *ADJ* observed that not only Defendant stopped paying rent, but retained possession for years and failed to clear arrears, which amounted to harassment of the Plaintiffs and occupied suit property without justification. On one hand, the learned *ADJ* granted Rs. 2,00,000/- as damages for harassment, but on the other hand, denied the eviction by observing that the Defendant was a *bona fide* protected tenant. It is claimed that the Judgment is internally inconsistent, in extending the protection of Delhi Rent Control Act.

50. The learned *Civil Judge* had already concluded that the rent was Rs. 7,000/- per month and therefore, the Civil Court jurisdiction was properly invoked. The Judgment of the learned *Civil Judge* in the first instance was correct.

51. Furthermore, the learned *ADJ* wrongly diluted the case of the Plaintiffs in regard to the ownership, even though the Defendant had admitted original tenancy, his admitted occupation, and communication of

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ownership transfer, thereby Plaintiff stepping into the shoes of previous owner, in terms of Section 109 of Transfer of Property Act.

52. The learned *Civil Judge* had rightly appreciated the probabilities and the conduct of the Parties, while decreeing the Suit of the Plaintiff. The First Appellate Court, however, has adopted the criminal law standard of proof.

53. The ***Written Submissions*** **were filed on behalf of Defendant**, through his legal heirs. They asserted that the learned *ADJ* has erroneously awarded damages to the extent of Rs. 2,00,000/-, even though there existed no prayer for the same. The relief not claimed cannot be granted by the Court for which reliance is placed on ***Bachhaj Nahar v. Nilima Mandal & Anr. (2008) 17 SCC 491*** and ***Allahabad University, etc. v. Geetanjali, with Allahabad Degree College & Anr. vs. Geetanjali Tiwari (Pandey) & Ors., 2024 SCC Online SC 3776.***

54. It is further stated that in the Agreement to Sell dated **31.12.2002**, it had been clearly mentioned that the suit property was occupied by Defendant/*Shri V.P Tandon,* at a rent of Rs. 242/- per month. The learned *ADJ* rightly held that the rent being Rs. 242/- per month and the tenancy of Defendant was protected.

55. The learned *Civil Judge* had committed an error in deciding the issue of rent, by concluding that the rent could not be less than Rs. 5,000/- and failed to appreciate the Agreement to Sell dated **31.12.2002** and the Plaintiff had failed to prove the rent was increased to Rs. 7,000/- per month.

Submissions heard and record perused.

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56. The ***first aspect*** which arises for consideration, is *whether there exists a relationship of landlord and tenant between the parties i.e. Plaintiffs/Shri Ved Prakash & Shri. Sukhpal* and *Defendant/Shri V.P. Tandon*. The Defendant has admitted that he was inducted as a tenant in the suit premises at a rate of Rs. 240/- per month. Subsequently, *Mr S. Trilochan Singh* sold the property to *Smt. Surinder Kaur* vide Sale Deed dated **16.04.1999, ExPW1/L**.

57. In ***Para 13 of the Replication*** filed on behalf of the Plaintiffs, it was specifically mentioned that the Plaintiffs had entered into the shoes of the erstwhile owner, after having purchased the suit property and the ownership was not required for to be proved, but for clarity, the entire set of ownership documents were filed by the Plaintiffs, on the record.

58. Further, the Defendant received a letter from *Smt. Surinder Kaur,* informing him that she has sold the property to *Ved Prakash and one Y.S. Verma*. Thereafter, the Defendant wrote a Reply dated **24.03.2003**, wherein, the Defendant sought to furnish the title deed to him. Essentially, it is established from the testimony and the averments of Defendant that he was a tenant in the suit premises and that he was informed by Smt. Surinder Kaur about the sale of the property to the Plaintiff No. 1/Ved Prakash.

