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

+ **RSA 76/2024, CM APPL. 22721-22724/2024**

1. **SUMITRA SONI**

W/o. Late Sh. Shambhu Dayal

2. **ROHIT SONI**

S/o. Late Sh. Shambhu Dayal

3. **YASHPAL SONI @ MANU**

S/o. Late Sh. Shambhu Dayal

4. **RAHUL SONI S/O. LATE SH. SHAMBHU DAYAL**

All are R/o 51/52, Gali No.15, Nai Basti,
Anand Parbat, New Delhi.

.....Appellants

Through: Appearance not given.

versus

1. **SMT PREM WATI**

W/o Late Dal Chand

R/o 16/560-E, Bapa Nagar,

Padam Singh Road, Karol Bagh, New Delhi.

2. **SMT. HEMA**

W/o Late Jagdish

3. **MISS CHANCHAL (MINOR)**

D/o Late Jagdish

4. **MISS KINOO (MINOR)**

D/o Late Jagdish

5. **MASTER JATIN (MINOR)**

S/o Late Jagdish

Respondents Nos.3 to 5 (minor)

through their mother and

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natural guardian Respondent No.2 Smt. Hema.

6. **SH. VIJAY**
S/o Late Dal Chand

7. **SMT. BISHNO**
W/o Prem Prakash

8. **SMT. NEELAM**
W/o Praveen

All R/o. 16/1560E, First Floor,
Bapa Nagar, Padam Singh Road,
Karol Bagh, New Delhi.

9. **SMT. SHASHI KALA**
W/o. Late Sh. Karan Singh
R/o 16/560E, 2nd Floor, Bapa Nagar,
Padam Singh Road, Karol Bagh, New Delhi.
Through: None

.....Respondents

CORAM
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
19.03.2026

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1. This *Regular Second Appeal* under Section 100 of the Code of Civil Procedure, 1908 (CPC), has been filed on behalf of the Appellants, against the Judgment and decree dated 23.08.2023 of the learned Additional District Judge-03, Delhi in *RCA DJ No. 209/2017*, whereby the Judgment and decree dated 26.07.2017 of the learned Civil Judge-08, Delhi, has been upheld and the Suit of the Plaintiffs/Respondents *for Possession, Mesne Profits/Damages, has been decreed.*

2. *The brief facts are*, that the Plaintiff/Respondent No. 1, Smt. Prem Wati, had filed a **Suit for Possession and Declaration of documents** in the name of Mr. Shambhu Dayal, husband of Defendant No.1 and father of of



Defendant No. 2 to 4, and those executed in favour of Defendant No. 12, Smt. Shashi Kala by defendant No.1 to 4, as null and void and for ***Recovery of Damages, Mesne Profits and Notice Charges etc.***

3. The ***Plaintiff, Smt. Premwati*** stated that her husband, Late Sh. Dal Chand, was absolute owner of the Property bearing No.16/560E, Bapa Nagar, Padam Singh Road, Karol Bagh, New Delhi, (*hereinafter referred to as "Suit Property"*), who died *intestate*.

4. Late Sh. Dal Chand survived by his wife, his three sons, Mr. Jagdish, Mr. Vijay and Mr. Hemant, and two daughters, Ms. Bishno and Ms. Neelam, who had since got married. *Mr. Hemant s/o Late Sh. Dal Chand* died unmarried. *Mr. Jagdish s/o Late Sh. Dal Chand* got married, but he died and was survived by his legal heirs, who are the Defendant Nos. 5 to 8. It is claimed that the Plaintiff, wife of Dal Chand and the Defendant Nos. 5 to 11, are the owners of the property.

5. The Property had been constructed up to the third floor. The ground floor was sold by Late Sh. Dal Chand, during his lifetime. The legal heirs of Late Sh. Dal Chand, therefore, by inheritance, became the owner of the First Floor, Second Floor and Third Floor of the suit property.

