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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 19th January, 2026*

Pronounced on: 10th March, 2026

+ **RSA 11/2026, CM APPL. 3654/2026 (delay)**

SMT. VEERWATI

Wife of Late Sh. Rajbir Singh,
R/o 25, Jyoti Apartments, Parvana Road,
Pitampura, Delhi.

.....Appellant

Through: Counsel for Appellant (appearance
not given).

versus

1. UNION OF INDIA

Through - Land Acquisition Collector,
Patel Nagar, Raja Garden, New Delhi.

2. HON'BLE LT. GOVERNOR

Govt. of NCT of Delhi
Raj Niwas, Delhi.

3. SLUM & JJ DEPARTMENT

Delhi Urban Shelter Improvement Board,
Rehabilitation Centre,
Indraprastha Estate, New Delhi.

4. MUNICIPAL CORPORATION OF DELHI

Through its Commissioner,
Dr. S. P. Marg, Civic Centre,
Minto Road, Delhi.

5. THE CHIEF EXECUTIVE OFFICER

Tata Power Delhi Distribution Limited,
Cencare Building, Opposite C-2 Block,
Keshav Puram, Delhi.

6. THE DEPUTY SECRETARY (L.A.)



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Land & Building Department,
Vikas Bhawan, I.P. Estate, New Delhi.

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kaomudi Kiran, Mr. Sunil Kumar Jha & Ms. Joohu Kumari, Advs. for R-1, R-2 & R-6. Mr. Anuj Chaturvedi, Ms. Richa Dhawan, Ms. Yashita Jain, Advocates for R-3.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Second Regular Appeal under Section 100 of the Code of Civil Procedure 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Appellant against the Order dated 04.08.2025 of the Ld. District Judge-06, New Delhi in RCA DJ 48/2025, whereby the Order of Rejection of Civil Suit filed by the Plaintiff/Appellant for *Declaration, Mandatory Injunction, Possession, Damages, mesne Profits, for use & occupation, and Permanent Injunction* against Union of India and MCD., under Order VII Rule 11 of CPC by learned Civil Judge *vide* Order dated 22.03.2025, has been upheld.

2. *The facts in brief are* that the Plaintiff claimed that she is recorded lawful owner of land falling in Khasra No.380/44, total area measuring 01 Bigha 10 Biswas and other land, situated in the Revenue Estate of Village Shadi Pur, Delhi, now known as Abadi of Ranjit Nagar, Gali No.10, New Delhi. According to the Plaintiff, this land was neither acquired by the Government/Defendant No.1 for Public purpose by any Notification, nor



was it ever sold by the Plaintiff or her predecessor, at any point of time. Moreover, no compensation was ever paid to the Plaintiff or her father or fore-fathers in respect of this Suit land. Revenue Record reveal that the said land still stands in the name of the Plaintiff.

3. Plaintiff further asserted that land measuring about 250 sq. yards, is located near the boundary wall of the Pusa Institute, which has been encroached by Defendant Nos.4 and 5 (MCD). Defendant No.4 has constructed Sulabh Shauchaalya and also a Room thereon. Defendant No.5 has also installed an electricity Transformer.

4. Plaintiff claimed that consequent to aforesaid encroachment, an entry in the Revenue Record has been made regarding the possession of the aforesaid land to the extent of 05 biswas (i.e. 250 sq. yards) in the name of the Municipal Corporation of Delhi, whereas in the column of ownership, the name of the Plaintiff has been mentioned in respect of the aforesaid suit land. Remaining land pertaining to the aforesaid Khasra, is in exclusive possession of the Plaintiff.

5. Plaintiff has further explained that this land of Khasra No.380/44, Village Chandipur was owned by her father Late Sh. Sehju Ram, who also owned lands in Khasra Nos.49, 55, 61, 62, 73/1 and 384/80 within the Revenue Estate of Village Shadi Pur, Delhi. The names of forefathers of the Plaintiff including the Plaintiff's father, were duly recorded in the Revenue Record of Village Shadi Pur, Delhi. After demise of her father, on 15.03.1976, his wife Smt. Bakhtawari Devi and Plaintiff, the daughter, were the only Legal Heirs her name and their names were mutated in the Revenue Records. Smt. Bakhtawari Devi also expired intestate on 02.12.2001. Plaintiff is thus only successor / representative of her father and



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mother and she is absolute owner of the Suit Property by operation of law and her name was duly mutated in the Revenue Record.

