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

+ **RFA 12/2026, CM APPL. 610/2026**

SUSHILA DEVI

.....Appellant

Through: Appearance not given.

versus

KAMLESH & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **07.01.2026**

CM APPL. 607/2026 & 608/2026

1. Exemption allowed, subject to all just exceptions.
2. Application is disposed of.

CM APPL. 609/2026

3. Application under Section 149 of C.P.C. has been filed on behalf of Appellant seeking extension of time to file Court Fee.
4. Appellant is directed to pay the Court Fee within two months, failing which the Registry may recovery the same as land revenue.
5. Application is disposed of.

RFA 12/2026, CM APPL. 610/2026

6. First Appeal under Section 96 C.P.C. has been filed on behalf of Appellant Sushila Devi against Judgment and decree dated 01.09.2025, whereby Suit filed by the Appellant under Order VII Rule 11 was rejected.
7. Appellant filed suit for possession, declaration, permanent and mandatory injunctions along with Affidavit, claiming that she is a senior



citizen, aged about 76 years, and suffering from various ailments. She was married with Late Shri RadhayShayam and had three sons and three daughters from their wedlock, namely Late Sh. Ram Milan Shanna, Smt. Anita Shanna, Sh. Ashok Sharma, Smt. Laxrni Shanna, Sh. Ram Kumar @ Sonu and Smt. Sushma. Her husband used to run a factory and had two different branches in late 90s and early 2000, but, unfortunately, he expired on 09.04.2012.

8. Thereafter, she used to reside with her son namely Shri RamMilan Sharma in property bearing No.F-79, F block, WazirpurJJ Colony, who married with Smt. Omwati Sharma (now deceased) in the year 2008 and because of constraints of the space, RamMilan Sharma and his wife started residing separately but had good relationship with the Appellant and other family members and both families used to visit each other on day-to-day basis.

9. In 2008, after getting married to Smt. Omwati Sharma, he sought financial help from the Appellant since at that time she had funds into her savings as her husband and other family members had good businesses. In the year 2011, property in question was purchased by Appellant's son Ram Milan Sharma, for which she had given a financial assistance of Rs.1,50,000/- to him. She never raised any objection as she thought that the property was purchased in the name of her daughter-in-law Smt. Omwati Sharma and they had cordial relation, as there was no dispute *inter se* parties. But, unfortunately, her son Ram Milan Sharma and his wife never had any child.

10. After the demise of Appellant's husband on 09.04.2012, she started residing with Sh. Ram Milan Sharma and Smt. Omwati Sharma on account of her psychological condition for three years continuously. RamMilan Sharma and his wife used to take care of her. Due to some family problems, she was forced to take care of her other younger children and for that purpose only she



shifted from the property in question, but continued to maintain visiting rights with Ram Milan Sharma and his wife.

11. Ram Milan Sharma expired on 29.03.2022, after which, Appellant came to reside with her daughter-in-law Smt. Omwati Sharma (wife of Ram Milan Sharma) for about six months, after which she shifted out of the suit property. Smt. Omwati Sharma expired on 08.04.2025.

12. Thereafter, Defendant No.1 Kamlesh along with his sisters started claiming that Late Smt. Omwati Sharma was their mother. Appellant claims that when on 20.04.2025, she went to the suit property, she found that Kamlesh was already there, who threatened the Appellant with a Gun, that belonged to Appellant's deceased son Late Sh. Ram Milan Sharma. Thereafter, she called the PCR.

13. It is claimed that present Defendants, who are in occupation of property, have no right and nothing to do with it and have tried to grab the property, because her son and his wife died in intestate and had no biological children. Defendants are forcibly trying to take possession of the property.

14. It is claimed that suit property was acquired by deceased Sh. Ram Milan Sharma through joint funds of the Appellant's entire family, in the name of his wife Smt. Omwati Sharma (deceased). She was the rightful owner of the suit property and has every right to be in possession. She this filed the Suit for Possession and Declaration.

15. The contentions in the Complaint itself, reflect that the property was in the name of Smt. Omwati Sharma w/o Ram Milan Sharma, who is son of the Appellant. There was claim made by the Appellant that she had contributed Rs.1,50,000/- for purchase of the suit property, but unfortunately, there is not a single document to corroborate the same.



16. It has been rightly noted by learned District Judge that copies of the documents available in respect of title of the suit property are customary documents, i.e. GPA, Agreement to Sell, Affidavit, Possession Letter, Receipt and Will in the name of Smt. Omwati Sharma, which are not even registered. The Appellant cannot claim ownership on the basis of these documents, especially when admittedly, there is no registered Sale Deed. At best, the person in occupation could have sought protection of the possession in terms of Section 54 of Transfer of Property Act, but definitely, no ownership rights can be claimed on the basis of these documents.

17. Furthermore, the Appellant admittedly is not in possession of the property, which is in the occupation of the Defendants.

18. It is also pertinent to observe that the suit property, in whatever capacity and on the basis of whatever documents, is alleged to be in the ownership of Late Smt. Omwati Sharma, who was daughter-in-law of the Appellant. Therefore, Appellant cannot claim to be a legal heir in terms of Section 15 of the Hindu Succession Act, 1956, especially when the source of finance is not even disclosed.

19. Suit under Order VII Rule 11 of C.P.C. has been rightly rejected as barred under Section 41 of the Specific Relief Act.

20. There is not merit in the present Regular First Appeal, which is hereby dismissed. Pending Applications, if any, also stand disposed of.

NEENA BANSAL KRISHNA, J.

JANUARY 7, 2026/R