



2026:DHC:4876



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

% **Reserved on: 21st May, 2026**
Pronounced on: 29th May, 2026

+ **RSA No. 76/2026, CM APPL. 25060/2026 (stay), CM APPL. 25062/2026 (delay)**

1. **SHRI OM PRAKASH HASIJA**
Son of Late Shri Jaswant Lal @ Jaswant Singh
Shop No. 886/3, Ward No. 8
Main Bazar, Mehrauli,
New Delhi. ...Appellant No.1
 2. **SHRI NARINDER KUMAR HASIJA**
Son of Late Shri Jaswant Lal @ Jaswant Singh
Shop No. 886/2, Ward No. 8
Main Bazar, Mehrauli
New Delhi.Appellant No.2
 3. **SHRI BHARAT LAL HASIJA**
Son of Late Shri Jaswant Lal @ Jaswant Singh
Shop No. 886/3, Ward No. 8
Main Bazar, Mehrauli
New Delhi.Appellant No.3
- Through: Dr. R.K. Sharma, Mr. Rakesh
Joshi, Ms. Sakshi Mehra,
Advocates.

versus

1. **SHRI KISHAN CHAND**
Son of Shri Munshi Ram
r/o 903/8, Main Bazar,
Mehrauli, New Delhi.
2. **SMT. ANNAPOORNA DEVI**
3. **SHRI BENI PERSHAD**
4. **SHRI BADRI PERSHAD**



5. **SHRI MAHABIR PERSHAD**

6. **SHRI KIRTI PERSHAD**

r/o 838, Chandni Chowk,
Delhi-110006.

....Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

25062/2026 (delay)

1. The present Application has been filed by the Appellant seeking condonation of delay of 171 days in re-filing the present Appeal.
2. For the reasons mentioned in the Application the same is allowed. The delay of 171 days in re-filing the present Appeal is condoned.
3. The present Application is disposed of in the aforesaid terms.

RSA No. 76/2026

4. **Regular Second Appeal** under Section 100 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) has been filed on behalf of the *Plaintiffs/Appellants*, Mr. Om Prakash Hasija, Mr. Narinder Kumar Hasija and Mr. Bharat Lal Hasija against the Judgment and Decree dated **22.07.2025** whereby the learned ASCJ-cum-JSCC-cum-GJ **has upheld** the Judgment and Decree dated **15.07.2015**, wherein, the ***Suit for Declaration and Permanent Injunction filed by the Plaintiffs has been dismissed, by the learned Civil Judge.***
5. The Plaintiffs had filed a ***Civil Suit bearing CS No. 227/2013 against the Defendants for Declaration and Permanent Injunction.***



6. The **brief facts** as narrated in the **Plaint** are, that in the year **1962** *Mr. Jaswant Lal (father of the Plaintiffs)* was inducted as a tenant by *Mr. Lala Ram Pershad Rais* in Shops No. 2 and 3, situated in Property No. 886, Ward No. 8, Main Bazar, Mehrauli, New Delhi, at a monthly rent of Rs.8.81 and Rs.4.50 respectively. The rent receipts for the said shops, were being issued regularly in favour of Mr. Jaswant Lal. Subsequently, in the year 1971, Mr. Lala Ram Pershad Rais passed away and thereafter, the rent was being received by his legal heirs, *Smt. Annapoorna Devi, Mr. Beni Pershad, Mr. Badri Pershad, Mr. Mahabir Pershad and Mr. Kirti Pershad (Defendant Nos. 2 to 6)* jointly and they continued to receive the rent, till the year **1988**.

7. However, *Defendant No. 1, Mr. Kishan Chand*, fraudulently represented to Mr. Jaswant Lal that he had purchased the said shops from its erstwhile owners, namely, *Smt. Annapoorna Devi, Mr. Beni Pershad, Mr. Badri Pershad, Mr. Mahabir Pershad and Mr. Kirti Pershad*. It is claimed by the Plaintiffs that, Mr. Jaswant Lal without verifying the title documents of Defendant No. 1, in ignorance, *admitted him to be the landlord of the tenanted shops*.

8. Defendant No. 1, thereafter, filed an *Eviction Petition under Sections 14 (1) (a) and (b) of the Delhi Rent Control Act, 1958 (hereinafter referred to as "DRC Act")* against Mr. Jaswant Lal. Defendant No. 1 also filed another *Eviction Petition under Section 14(1) (e) of the DRC Act*, wherein, an eviction Order had already been passed by the learned Additional Rent Controller.

9. Subsequently, during the pendency of the aforesaid Eviction Petitions, Mr. Jaswant Lal passed away and after his death, the tenancy for the two



shops stood devolved upon the Plaintiffs, being his sons and were substituted in the Eviction Petitions filed by Defendant No. 1.