6. The *Defendant Nos. 1 to 4* agreed to purchase First and Second Floor of the Property, without roof rights from some of the legal heirs of Late Sh. Dal Chand. The *Defendant Nos. 1 to 4* filed a *Suit for Permanent Injunction in the Court of Civil Judge*, which was withdrawn on 04.03.2005.

7. Later, Mr. Shambhu Dayal, husband/father of the Defendant Nos. 1 to 4, filed a *Suit for Specific Performance of Contract* against some of the legal heirs of Late Sh. Dal Chand. The Suit was dismissed by the learned Additional District Judge, *vide* Judgment dated 15.05.2007. As per the



knowledge of the Plaintiff, the Appeal against this Judgment, was filed either by Sh. Shambhu Dayal, or by his legal heirs/ Defendant Nos. 1 to 4.

8. Mr. Jagdish, son of Late Sh. Dal Chand, died after the pronouncement of the Judgment. He had been living on the Second Floor of the property with the members of his family, who have been arrayed as the Defendant Nos. 5 to 8. Sometime before his demise, he shifted from the Second Floor under his occupation and shifted to another place.

9. *Mr. Shambhu Dayal*, sometime after the demise of Mr. Jagdish, *had trespassed into the Second Floor and did not vacate despite repeated requests*. The family members of Mr. Jagdish after demise, became busy in setting up their own house in order. The Defendant Nos. 1 to 4, legal heirs of *Mr. Shambhu Dayal*, were requested to vacate the premises by other legal heirs of Late Sh. Dal Chand, but they refused to do so.

10. After sometime, the Defendant Nos. 1 to 4, who were in possession of Second Floor, unauthorisedly and without consent, *handed over the possession to the Defendant No. 12*.

11. A Legal Notice dated 05.09.2009 was issued to Defendant Nos.1 to 4, who were asked to vacate the property and also to pay the wrongful use and occupation charges of the premises w.e.f. 01.12.2008 @ Rs. 5,000/- per month, exclusive of other charges. They also demanded wrongful and occupation charges per month, but Defendant Nos.1 to 4 failed to respond.

12. The **Suit** was accordingly, filed **for Possession**, for declaring the **documents, if any, executed by Late Mr. Shambhu Dayal, predecessor-in-interest in favour of the Defendant Nos. 1 to 4 (his legal heirs), or in favour of the Defendant No. 12, Smt. Shashi Kala as null and void, and for Recovery of Damages, Mesne Profits @Rs. 5,000/- per month w.e.f.**



01.08.2010. Recovery of Notice Charges in the sum of Rs.2,200/- from the Defendant Nos. 1 to 4 and Defendant No. 12.

13. The Suit was contested by the Defendant Nos. 1 to 4 (legal heirs of Late *Mr. Shambhu Dayal*), who in their *Written Statement* took the *preliminary objections* that sons of Shri Dal Chand with due consent of Plaintiff and their sisters, sold their share in the Suit property to the answering Defendant No.1 in the month of May, 2005 to the knowledge of the Plaintiffs and had raised 'No Objection' about the sale consideration. Therefore, she has no right or *locus standi* to file the present Suit.

14. It was asserted that the Suit was *bad for mis-joinder and non-joinder of the necessary parties* and the Plaintiff has wrongly impleaded the Defendant Nos. 5 to 11 in the Suit. Moreover, the Defendant No. 1 has already sold the Suit Property to the Defendant No. 12 and hence, the Suit is not maintainable and is liable to be dismissed.

15. *On merits, all the averments made in the Complaint, were denied and it was stated that the Suit be dismissed.*

16. *Smt. Shashi Kala, Defendant No.12, the subsequent purchaser, in her Written Statement, claimed that the Plaintiff has not come to the Court with clean hands and suppressed the true facts. The Plaintiff has no connection with the Suit Property, as the Defendant No. 12 had purchased the same from the Defendant No. 1 on 14.07.2008, a fact which is in the knowledge of the Plaintiff. The Defendant No. 1 had purchased this Property from the sons of Late Sh. Dal Chand in the year 2005, a fact which also is within the knowledge of the Plaintiff, who had taken her part of the sale consideration. It is claimed that the Plaintiff has no locus standi to file the present Suit.*



17. **On merits**, all the contentions made in the Plaint, were denied.

