



2026:DHC:2215



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 15th January, 2026*

Pronounced on: 17th March, 2026

+ **RFA 1161/2025 & CM APPL.80654/2025, 80656/2025**

PAWAN KUMAR GOEL

S/o Late Gopi Ram Goel

R/o House No.V-12, Green Park,

New Delhi-110016.

.....Petitioner

Through: Mr.Amitabh Kumar Verma, Adv.
versus

JYOTI SIKKA

W/o Sh. Sunil Sikka

R/o House No.18/38, East Patel Nagar,

New Delhi-110008.

.....Respondent

Through: Mr.Sonal Anand, Mr.Aayush Sai and
Ms.Surbhi Singh, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Section 96 read with Order XLI Rule 1 CPC has been filed on behalf of the Appellant to challenge the Judgment dated 14.07.2025 whereby the learned District Judge has allowed the Application, filed by the Plaintiff, under Order XII Rule 6 read with Order XV Rule 1 and Section 151 of the Civil Procedure Code, 1908 (*hereinafter referred to as 'CPC'*) wherein the Civil Suit filed by the Respondent for Possession, Recovery of Damages/Mesne Profits and Occupation Charges besides Interest and Costs was decreed.



2. The case of the Respondent/Plaintiff was that she was the absolute owner of the property bearing Municipal No. V-12, Green Park (Main), New Delhi *vide* registered Sale Deed dated 03.04.2007 (referred to as “*Suit Property*”). Sh. Gopi Ram Goel (now deceased) was the old tenant in respect of the entire Second Floor of the property in question, inducted by the erstwhile owner, for residential purposes at a monthly rent of Rs.450/- per month excluding all other charges. The Defendants are the members of the same family i.e. Smt. Rampati Devi being the wife, the Defendants No.2 to 6 being the sons and Defendant No.7 Smt. Nirmal Goel, being the daughter-in-law of Defendant No.1, namely Gopi Ram Goel.

3. The Plaintiff sent a Legal Notice dated 10.03.2009 to Gopi Ram Goel asking not only for the arrears of rent due till then, but also terminated his tenancy w.e.f. 31.05.2009 and also called upon him to hand over the peaceful and vacant Possession of the Suit premises. Late Gopi Ram Goel in his Reply dated 12.05.2009, denied all the averments made by the Plaintiff.

4. The Plaintiff asserted that after the termination of tenancy w.e.f. 31.05.2009, Shri Gopi Ram Goel became a statutory tenant, but he continued to have protection from eviction, under the Delhi Rent Control Act.

5. The Plaintiff, thereafter filed an *Eviction Petition* (Old E.No.389/2009 & New E.No.5961/2016) under Section 14(1)(a), (d) and (h) of the Act, which was dismissed on 25.02.2017, due to non-appearance of the counsel of the petitioner.



6. The Plaintiff then filed an Application under Order IX Rule 9 read with Section 151 CPC, but the same also got dismissed *vide* Order dated 03.02.2018. Eventually, the Eviction Petition thus, got dismissed *vide* Judgment dated 13.03.2018.

7. Sh. Gopi Ram Goel in terms of Order dated 08.08.2011, under Section 15(1) of the Act, deposited the rent in the Court till his death on 26.01.2013. Since December, 2016 the rent was sent by Defendant No.2 to the Plaintiff by Money Order up till 30.10.2018, which was accepted by the Plaintiff without prejudice to her rights and also in terms of Order dated 08.08.2011.

8. The Plaintiff claimed that the protection against eviction under Delhi Rent Control Act, was personal to Sh. Gopi Ram Goel. The present Defendants who are the wife, children and daughter-in-law of deceased Gopi Ram Goel, were never financially dependent upon him. He himself had filed a Partnership Deed dated 13.11.2012 in the Eviction Petition, in which Defendant No.2 was one of the Partners, which reflected that Defendant No.2 was not dependent upon his father.

9. The Defendants, in accordance with explanation to Section 2 of the Act, were entitled to protection for a limited period of one year w.e.f. 27.01.2013. Thereafter, they are in illegal, forcible and unlawful Possession of the Suit premises. **The Plaintiffs, therefore, sought the Possession along with Mesne Profits and Interest.**

10. **The Defendant No.2 Pawan Kumar Goel in the Written Statement** claimed that the Plaintiff has not approached the Court with clean hands. The Plaintiff had filed six earlier Petitions against Sh. Gopi Ram Goel, the



details of which have not been mentioned in the Plaint. She has twisted and manipulated the facts to her advantage. The Defendant being the tenant in the Suit premises, has been regularly paying the Electricity and MTNL Bills and there is nothing outstanding in this regard.