6. Notification No.F.15(111)/59-L&B dated 13.11.1959 was issued under Section 4 of the Land Acquisition Act for acquisition of the land of Village Shadi Pur, Delhi. Certain Khasras so owned by the father of the Plaintiff, were acquired *vide* Award No.1714dated 28.07.1964 of Village Shadi Pur, Delhi and the possession of Khasra No.380/44 was also taken over at the relevant time, but Khasra No.380/44, so owned by the father of the Plaintiff, wasneither mentioned in the said Notification nor in the Award of the Village Shadi Pur, Delhi. Consequently, no compensation was ever paid to the father of the plaintiff in respect of Khasra No.380/44.

7. Earlier the aforesaid area of Village Shadipur and RanjitNagar were declared as Slum Area *vide* Notification dated05.06.1963, but it was de-notified *vide* Notification dated 02.04.1987. During that period, the Slum Department had takenover the possession of the aforesaid land, for development. Areas of Village Shadipur and Ranjit Nagar, Delhi were urbanized before the Delhi Land Reform Act was enforced in Delhi and the provisions of this Act, never became applicable to the land of Village Shadipur and Ranjit Nagar and they continued to be governed by the Punjab Land Revenue Act.

8. In order to ascertain the boundaries of Khasra No.380/44, Village Shadi Pur, Delhi, Plaintiff moved an Application for demarcation of the boundaries of the aforesaid Khasra, in the Revenue Department. In response to that Application, Revenue Department carried out demarcation by TSM method on 25.02.2011, through their officials.



9. The Plaintiff claimed that Defendant Nos.3 to 5 have encroached upon the Suit Property and illegally raised construction on the same. A Legal Notice dated 13.10.2020, was sent to Defendant No.5 through the Counsel, on account of which, the Department dropped the plan of installation of second Transformer in the Suit Property.

10. Thereafter, Plaintiff moved an RTI Application dated 25.08.2017 to the concerned Authority, to know whether the aforesaid Khasra No.380/44 of Village Shadi Pur, Delhi was ever acquired for public purpose and whether its possession was ever handed over after acquisition, to some Government Agency / Department, such as Slum, MCD or Electricity Board or to the other Departments.

11. In Reply to the RTI, *vide* Letter dated 18.09.2017, it was disclosed that there was no acquisition of the aforesaid Khasra No.380/44 of Village Shadipur, Delhi by the Union of India / LAC, i.e. Defendant No.1. Since the land was never acquired, there was no question of its possession being handed over to Defendants Nos.3 to 6, by Defendant No.1.

12. The Plaintiff claimed that the possession of Electricity Department and MCD, is illegal and they are liable to handover the vacant and physical peaceful possession of the Suit Property to the Plaintiff, after removal of the structure so raised by them on the aforesaid land.

13. Without prejudice to the rights and contentions of the Plaintiff, if the Suit Property is still required by the Defendants, they may acquire the same as per law, by issuing appropriate Notification for acquisition and pay the compensation at the market value, to the Plaintiff.

14. It was further claimed that since Defendant Nos.3 to 5 were in unauthorized occupation of the Suit Property, which is causing loss to the



Plaintiff to the tune of Rs.1,00,000/-per month, which is the prevailing market rate of rent for the entire Suit Property, *Damages @ Rs.1,00,000/- per month for the last three years*, be granted till vacant possession is handed over to the Plaintiff along with the interest. Plaintiff has, thus sought the following reliefs:

- I. ***Declaration*** that Khasra No.380/44 of Village Shadipur, Delhi has never been acquired by the Union of India / Government;
 - II. ***Mandatory Injunction*** directing the Defendants, their officials, employs, representatives, attorneys etc. or any other person acting on their behalf to vacate and deliver the vacant and peaceful physical possession of the Suit Property, i.e. land admeasuring 250 sq. yard comprised in Khasra No.380/44 of Village Shadipur, Delhi;
 - III. ***Mandatory Injunction*** to direct the Defendant to issue Notification for the acquisition of the aforesaid land and to made a Award for the acquisition of the aforesaid land in favour of the Plaintiff;
 - IV. ***Decree of Damages/mesne profits @ Rs.8,000/- per month***, even though the prevalent market rent of rent is about Rs.1,00,000/- per month from 01.10.2021 to 31.09.2024with interest till its realization; and
 - V. ***Permanent Injunction*** restraining the Defendants, their officials, employs, representatives, attorneys etc. or any other person acting on their behalf from creating any third party interest in the Suit Property.
15. **Learned Civil Judge** considered the averments made in the Plaint and exercised its jurisdiction under Order VII Rule 11 of CPC, to reject the Plaint. It was noted that according to the Plaintiff, possession of the Suit