18. **The issues on the pleadings were framed on 03.03.2012**, as under:

1. *Whether Plaintiff is entitled for decree of recovery of possession as prayed for? OPP*
2. *Whether Plaintiff is entitled for decree of declaration as prayed for? OPP*
3. *Whether Plaintiff is entitled for decree for recovery of damage/mesne profits as prayed for? OPP*
4. *Whether suit of the Plaintiff is without cause of action and Plaintiff has no locus standi to file the present suit? OPD-1 to 4 & 12*
5. *Whether suit of the Plaintiff is bad for non-joinder and mis joinder of necessary parties? OPD-1 to 4 & 12.*
6. *Whether suit of the Plaintiff is barred by law of limitation? OPD-1 to 4 & 12.*
7. *Relief.*

19. The Plaintiff, **Smt. Prem Wati as PW-1**, proved the certified copy of the Judgment dated 15.05.2007 of the learned ADJ as Ex.PW-1/1. The Legal Notice dated 05.09.2009 exhibited as Ex.PW-1/2 and Postal Receipt, UPC etc., undelivered cover is exhibited as Ex.PW-1/3 collectively.

20. The Defendants in support of their case, examined **DW-1, Mr. Sukhbir Sharma, Sub Registrar**, who produced the Death Register and proved the Death Certificate of Smt. Prem Wati, wife of Late Sh. Dal



Chand.

21. DW-1 Ms. Sumitra (sic) tendered her Affidavit Ex. DW-1/A and supported the contentions as made by her in her Written Statement.

DW-2, HC Raghunath proved the FIR No. 230/2013 under Sections 468/471/120-B/182 and 34 of the *Indian Penal Code 1860*, registered at Police Station Prasad Nagar.

22. DW-4, Mr. Vijay s/o Late Sh. Dal Chand and DW-5, Shashi had appeared as defence witnesses.

23. The learned Civil judge, after appreciation of the evidence, observed that admittedly Sh. Dal Chand, predecessor in interest, was owner of the Suit Property, who died *intestate* and thus, all his legal heirs became rightful owners of the Suit Property. However, alleged documents of sale namely Agreement to Sell, Will etc. in favour of Defendant Nos.1 to 4, were executed only by two sons, namely Jagdish and Vijay, who were not competent to execute transfer documents in respect of the Suit Property. *The Defendants had taken plea that there was family settlement, though there was no evidence led in this regard and the Plaintiff witnesses denied there being any family settlement.*

24. Learned Civil Judge further observed that even if these documents were considered as an Agreement to Sell for the share of Jagdish and Vijay, then too, *Defendant Nos.1 to 4 could only claim partition and should have filed a Suit for Partition.*

25. Pertinently, the documents, on the basis of which, Defendant Nos.1 to 4 were claiming to have acquired ownership were GPA, etc., which in terms of *Suraj Lamps vs. State of Haryana, 183 (2011) DLT 1 (SC)*, wherein Supreme Court observed that transactions of the nature of GPA sales were



held to be not a valid mode of transfer, and do not convey any title and do not constitute a valid mode of transfer of immovable property.

