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

+ **RFA 593/2025, CM APPL. 39531-39534/2025**

LEELAWATI

.....Appellant

Through: Mr. Purvesh Buttan & Mr. Girik Tolani, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Shashi Pratap Singh and Ms. Shagun Sabharwal, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

16.01.2026

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1. Appeal under Order XLI read with Section 96 C.P.C. has been filed on behalf of the Appellant against Judgment / Decree dated 01.02.2025, whereby the suit of the Plaintiff / Appellant has been rejected.

2. Briefly stated, Appellant had filed a suit for Declaration, Possession and Permanent Injunction. After completion of pleadings, a preliminary issue was framed:

“whether the suit is not maintainable being barred by res judicata? OPD.”

3. Vide impugned Judgment dated 01.02.2025, the issue was decided in favour of the Appellant and it was held that the principle of res judicata does not apply to the present case. However, the Court rejected the Suit under Order 7 Rule 11(a) C.P.C. and opined that there was no cause of action disclosed in the Suit.

4. The short argument of learned counsel for the Appellant is that the Suit should not have been rejected under Order 7 Rule 11(a) C.P.C. without



giving an opportunity to the Plaintiff / Appellant to address arguments on the same. By not granting an opportunity to the Appellant, his valuable right of being heard, has been violated and the case may be remanded back with liberty to the Appellant to decide the issue whether the plaint discloses any cause of action, after giving an opportunity to the Appellant.

5. Learned counsel for the Respondent submits that the learned Trial Court has rightly noted that there was no cause of action and there is no merit in the present Appeal, which is liable to be dismissed.

Submissions heard and record perused.

6. It is evident from the record that arguments had been addressed only on the issue of *res judicata* and it has been decided in favour of the plaintiff. In case learned Trial Court wanted to address the question of any cause of action in the Plaint, an opportunity should be given to both the parties and no observations could have been made without doing so.

7. In view of aforesaid, impugned Judgment dated 01.02.2025 is set aside to the extent of opportunity be given to the parties to ascertain whether the plaint discloses any cause of action.

8. With aforesaid directions, Appeal along with pending Applications is disposed of.

9. Parties are directed to appear before the learned District Judge, South District, Saket Courts, Delhi on 23.01.2026

NEENA BANSAL KRISHNA, J.

JANUARY 16, 2026/R