10. Defendant No. 1, thereafter, filed an Application under Sections 152, 153 read with Section 151 of the CPC in the Eviction Petition under Section 14 (1) (e) of DRC Act, wherein, it was claimed that the Petition has been wrongly filed in respect of Shop No. 886/1, Ward No. 8, Main Bazar, Mehrauli, New Delhi, whereas the Plaintiffs had been inducted as a tenant in the Shop No. 886/3, Ward No. 8, Main Bazar, Mehrauli, New Delhi.

11. The aforesaid Application was contested by the Plaintiffs and a Reply to the said Application, was filed on **06.08.2012**.

12. It was claimed by the Plaintiffs that, thereafter, they started preparing for the cross-examination of witnesses before the learned ARC, which was fixed for **16.08.2012**. The Plaintiffs met their counsel on **11.08.2012** and during the course of preparation, it was revealed that Defendant No. 1 was not the owner of the Suit Property. It was further claimed by the Plaintiffs that Defendant No. 1 had not filed any documents in respect of his ownership in the Suit Property. It is due to the false and *mala fide* representation made by Defendant No.1, that the Plaintiffs had wrongly admitted him to be the owner/landlord of the Suit Property and thereafter, started paying rent to him.

13. Subsequently, the Plaintiffs filed an Application under Order 6 Rule 17 of the CPC, in the Eviction Petition filed by Defendant No. 1 to incorporate the correct facts in their Written Statements/Reply etc. and to show that Defendant No. 1 was neither the owner nor the landlord of the Suit Property.



14. On account of the said fraud committed by Defendant No.1, ***the Plaintiffs filed the present Suit for Declaration and Permanent Injunction against the Defendants.***

15. The Suit was contested by the *Defendant No. 1, Mr. Kishan Chand*, who in his **Written Statement**, took the *preliminary objections* that the present Suit is nothing but a blatant abuse of the process of law, which had been filed with the sole motive to frustrate the Eviction Petitions filed by Defendant No. 1. It was further asserted by Defendant No.1 that the Suit is barred by the *principles of waiver, acquiescence and estoppel*.

16. It was claimed by Defendant No. 1 that, Mr. Jaswant Lal from the period of 1988 till his death on **24.06.2010**, had been regularly paying rent of the two shops to Defendant No. 1. After his demise, the Plaintiffs continued to pay rent to Defendant No. 1. The rent receipts issued by Defendant No. 1 in favour of Mr. Jaswant Lal, were annexed along with the Written Statement.

17. It was further claimed that the present Suit had been filed in *connivance with the Defendant Nos. 2 to 6, who had sold the Suit Property to the wife of Defendant No. 1 in the year 1988*. The same was duly informed to Mr. Jaswant Lal by the erstwhile owners, whereafter, he started paying the rent of the two shops to Defendant No. 1, who collected the same on behalf of his wife.

18. On **23.10.2002**, wife of Defendant No 1, executed a Power of Attorney in favour of the Defendant No. 1 for control, management and supervision of the Suit Property, as well as for receiving rent from the Plaintiffs. It was claimed that the Plaintiffs cannot challenge the title of



Defendant No. 1 as the owner/landlord of the Suit Property, as per under Section 116 of the Transfer of Property Act, 1882.

19. It was further asserted that the original documents of the Suit Property had been filed by Defendant No. 1 in Eviction Petition No. 469/2009 against Mr. Jaswant Lal. The photocopies of the said documents were also supplied to him, whereafter, no challenge to the title of the Defendant No. 1, was raised by the Plaintiffs, in either their Leave to Defend Application or in the Written Statement filed in aforesaid Eviction Petition. *It was, therefore, submitted that the Suit of the Plaintiffs, does not disclose any cause of action.*

20. It was further asserted that the Suit filed by the Plaintiffs, is barred by limitation. Mr. Jaswant Lal since 1988 had acknowledged Defendant No. 1 to be the owner/landlord of the Suit Property and had been regularly paying rent to him, till the year 2012.

21. On merits, the same defence was reiterated and it was prayed that the present Suit filed by the Plaintiffs is liable to be dismissed.

22. The learned Civil Judge framed **the following issues, on 17.02.2014:-**

1. *Whether the plaintiffs are entitled to a declaration to the effect that plaintiff are still the tenants of Smt. Annapurna Devi, Sh. Benni Pershad, Sh. Badri Pershad, Sh. Mahabir Pershad and Sh. Kirti Pershad (defendants No.2 to 6) jointly @ Rs.8.81 paisa with respect to shop No.886/2 and @ Rs.4.50 paisa with respect to shop No.886/3 as prayed for? OPP.*
2. *Whether the plaintiffs are entitled to decree of permanent injunction for restraining defendant No. 1 from representing himself to be the owner/landlord of the above mentioned shops? OPP.*
3. *Whether defendants No.2 to 6 sold the suit property to the wife of defendant No. 1 in 1988 and whether wife of defendant No. 1 executed to GPA etc. in favour of defendant No. 1 on 23.10.2002 regarding the suit property? OPD.*