26. Learned Civil Judge held that *alleged documents in favour of Defendant Nos.1 to 4, did not confer any ownership and were therefore, null and void. Defendant No.12 namely Smt. Shashi Kala, is also claiming title through Defendant Nos.1 to 4, whose claim to title, also failed.*

27. Consequently, ***Suit of the Plaintiff for Possession and Recovery of Damages @ Rs.5,000/- per month was decreed against Defendant Nos.1 to 4 and 12 jointly and severally*** since 09.08.2010 till handing over of possession, along with the interest @ 6% p.a. and *also held Plaintiff entitled to Recovery of Rs.2,200/- p.m. from Defendant Nos.1 to 4 and 12 jointly.*

28. RCA DJ No. 209/2017 was preferred against the Impugned Judgment dated 26.07.2017, which after due consideration of the evidence and the law, was **dismissed vide Judgment dated 23.08.2023, by Ld. Additional District Judge.**

29. Aggrieved, the present Regular Second Appeal has been filed by the Appellants.

30. The grounds of challenge are that learned Civil Judge has erroneously decided that documents in favour of Defendant Nos.1 to 4, did not confer any valid right, title or interest in favour of the Appellants, without appreciating that no document of title was proved or produced by the Respondents to establish the title of the Suit Property, in favour of Sh. Dal Chand.

31. Pertinently, Respondent No.1 / Plaintiff had admitted in her cross-examination that the Suit Property was not purchased by Sh. Dal Chand, *but it was an encroached land, thereby showing that he had no right, title or*



interest in the Suit Property.

32. Therefore, Respondents / Plaintiffs were not entitled to take benefits of the weakness in the defence of the Appellants / Defendants, but the Plaintiffs have to stand on their own legs, as has been held by the Supreme Court in the case of Union of India and Ors. vs. Vasavi Co-operative Housing Society Ltd. & Ors., 2014 (1) Rajdhani Law Reporter 696, wherein the Apex Court has held that burden always lies on the Plaintiff to make out and establish a clear case and weakness, if any, in the case of the defendants would not be a ground to grant relief to the Plaintiff.

33. Furthermore, it had been vaguely averred that *the second floor of the Suit Property was trespassed by the predecessor-in-interest of Appellant Nos.2 to 5*, but neither any specific date or year was given, nor relevant material facts & particulars to the said effect were given, as mandated under Order VI Rule 4 of CPC. These necessary details are deliberately and conspicuously absent in the plaint and the impugned Judgment and Decree suffer from material infirmity.

34. It has not been considered that while considering the Suit for Possession, learned Civil Judge was required to record a finding on the claim of title to the suit land made on behalf of the Plaintiff and was bound to enquire or investigate into this aspect, before considering other reliefs sought by the Plaintiff.

35. It is further contended that learned Trial Court has wrongly placed reliance on Suraj Lamps vs. State of Haryana, 183 (2011) DLT 1 (SC) for the relief of declaration without appreciating that the same would not affect the validity of sale agreements and power of attorneys executed in genuine transactions and would not have retrospective operation.



36. In the present case, GPA executed by the sons of the deceased Sh. Dal Chand, was for consideration and it was duly stamped & registered in the Office of the concerned Sub-Registrar and was also accompanied by other sale documents.

37. *Similarly, GPA executed by Appellant No. 1 in favour of Respondent No. 9/ Smt. Shashi Kala (defendant no.12) was for consideration, as per circle rates and as per the Indian Stamp Act, 1899 and was duly registered in the Office of the Sub-Registrar, the execution of which was not disputed and there is presumption of genuineness being registered, as per Indian Evidence Act, 1872 and Registration Act, 1908.*

38. There is settled presumption that possession follows title, while Respondent No.1 was unable to rebut the facts and circumstance of the case and there was not an *iota* of evidence to establish the trespass in the Suit Property, by the Appellants.

39. *Learned Civil Judge wrongly held that the documents of purchase of the Suit Property in favour of Appellant Nos.1 and 2 do not create any right, title or interest in their favour in the Suit Property or that even if these documents create any right in their favour by sale and transfer of the property by Jagdish and Vijay Kumar, Appellants were required to seek partition of the property. The averments of the Appellants that there was settlement *inter-se* all the legal heirs of deceased and his sons who were competent to execute the sale documents, has not been appreciated by learned Civil Judge.*

40. Even otherwise, Decree for Possession and collusive Suit were filed by the Respondent No. 1 / Plaintiff in connivance with other Legal Heirs of late Sh. Dal Chand, which is evident from the fact that other Legal Heirs,



though impleaded as Defendant No.5 to -11 in the Suit, did not file any Written Statement.