land was taken by Defendant Nos.3 to 5 at the time of passing of acquisition Award No.1714 dated 27.07.1964. Therefore, Plaintiff's claim seeking possession of Suit Land, is patently barred by limitation. It was further observed that there cannot be any Declaration in negative that the land was never acquired by the Defendants.

16. Moreover, Suit was barred under Section 80CPC and Sections 477/478 of Delhi Municipal Corporation Act, 1957, for not giving the mandatory Notice to the Department, before filing the present Suit.

17. Plaintiff preferred **RCA DJ No. 48/2025**, whereby the **learned District Judge**, after appreciation of the Order, concurred with the observations of the learned Civil Judge and **upheld the Order of rejection of the Plaint under Order VII Rule 11 of CPC.**

18. Aggrieved by the said Judgment, **present Appeal** has been preferred, wherein the **questions of law and grounds to challenge the Order** have been raised to claim that the Plaintiff's Suit could not have been rejected without giving the Notice to the Defendants under Order V CPC.

19. *The sole ground of limitation*, on which the Suit has been rejected, is a mixed question of law and facts and requires full fledged trial of the case, to adjudicate the controversies raised in the Plaint. The *issue of limitation* has not been appreciated correctly and the Plaint is liable to be remanded, for adjudication on merits.

20. The Service of Notices under Section 80 of CPC and Sections 477/478 of Delhi Municipal Corporation Act, 1957, was not mandatory, especially when a Notice, even though without mentioning the provisions of law, was served.



21. Reliance is placed on Sukh Dutt Ratra &Anr. vs. State of Himachal Pradesh & Others, Civil Appeal No.2773/2022.

22. Therefore, it is submitted that the Order dated 04.08.2025 of learned District Judge, be set aside.

Submissions heard and record perused.

23. It is the case of the Plaintiff herself that the possession of the Suit Land, admeasuring 250 sq. yard comprised in Khasra No.380/44 of Village Shadi Pur, Delhi had been taken by the Defendants at the time of passing of Acquisition Award No.1714 on 27.07.1964. Plaintiff may have been the recorded owner of Khasra No.380/44, but as per her own submissions, the possession was taken away way back in the year 1964 and therefore, learned Civil Judge as well as District Judge were right in observing that the Suit was patently barred by limitation.

24. Therefore, the Plaintiff's Suit dated 07.10.2024, i.e. after about 60 years, seeking Declaration and Mandatory Injunction, **is patently barred by limitation.**

25. Plaintiff / Appellant has vehemently contended that her name has been continued to be reflected in the Revenue Record. However, she may be the Owner, but the possession, which was admittedly taken away in the year 1964, could have been retrieved by her by filing Suit for Possession, only within 30 years under Article 112 of the Limitation Act, 1963. Therefore, her ownership, cannot save her from limitation period, which bars her right to claim the possession.

26. It is also pertinent in this context, to observe that the Plaintiff / Appellant herself had moved an Application for getting the boundaries of Khasra No.380/44 demarcated, but she has failed to disclose the



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Demarcation Report. Therefore, she has not even been able to show that the Suit Land was ever part of Khasra No.380/44, of which she claims to be the owner.

27. Plaintiff further claimed that she had no objection if the Suit Land is acquired by the Defendants. However, it has been rightly observed by the Id. District Judge that it is not for the Plaintiff to direct the Government to acquire any particular property. It is a matter of Public Policy and no direction can be given to the Government, to acquire any particular property.

28. Moreover, Civil Suit can only be filed to enforce existing Civil and Legal Rights and cannot be filed seeking directions to create new Rights or for compelling Legislative / Statutory action. Moreover, such negative Declaration to the effect that Suit Land had not been acquired by the Defendants, was not maintainable under the law.

29. There is no substantial question of law raised, nor is there any merit in the present Appeal, which is hereby, **dismissed**.

30. Pending Applications, if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH 10, 2026/R