4. *Whether the present suit is barred by principle of waiver and estoppels? OPD.*
5. *Whether the present suit is barred by limitation? OPD.*
6. *Whether the present suit has been filed without any cause of action? OPD.*
7. *Whether the present suit is liable to be dismissed for payment of insufficient court fees? OPD.*
8. *Relief.*

23. **Plaintiff No. 1, Mr. Om Prakash Hasija**, examined himself as **PW-1** who submitted his evidence by way of the Affidavit, wherein he reiterated his case as stated in the Plaint. He was duly cross-examined on behalf of the Defendants. The Plaintiffs further examined **Mr. M.K.Verma** as **PW-2** as well as **Mr. Deepak Sharma** as **PW-3**.

24. **Defendant No. 1, Mr. Kishan Chand** examined himself as **DW-1**.

25. He also examined **DW-2, Mr. Tejender, UDC, Sub-Registrar, Mehrauli, New Delhi**, who proved the GPA dated 23.10.2002, **Ex.DW-2/1** executed by Smt. Ram Wati, wife of the Defendant in favour of Defendant No. 1.

26. The **learned Civil Judge** on appreciation of evidence, observed that admittedly, the Plaintiffs have been paying rent to Defendant No. 1 since 1988 and had continued to pay rent till filing of the present Suit in the year 2012, i.e. for a period of 24-25 years, after having accepted him as the landlord of the Suit Property and had never raised any objection *qua* his title. The Plaintiffs have further not disputed the rent receipts (**Ex.DW-1/4-7**) issued by the Defendant No.1 in favour of Mr. Jaswant Lal. The Plaintiffs have admittedly not paid rent to the Defendant Nos. 2 to 6, since 1988 nor had they claimed any rent from the Plaintiffs till date.

27. The assertion of the Defendant No. 1 that in the year 1988, his wife had purchased the Suit Property from the Defendant Nos. 2 to 6 and thereby



become the owner, has also not been challenged by the Plaintiffs. Merely because Defendant No. 1 was not able to prove himself to be the owner of the Suit Property, does not mean that he loses the status of being the landlord. The landlord can be the owner of the Property or any person authorised to let out the Property, which is the situation in the present case.

28. The question of ownership is not relevant and the relationship of the landlord-tenant, stands established for a period of 25 years. **It was also held that the Suit of the Plaintiffs was also barred by limitation. Consequently, the Suit for Declaration and Permanent Injunction filed by the Plaintiffs was dismissed.**

29. Thereafter, the Plaintiffs preferred a ***Regular Civil Appeal bearing No. RCA SCJ 2/2019*** against the Judgment and Decree dated 17.07.2015, passed by the learned Civil Judge.

30. The learned *ASCJ* in his *Judgment and Decree dated 22.07.2025 found no merit in the Appeal* preferred by the Plaintiffs, and upheld the observations made by the learned Civil Judge. *The Cross-Objections filed by Defendant No. 1, were also dismissed as being without any merit.*

31. *Aggrieved by the aforesaid Judgment and Decree dated 22.07.2025 the Plaintiffs have preferred the present Second Regular Appeal, under Section 100 CPC.*

32. The **Grounds of Challenge** are that the two Courts grossly erred by not appreciating the settled legal aspect that if by operation of law, the owner/landlord ceases to be the owner of the tenanted premises, then he shall also not be the landlord. Once the Courts held that the ownership of Defendant No. 1 was not established, he could not have been declared as the landlord of the Suit Property.



33. It was further contended by the Plaintiffs that both the Courts have rightly concluded that neither Defendant No 1 nor his wife, Smt. Ramwati, were the owners of the Suit Property and thus, the rule of estoppel could not have been invoked, which is applicable only when the Property has been let out by a person, who may or may not be the owner of the Property.

34. In the present case, it is admitted that in the year 1962, Mr. Lala Ram Prashad Rais had let out the two shops to Mr. Jaswant Lal and rent for the said two shops was being paid to him. It was in the year 1988 that Defendant No. 1 claimed that he had purchased the Suit Property from Defendant Nos. 2 to 6. However, he had failed to produce any document *qua* his ownership. Consequently, *the principle of estoppel* was not applicable to the case of the Plaintiffs.

35. Likewise, the principle of *res judicata* will also not applicable since it pre-supposes the decision given by a Court competent to decide it. The decision of Rent Controller does not operate as *res judicata*, since the Rent controller had no exclusive jurisdiction to adjudicate on the relationship of landlord and tenant, for which, reliance is placed on Kanta Devi vs. Surinder Kumar, AIR 1978 Delhi 318.