41. Moreover, Appellants asserted that Respondent No.1 Prem Wati was not wife of late Sh. Dal Chand, which came to the knowledge of the Appellants from Municipal Records through RTI Application and material facts were subsequently placed on Trial Court record. These facts could not be mentioned in the Written Statement, as this information was obtained subsequently.

42. Learned Civil Judge should have in fact, *framed additional issues*, if it was necessary for determining the controversy between the parties, but no additional issue was framed, which also speaks of illegality of the Judgment of the learned Civil Judge.

43. Moreover, *Section 44 of Indian Evidence Act* states that if a party withholds vital document, to deceive and cheat or to secure unfair gain and an advantage, then it is fraud on the Court and Decree so obtained, is a nullity and a party is bound to produce all relevant documents. A case, which is based on falsehood, has to be summarily dismissed.

44. The Rules cannot be reduced to absurdity to become an engine of fraud by dishonest litigants, as held by the Apex Court in the case *of S. P. Chengalvaraya vs. Jaganath, 1994 Rajdhani Law Reporter (SC) 102*. All Rules and procedures are handmaids of justice and these should not stand in the way of dispensing Justice to the parties and honest litigants must receive assistance of the Courts.

45. *Learned Civil Judge* wrongly relied upon the earlier Judgements of the judicial proceedings instituted by husband of Appellant No.2, as they were not relevant for determination of the real controversy between the



parties to the present Suit.

46. It has not been appreciated that *relief of Declaration ought to have been sought within a period of three years and this relief was barred by limitation.*

47. It has been *wrongly held that the Suit is not barred by limitation*, as the relief of possession could be sought within a period of twelve years on the basis of title and possession, without appreciating that the relief of possession was consequential to the Declaration. If Respondent No.1 was not entitled to declaration or cancellation of documents sought for, she could not have claimed relief of possession and other reliefs.

48. The documents had been executed in favour of Appellant No.2 on 30.05.2005, out of which, GPA was duly registered. As per *Explanation I in Section 3 of the Transfer of Property Act 1882*, there is due notice on registered documents, more so, when executed by Jagdish and Vijay, two sons of late Sh. Dal Chand. Subsequently, attorney in favour of Appellant No.1, was registered in 2008, while the Suit was filed in July/August, 2010. The Declaration sought with regard to the documents, was vague and there has been no specification of any such document, which was sought to be cancelled.

49. It is further asserted that monthly damages have been wrongly granted to Respondent No.1, even though there was not an *iota* of evidence to this effect. *Respondent No.1 had failed to discharge her burden, despite which damages have been granted.*

50. It has been wrongly held that Respondent No.1 had *locus standi* to file the Suit, without appreciating that she was not able to prove any document prior to 1996/98, with regard to her identity. Her answers with regards to the



dates of her other family members in the cross-examination were evasive and did not inspire confidence. In the light of her evidence, it was incumbent upon the learned Civil Judge to fix the identity of Respondent No.1 and adjudicate upon death of Prem Devi, and also in the light of deposition of DW-1 and Death Certificate placed on record. Learned Civil Judge wrongly held that Respondent No.1 was entitled to seek relief of declaration.

51. Substantial questions of law raised in the present Appeal, are:

“1. Whether Judgement and Decree have been procured by concealment and playing fraud?

2. Whether the Respondent No.1 / Plaintiff in the Trial Court had no locus standi to file the present litigation?

3. Whether the appellants are suffering for no fault on part of Appellant No.1, who had purchased the property in question vide registered document with sale consideration?

4. Whether despite the Suit Property being encroached by late Sh. Dalchand, Respondent No.1 is entitled to declaratory relief and to the possession.?”

52. A Prayer is therefore, made that Judgment and Decree dated 23.08.2023 as well Judgment dated 26.07.2017 be set aside.

Submissions heard and record perused.