59. Shri Ved Prakash, in his testimony as **PW-1**, had produced the Sale Deed dated **16.04.1999**, **Ex.PW1/L** *vide* which Sh. S. Trilochan Singh Mehta sold the suit property to Smt. Surinder Kaur. Not only this, he produced the Will dated **30.12.2002**, **Ex.PW1/M**; General Power of Attorney dated **30.12.2002**, **Ex.PW1/N**; Undertaking and Affidavit dated

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31.12.2002; Agreement to Sell dated **31.12.2002**, **Ex.PW1/DX1**; Possession Letter dated **31.12.2002**, **Ex.PW1/DX2**; General Power of Attorney dated **26.08.2003**, **ExPW1/O**; Will dated **26.08.2003**, **Ex.PW1/Q**; Will dated **22.10.2003**, **Ex.PW1/R** and General Power of Attorney dated **22.10.2003**, **Ex.PW1/S**.

60. The Agreement to Sell dated **31.12.2002** was executed by Smt. Surinder Kaur in favor of *Sh. Ved Prakash* and *Sh. Y.S. Verma*. **Therefore, it is fully established that the plaintiffs had acquired the ownership in the suit property by virtue of the Agreement to Sell and Possession Letter dated 31.12.2002, from the erstwhile owner, i.e., Smt. Surinder Kaur.** Having validly purchased the property, a fact not disputed by the Defendant**, it is established that *Sh. Ved Prakash* became the co-owner of the suit property and stepped into the shoes of *Smt. Surinder Kaur*.** This fact was also in the knowledge of Defendant, as admitted by him. **The relationship of landlord and tenant is therefore, established between the Parties, as has been held by the learned *Civil Judge*.**

61. The **second aspect** is that ***whether the rate of rent was Rs. 242/- per month or Rs. 7,000/- per month and consequently,* the Suit is barred by Section 50 of the Delhi Rent Control Act.**

62. The main objection taken by Defendant was that the rent was Rs. 242/- per month and therefore, the Suit for Possession and Recovery of Arrears of rent/damages was barred under Section 50 of the Delhi Rent Control Act.

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63. The learned *Civil Judge* held that considering the location and nature of the property i.e. commercial property in South-East Delhi, the rate of rent of the suit property cannot be presumed to be less than Rs. 5,000 per month and thus, the Plaintiff was granted rent of Rs. 5,000/- per month qua the suit property from January 2013 till filing of suit. Further it observed that the suit was not barred under the Delhi Rent Control Act and decreed the suit for recovery of possession, as well as, arrears of rent/damages.

64. However, the learned *ADJ*, on re-appreciation of evidence, found the rent to be Rs. 242/- per month and accordingly, held the suit to be barred by limitation and barred by the Delhi Rent Control Act, and consequently reversed the decree of possession as passed by the learned Civil Judge.

65. The **Plaintiff No. 1/Ved Prakash** in the cross-examination dated **15.05.2019** under Section 165 of the Evidence Act, was confronted with the Agreement to Sell dated **31.12.2002** and Possession Letter dated **31.12.2002**, **Ex.PW1/DX1** and **Ex.PW1/DX2** respectively, which clearly mentioned that ***"Back Portion: occupied by Shri. V.P. Tandon at a rent of Rs. 242/- per month***", wherein he admitted that the rate of rent was Rs.242/- per month. *Therefore, from these two documents relied by the Plaintiff themself,* ***it is evident that the defendant was occupying the suit property as a tenant, at the rate of Rs. 242/- per month.***

66. There was also a Rent Receipt dated **13.07.1981 Mark PW1/D1** which was also corroborated by Defendant in his testimony, which reflects that the rent receipts for the month of April-May 1981, was in the sum of Rs.

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400/-, thereby corroborating that the initial rate of rent was Rs. 200/- per month which was subsequently enhanced to Rs. 242/- per month.

67. The Plaintiff had claimed that after having purchased the suit property, he had approached the Defendant in December, 2007 and the rent was enhanced to Rs. 7000/- per month. However, he himself had asserted in his cross-examination dated 15.05.2019, *that since the purchase of the property in the year 2002, he has been receiving the rent @ Rs. 7000/- per month and never @ Rs.242 per month.* It was asserted by him that he received the rent @ Rs. 7000/- per month after one or two months from the date of purchase and the said rent was never changed and modified.

