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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 692/2024, CM APPL. 59026/2024, CM APPL. 59028/2024
HARISH KUMAR BHOLAAppellant

Through: Mr. Arun Jain, Advocate.

versus

HANS RAJ GUPTARespondent

Through: Mr. Baljeet Singh, Advocate with
Respondent in person.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **17.03.2026**

1. Regular First Appeal under Section 96 CPC has been filed on behalf of the Appellant, against the Judgment and Decree dated 28.03.2024 of the learned District Judge, whereby the Suit of the Respondent for **Partition, Possession, Injunction and Damages**, has been decreed.
2. The **brief facts** are that the Appellant and his real brother, Rajesh Kumar Bhola, had jointly purchased Suit property i.e one Shop admeasuring 150 Sq. Ft. on the Ground Floor of Property bearing No.7069 built on land measuring 220 sq. yds situated in Gali Tej Singh, Pahari Dhiraj, Delhi, by virtue of registered Sale Deed dated 27.04.2006.
3. Thereafter, the brother Rajesh Kumar Bhola filed a **Suit bearing CS 260/2011 for Specific Performance and Permanent Injunction, against the Appellant**. The matter was compromised, since the brother sold his unspecified half undivided share to the Respondent herein without informing or taking the consent from the Appellant. The Appellant asserted that the original Sale Deed dated 27.04.2006 is still in his Possession and the alleged Sale could not have been made, in the absence of the original Title Deed. The Appellant came to know about the Sale Deed, when the Respondent



asked the Appellant to vacate the Shop and threatened that he would otherwise, bear serious consequences.

4. The Appellant herein filed Complaints against the Respondent, but no action was taken. He then filed a Complaint under Section 156(3), but the same also was dismissed by the learned M.M on 14.08.2023.

5. The Respondent thereafter served a Legal Notice upon the Appellant and filed a Suit No.159/2014 for **Partition, Possession, Injunction and Damages** before the learned Court, Delhi.

6. The Suit was contested by the Appellant, who filed his Written Statement. Thereafter, the evidence was led by both the parties. The learned Court after the evidence, passed Preliminary Decree dated 30.05.2022 declaring the Appellant and the Respondent entitled to half share in the Suit property.

7. In the evidence, the Appellant had stated in his cross-examination that the half property could fetch rent a rent of Rs.20,000/- per month.

8. The learned District Judge vide the impugned Decree dated 28.03.2024 passed the Final Decree and granted Mesne Profits/Damages in favour of the Respondent @ Rs.20,000/- per month w.e.f 17.03.2014, till the date of realization.

9. The Appellant states that the Possession has already been handed over in the Execution proceedings through Local Commissioner in February, 2024.

10. Learned Counsel for the Appellant further contends that the rent of half Shop is barely Rs.2,000/- but erroneously it got mistyped as Rs.20,000/- in the cross-examination. It is further asserted that the Appellant had been mis-guided by his Counsel, who did not file the appropriate Application on



time. It is further submitted that the rate of rent in the neighbourhood for similarly located property, has not been ascertained and no documentary or oral evidence had been adduced by the Respondent to prove the likely rent that the property could fetch. It is further submitted that the impugned Judgment dated 28.03.2024 be, set aside.

11. **Learned counsel for the Respondent**, however, has controverted the submissions made on behalf of the Appellant and has submitted that the Appellant had correctly given the probable rental value of the Suit property in his cross-examination. There is no infirmity in the impugned Judgment and the Appeal is liable to be dismissed.

Submissions heard and record perused.

12. It is admitted that the Possession of his half share in the Suit property pursuant to the Decree, has been received by the Respondent in the Execution proceedings through Local Commissioner, in February, 2024.

13. The short question which remains is the payment of Mesne Profits from 07.11.2023 till February, 2024 @ Rs.20,000/- per month, as has been awarded in the Decree.

14. The learned Counsel for the Respondent submits that considering the long pendency of the dispute and also that the Respondent has got the Possession, there is No Objection if the Mesne Profits are reduced to Rs.10,000/- per month, instead of Rs.20,000/- per month.

15. Considering that the Appellant himself had admitted the possible rent of the property and also the submissions made by the Respondent, the impugned Judgment and Decree dated 28.03.2024 is modified to the extent that the Mesne Profits @ Rs.10,000/- per moth be paid by the Appellant to the Respondent w.e.f 07.11.2013 till the date the Possession of the portion of



the Shop to the Respondent was handed over in February, 2024.

16. With these observations, the Appeal is hereby disposed of along with the pending Application(s).

NEENA BANSAL KRISHNA, J.

MARCH 17, 2026/va