53. Plaintiff / Respondent Smt. Smt. Prem Wati, had stated in the Plaint that Suit Property was originally owned by Sh. Dal Chand, who died *intestate*, leaving behind Plaintiff, his wife and Defendant Nos.5 to 11 as his only Legal Heirs. The Ground Floor of the Suit Property was sold by Late Sh. Dal Chand, during his lifetime.

54. The Appellants have asserted that late Sh. Dal Chand himself was an



encroacher on the Government Land, as admitted by PW-1 / Smt. Prem Wati, Plaintiff in her cross-examination. Once, he himself was an encroacher, he could not have claimed any ownership right in the Suit Property.

55. Though, the Appellants had claimed to challenge the title of Late Dal Chand as being an encroacher, but significantly all the Appellants are deriving their title from Late Shri Dal Chand, by claiming that they had purchased the property i.e. the Second Floor from Vijay and Jagdish i.e. two sons of Late Shri Dal Chand. Once they are deriving their title from deceased Dal Chand, they cannot question the title of Dal Chand, of being an encroacher.

56. In this context, reference may be made to Rame Gowda vs. M. Varadappa Naidu (2004) 1 SCC 769, wherein the three Judge Bench of the Apex Court had observed that as far as the Indian law is concerned, the person in peaceful possession is entitled to retain it, and in order to protect the possession, he may even use reasonable force, to keep out the trespasser. A rightful owner who has been wrongfully dispossessed of land, may re-take the possession, if he can do so peacefully and without use of unreasonable force. The law presumes that the possession goes with the title unless rebutted. In the absence of better title, possession of prior peaceful settled possessor in itself, is evidence of title. It was thus, concluded by the Apex Court that “*in the absence of proof of better title, possession or entire peaceful settled possession is itself evidence of title*”.

57. Thereafter, in Poona Ram vs. Moti Ram (2009) 11 SCC 309, the Apex Court endorsed the observations made in Rame Gowda (supra) that legal remedies thus, appointed for the protection of possession even against



ownership, are called *possessory*, while those available for the protection of ownership itself may be distinguished as *proprietary*. The distinction is expressed in contrasted terms of *petitorium* (a proprietary suit) and *possessorium* (a possessory suit). It was thus, held that the Plaintiff in the absence of better Title, can claim prior peaceful settled possession which itself is the evidence of title. It was held that the settled possession must be (i) effective; (ii) undisturbed; and (iii) to the knowledge of the owner or without any attempt and concealment by the trespasser. Moreover, there can be no straight jacket formula to determine settled possession and each case must be decided on its own facts. The possession should contain an element of *animus possidendi*. It was further observed that in order to claim possessory title, the Plaintiff will have to prove his own case and also will have to show that he has better title than any other person.

58. Herein, as already noted above, admittedly, the Appellants were deriving their title from Dal Chand by claiming that after his demise, they had purchased the property through GPA, etc from Jagdish and Vijay, the two sons of Dal Chand. From the submissions made by the Appellant itself it is evident that they had accepted the settled possession of the Appellants and, therefore, the contention of the Appellants that Dal Chand did not have ownership title or that he was an encroacher, is not tenable. Indisputably, he had possessory rights, which were claimed to be transferred to the Appellants.

59. In this context, it may be pertinent to observe that the Declaration of Sh. Dal Chand, being an owner, is purely *possessory inter se* the parties and not against any third person, who has a superior title or ownership.

60. When viewed in this context, it has to be held that the conclusion of



learned Civil Judge that Sh. Dal Chand was the owner of the Suit Property, is correct and merits no interference.