11. The Plaintiff has not been living in the premises in question since 14.05.2008 and there are contradictions in her statement on different occasions, clearly showing that she is not telling the truth and is trying to mislead the Court. It is admitted that Late Sh. Gopi Ram Goel who was the tenant, expired on 26.01.2013. The Defendant has claimed that he was the unemployed son of Gopi Ram Goel, who was actively associated and had been totally dependent upon him for all practical purposes, which is very much in the knowledge of the Plaintiff. The Defendant has been looking after his father and all his documents bear the address of the Suit premises. The tenancy after the demise of his father, has exclusively devolved upon the Defendants who has been in occupation of the premises.

12. The Defendants further took the preliminary objection that the Suit was *barred by limitation*, since the cause of action first arose in the beginning of March, 2009 or by June, 2009 whereby the Suit should have been filed till March, 2012 or June, 2012. The second cause of action to file the instant Suit arose on 27.01.2014, according to which the Suit should have been filed till 26.01.2017, but the Suit has been filed on 30.11.2018, *which is clearly beyond the period of limitation*.

13. It is further contended that the Suit is barred *on the principle of res-judicata as well as under Order II Rule 2 CPC*. The Plaintiff had filed several cases in respect of the two suit Premises under Delhi Rent Control



Act and in each litigation, she had relied upon the Legal Notice dated 10.03.2009. All the Eviction Petitions have been dismissed and no Appeal or Revision has been filed against any of the Judgment till date and they have attained finality. The present Suit is *without any cause of action* since the relief on the basis of Legal Notice dated 10.03.2009, has been declined by the Court of competent jurisdiction. The Suit is *barred under Delhi Rent Control Act and is liable to be rejected under Order VII Rule 10 and 11 CPC*.

14. On merits, all the averments made in the Plaint, were denied. It was also denied that the Plaintiff was entitled to Damages/Mesne Profits, as was claimed by her.

15. The Plaintiff in the **Replication**, reaffirmed the assertions made in the Plaint.

16. Thereafter, *an Application under Order 12 Rule 6 CPC read with Order V Rule 1 and under Section 151 CPC*, was filed by the Plaintiff seeking a Decree of Possession, on the admissions made by the Defendants.

17. The Application was contested by Respondent No.2 *vide* detailed Reply, wherein similar assertions as made in the Written Statement, were taken.

18. The learned District Judge *vide* the impugned Order dated **14.07.2025**, allowed the Application under Order XII Rule 6 CPC and *passed a Decree of Possession in favour of the Plaintiff/Respondent* by observing that after the termination of legal Notice, Late Gopi Ram Goel became a statutory tenant and his legal heirs were entitled to protection for one year from the death of the father.



19. **Aggrieved** by the said Judgment, the **present Appeal** has been preferred by the Defendant Pawan Kumar Goel.

20. The **grounds of challenge** essentially are that the Decree of Possession has been passed in utter violation of law, as an Application for *framing of preliminary issue*, was pending for adjudication. The Decree has been passed despite a *specific denial by the Appellant*, which could be decided only by way of trial. The Suit of the Plaintiff was barred under Section 50 Delhi Rent Control Act and also on the principle of *res-judicata*. There is suppression of material facts.

21. Moreover, Order XII Rule 6 CPC is not applicable to the present case. The CPC does not define the expression “admission”, but *Section 17 Indian Evidence Act* defines it as a statement made in an oral, documentary or electronic form suggesting an inference to a fact in issue or relevant fact. *Section 23 Evidence Act* lists the circumstances under which an admission is relevant in civil cases.

22. The learned Trial Court committed an error in not conducting a full trial by passing a Judgment under Order XII Rule 6 CPC. A prayer is, therefore, made that the impugned Judgment be set aside.

Submissions heard and record perused.

23. It is an admitted fact that Late Sh. Gopi Ram Goel, father of the Appellant had been inducted as a tenant in the Suit premises, by the erstwhile owners from whom the property was purchased by the Respondent/Plaintiff, *vide* Sale Deed dated 03.04.2007. It is further not in dispute that Late Sh. Gopi Ram Goel died on 26.01.2013. The service of the legal Notice dated 10.03.2009 is also not in dispute.



24. The only contention for determination was whether the Appellant was entitled to the protection of DRC Act. The Section 2(L) of the Delhi Rent Control Act defines the term “**Tenant**” as under:

“[(l) "tenant" means any person by whom or on whose account or behalf the rent of any premises is, or, but for a special contract, would be, payable, and includes--

(i) a sub-tenant;

(ii) any person continuing in possession after the termination of his tenancy; and

(iii) in the event of the death of the person continuing in possession after the termination of his tenancy, subject to the order of succession and conditions specified, respectively, in Explanation I and Explanation II to this clause, such of the aforesaid person's--

(a) spouse,

(b) son or daughter, or, where there are both son and daughter, both of them,

(c) parents,

(d) daughter-in-law, being the widow of his pre-deceased son,

as had been ordinarily living in the premises with such person as a member or members of his family up to the date of his death, but does not include,--

(A) any person against whom an order or decree for eviction has been made, except where such decree or order for eviction is liable to be re-opened under the proviso to section 3 of the Delhi Rent Control (Amendment) Act, 1976 (18 of 1976);

(B) any person to whom a licence, as defined by section 52 of the Indian Easements Act, 1882 (5 of 1882), has been granted.