68. There is a self-contradiction in the statement of Plaintiff No. 1; while he asserted that he was paid the rent after one or two months of purchase of the property in the year 2002 @ Rs. 7000/- per month; he himself had asserted that in December 2007, the parties had agreed to enhance the rate to Rs. 7000/- per month. The Plaintiff was confronted with this contradiction in his statement, wherein he sought to clarify that rent was Rs. 7000/- per month only and there was no occasion to enhance the rent in the year 2007.

69. From the contradictory evidence of the Plaintiff coupled with the documents i.e. Agreement to Sell and Possession Letter dated **31.12.2002**, **Ex.PW1/DX1** and **Ex.PW1/DX2** respectively, which have been admitted by the Plaintiff No. 1, it is evident that at the time when the property was purchased by him, the rent was Rs. 242/- per month. He has not been able to give any cogent evidence of either the rent been enhanced to Rs. 7000/- per month in the year 2002 or it been enhanced to Rs. 7000/- in December,

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2007. ***It is, therefore, well established that the rent was never Rs. 7000/- per month for the suit property but was Rs. 242/- per month.***

70. The learned *ADJ* also referred to the Income Tax Returns of the Plaintiff No. 1 which were marked as **CW-1 (Colly)** in detail, to conclude that the Income Tax Returns of Ved Prakash also did not establish that the rent was being received by him @ Rs. 7000/- per month. **The learned *ADJ* on appreciation of evidence, therefore, correctly recorded the rate of rent to be Rs. 242/- per month.**

71. The learned counsel on behalf of Plaintiff had claimed that damages of Rs. 2,00,000 granted to the Plaintiff, if divided by 36 months, the amount comes to Rs. 5,555/- per month, which is more than Rs. 3,500/- per month. It clearly reflects that the learned *ADJ* while not granting arrears of rent @ Rs. 7000, has himself calculated the damages by taking the rent as Rs. 5,555/- per month and thus, Civil Court had the jurisdiction to decide the suit of the Plaintiff. Furthermore, having regard to the locality and the property being commercial and also to the rent of the adjoining shops, the learned *Civil Judge* had rightly held the rent to be Rs. 5,000/- per month.

72. However, this contention raised on behalf of Plaintiff is absolutely fallacious. The overwhelming evidence, ocular and documentary evidence establishes the rate of rent to be Rs. 242/- per month and has been rightly held by the First Appellate Court. The damages have not been granted towards the arrears of rent for the last three years, but for the harassment and the continued occupation of the suit premises by Defendant. The damages

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cannot be bifurcated in the manner suggested by Plaintiffs, to calculate the rate of rent as Rs. 5,000/- or Rs. 5,555/- per month.

73. Once the First Appellate Court had correctly assessed rate of rent to be Rs. 242/- per month, which is below Rs. 3500/-, the Suit of the Plaintiff for Recovery of Possession was barred under the Delhi Rent Control Act. It may be a difficult case where the Defendant and now his legal heirs, are in occupation of the tenanted premises since long at a nominal rate of Rs. 242/- per month, but their eviction can be effected only in accordance with law.

74. The Plaintiff/landlord may find it a case of extreme hardship, but their remedy is to pursue the eviction under the correct law and is not entitled to a decree of Possession under the Transfer of Property Act.

75. The arrears of rent @ Rs. 242/- per month has been, therefore, rightly granted to Plaintiff and such findings do not merit any interference.

76. The Defendants through LRs, however, has an objection to the grant of damages in the sum of Rs. 2,00,000/- to the Plaintiff by the First Appellate Court. The learned *ADJ*, however, held that it is the discretion of the Court while deciding a suit to award the costs, if the circumstances so merit. Herein also, the First Appellate Court had considered the long period of litigation tenancy and the harassment caused to the Plaintiffs, in granting the damages of Rs. 2,00,000 which in fact, are in the nature of costs. ***Therefore, there is no infirmity in the grant of the damages and there is no merit in the Appeal filed by Defendant through LRs*** in **RSA 9/2020.**

Conclusion:

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77. In view of the aforesaid discussion, *it is held that there is no merit in both the Appeals i.e. RSA 9/2020 filed by V.P. Tandon through LRs and RSA 54/2020 filed by Ved Prakash and another.* ***Both the Appeals are hereby, dismissed***.

78. Pending Applications are disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 27, 2026/dss

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