61. Sh. Shambhu Dayal, predecessor in interest of Defendant Nos.1 to 4, had agreed to purchase the property, i.e. First and Second floors without roof rights, from Sh. Jagdish and Sh. Vijay, both sons of Late Sh. Dal Chand by way of Agreement to Sell, GPA etc. dated 30.05.2005. **He filed Suit for Permanent injunction, which got dismissed as withdrawn on 04.03.2005.**

62. *Defendant Nos.1 to 4 / Legal Heirs of late Sh. Shambhu Dayal, had even filed a Suit for Specific Performance of Contract, against the two Legal Heirs of late Sh. Dal Chand, but this Suit got dismissed by learned ADJ, vide Order dated 15.05.2007.*

63. Significantly, endeavour of the Appellants to seek specific performance for execution of Sale Deed on the basis of these documents i.e. GPA, etc., had got dismissed. There is nothing to show that the said Judgment ever got challenged or the claim of the Appellants to seek execution of Sale Deed in their favour, is live or pending.

64. Once the Suit for Specific performance of the Appellants, has been dismissed, the Appellants, cannot re-agitate the same issue again.

65. Furthermore, the Appellants herein were claiming the title on the basis of GPA etc., which in terms of Suraj Lamps vs. State of Haryana, 183 (2011) DLT 1 (SC), do not confer any right, title or interest in the Suit Property. These documents may give a right to the party, either to get a Sale Deed executed in their favour or may protect their possession under Section 53A Transfer of Property Act 1882, if these documents are registered. However, these documents do not create any right, title or interest in the Suit Property, as has been rightly observed by learned Civil Judge.



66. Appellants having failed to get any Sale Deed in their favour, they cannot claim any right, title or interest in the Suit Property. ***Learned Civil Judge therefore, rightly held these documents to not confer any ownership rights in favour of the Appellants.***

67. **Defendant No.12 / Smt. Shashi Kala** is also claiming right, title or interest in the Suit Property, only through Defendant Nos.1 to 4 / Appellants. Once the right, title or interest of Defendant Nos.1 to 4 / Appellants itself has been found to be non-existent, Defendant No.12 cannot assert a better title, on the basis of documents executed in her favour by Defendant Nos.1 to 4 / Appellants. ***Her claim in Suit Property therefore, necessarily fails.***

68. The Appellants have also asserted *that it has been erroneously decided that respondent no. 1 had a locus standi to file the Suit*, as the learned Civil Judge failed to properly appreciate her deposition, wherein she could not produce any identity documents prior to 1996–98 and gave evasive answers regarding her identity and family details. It is contended that her cross-examination lacked credibility, and the Court ought to have determined her identity in light of the evidence on record, including the deposition of DW-1, the death certificate of Prem Devi, and the FIR registered pursuant to court directions. Accordingly, the impugned judgment suffers from material irregularity and is liable to be set aside, or alternatively, the matter be remanded for proper determination of her identity.

69. However, it is a finding on fact and cannot be challenged in this second Regular Appeal.

70. Another objection taken was that the Suit ***was barred by limitation.*** The learned Civil Judge, after due appreciation of the evidence, has rightly



concluded that the Suit was found to be filed within 12 years of documents of sale, executed in favour of Defendant No.1, in 2005; Suit was not barred by limitation.

71. Therefore, *Suit of the Plaintiff for Possession and Recovery of Damages @ Rs.5,000/- per month was decreed* against Defendant Nos.1 to 4 and 12 jointly and severally since 09.08.2010 till handing over of possession, along with the interest @ 6% p.a. and also held Plaintiff entitled to *Recovery of Rs.2,200/- p.m. from Defendant Nos.1 to 4 and 12 jointly.*

72. *Learned District Judge, in RCA had fully agreed and endorsed the findings of the learned Trial Court.*

73. From the grounds of challenge to the Appeal, it is evident that it is purely confined to the facts and *does not raise any substantial question of law.* Those substantial questions of law, which have been proposed by the Appellants, are on their face, a challenge to the Judgment on facts and not on any question of law.

74. No substantial question of law arises for consideration in this Appeal.

75. There is no merit in the second Appeal, which is hereby, **dismissed**. Pending Applications are also disposed of, accordingly.

NEENA BANSAL KRISHNA, J.

MARCH 19, 2026/RS/R