Explanation I.--The order of succession in the event of the death of the person continuing in possession after the termination of his tenancy shall be as follows:--

(a) firstly, his surviving spouse;



(b) *secondly, his son or daughter, or both, if there is no surviving spouse, or if the surviving spouse did not ordinarily live with the deceased person as a member of his family up to the date of his death;*

(c) *thirdly, his parents, if there is no surviving spouse, son or daughter of the deceased person, or if such surviving spouse, son or daughter or any of them, did not ordinarily live in the premises as a member of the family of the deceased person up to the date of his death; and*

(d) *fourthly, his daughter-in-law, being the widow of his pre-deceased son, if there is no surviving spouse, son, daughter or parents of the deceased person, or if such surviving spouse, son, daughter or parents, or any of them, did not ordinarily live in the premises as a member of the family of the deceased person up to the date of his death.*

Explanation II. ---If the person, who acquires, by succession, the right to continue in possession after the termination of the tenancy, was not financially dependent on the deceased person on the date of his death, such successor shall acquire such right for a limited period of one year; and, on the expiry of that period, or on his death, whichever is earlier, the right of such successor to continue in possession after the termination of the tenancy shall become extinguished.

Explanation III.--For the removal of doubts, it is hereby declared that,--

(a) *where, by reason of Explanation II, the right of any successor to continue in possession after the termination of the tenancy becomes extinguished, such extinguishment shall not affect the right of any other successor of the same category to continue in possession after the termination of the tenancy; but if there is no other successor of the same category, the right to continue in possession after the termination of the tenancy shall not, on such extinguishment, pass on to any other successor,*



specified in any lower category or categories, as the case may be;

(b) the right of every successor, referred to in Explanation I, to continue in possession after the termination of the tenancy, shall be personal to him and shall not, on the death of such successor, devolve on any of his heirs;]

(m) "urban area" has the same meaning as in the Delhi Municipal Corporation Act, 1957 (66 of 1957)."

25. Therefore, from the Explanation II to Section 2(L), it is evident that a right to continue in possession after the termination of tenancy by a person who acquires the tenancy by succession and who is not financially dependent upon the deceased on the date of his death, would be for a limited period of one year and on expiry of the said period or on his death whichever is earlier, the right of such successor to continue in possession after the termination of tenancy, shall become extinguished.

26. Admittedly, Shri Gopi Ram Goel died on 26.01.2013. The sole question that remained was whether the Appellant/Defendant, his son was financially dependent upon the deceased. The *learned District Judge* rightly referred to the Partnership Deed dated 13.11.2012 relied upon by the Appellant himself, showing him as a Partner. This fact was not denied by the Appellant. Being a Partner in the Partnership, clearly reflected that he had his own independent source of income and was not dependent upon the father and, therefore, the protection, if any, extended for a maximum period of one year; therefore, the Defendant cannot seek protection under Delhi Rent Control Act.



27. The Appellant having ceased to have the protection under Delhi Rent Control Act, is covered by the provisions of Transfer of Property Act, 1882. The Defendant/Appellant had become an unauthorized occupant after the expiry of statutory period and therefore, deposit of rent of Rs. 450/- or its acceptance, is of no consequence nor does it operate as an estoppel or defeat the right of the Plaintiff to claim the possession of the Suit property.

28. The Defendant had claimed that there were multiple Petitions filed under the Delhi Rent Control Act, which all were dismissed. However, the Petitions under Delhi Rent Control Act may have been dismissed, but this is an independent right which arises under Transfer of Property Act and does not in any way get impacted by the earlier litigation under Delhi Rent Control Act.

29. In the end, the Appellant had taken a plea that the Suit was barred by limitation. However, the occupancy of the Appellant in the Suit premises is that of an unauthorized occupant and it gives rise to a continuous cause of action on every day that he continues to be in possession. It cannot be overlooked that despite having become an unauthorized occupant way back in 2014, the Appellant has been enjoying the property for the last 12 years.

30. Therefore, the learned District Judge rightly decreed the Suit of the Plaintiff for Possession, *vide* Judgment dated 14.07.2025.

31. **There is no merit in the Appeal, which is hereby, dismissed.**

32. The pending Application(s) are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 17, 2026

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