36. It was further asserted that from the averments made by Defendant No. 1, *the allegations of fraud and misrepresentation, are proved*. Defendant No. 1 in his Written Statement, had categorically alleged that the Defendant Nos. 2 to 6 informed Mr. Jaswant Lal, regarding the sale of the Suit Property to Smt. Ramwati (*wife of Defendant No.1*), which implies that the Defendant No. 2 to 6 were aware of the said sale.

37. However, during the pendency of the present Suit, Defendant No. 1 had filed an Application under Order 1 Rule 10 of the CPC for impleadment



of Smt. Ramwati. However, the learned Courts *vide* Order dated **31.10.2013** while dismissing the Application under Order 1 Rule 10 of the CPC, observed that on the basis of the documents produced, no right whatsoever was conferred upon Smt. Ramwati. While adjudicating **Issue No. 3**, the learned Court had rightly held that the Respondent Nos. 2 to 6 did not sell the Property to Smt. Ramwati, from whom the title was being claimed by her husband, Defendant No. 1.

38. It was further asserted that once Defendant No. 1 has not been able to prove his ownership, he could not have been held to be the landlord of the Suit Property. Defendant No. 1 was required to prove himself to be either an owner or an Authorised Representative, to act on behalf of the owner of the Suit Property. However, no such documents have been produced by Defendant No. 1 which exhibits that his wife had authorised him on her behalf to collect rent from the Plaintiffs. The authenticity of General Power of Attorney dated 23.10.2002 (**Ex.DW-2/1**) had not been proved.

39. The learned Trial Court further grossly erred in observing that the Suit filed by the Plaintiffs, was blatantly barred by limitation. It has not been appreciated that the act of fraud, can be challenged at any time in any Appeal, Revision or Writ or collateral proceedings. The fraudulent act by Defendant No. 1, was discovered while preparing for cross-examination of witnesses on 11.08.2012, after which the Plaintiffs had filed the present Suit on 01.10.2012, which is within the period of limitation.

40. The observations of the learned Courts that the Plaintiffs had been paying rent for 25 years before the learned Additional Rent Controller disentitles him to any relief, is erroneous as the rent was being paid to Defendant No. 1, on account of fraud and misrepresentation.



41. It has been erroneously observed that there was no cause of action to file the Suit. The Defendant No. 1 or his wife, were never the owners of the Suit Property, and their acts were vitiated by fraud and misrepresentation.

42. It was further submitted that the learned Appellate Court has not re-appreciated the evidence nor the Appeal has been dismissed by a reasoned Order. It was claimed that the evidence of the specific witnesses, has not been independently appreciated by the learned Appellate Court. The decision of the Appellate Court, are therefore, arbitrary.

43. The mandate of Order 41 Rule 31 of the CPC, has not been followed while deciding the Appeal, which is a serious legal infirmity and the impugned Judgment is liable to be set-aside.

44. Reliance is placed on Nihal Chand Agarwal & Ors. vs. Gopal Sahai Bhatia & Ors., MANU/DE/0542/1986. Reliance is also placed on Santosh Hazari vs. Purushottam Tiwari (dead) by LRs. and Gannmani Anasuya & Others vs. Parvatini Amarendra Chowdhary & Others, AIR 2007 SC 2380.

45. It is further contended that Section 103 of the CPC, enables the High Court, to consider the evidence, when it has been wrongly determined by the Courts below, on which a substantial question of law arises, as referred to in Section 100 of the CPC. When the appreciation of evidence suffers from material irregularities and when there is perversity in the findings of the Courts below, the High Court is empowered to interfere on the question of facts as well.

46. Reliance is placed on Ramathal vs. Maruthathal & Others, AIR 2018 SC 340; Ragavendra Kumar vs. Firm Prem Machinery & Co., (2000) 1 SC 679. Thus, this Court in a Second Appeal, can re-appreciate the questions of



fact when the findings are perverse as held in the Case of Union of India vs. Ibrahim Uddin & Another, (2012) 8 SCC 148.

47. The impugned Orders are not sustainable in the eyes of law, as they have been passed contrary to the law and facts and is otherwise, illegal. *It is, therefore, prayed that the impugned Judgment of the learned Civil Judge, as well as, of the learned District Judge, be set-aside.*

Submissions heard and the record perused.

48. The basic facts which emerges from the case of the Plaintiffs, is that they have admitted their status in the Suit Property, as a tenant earlier under Mr. Lala Ram Pershad Rais and consequent upon his demise, under his legal heirs i.e. Defendant Nos. 2 to 6. It is also not disputed that Defendant No. 1 approached Mr. Jaswant Lal in the year 1988 informing the sale of the Suit Property and that he has stepped into the shoes of the erstwhile owner and is thereby entitled to collect rent. They have also admitted that they have been paying the rent to Defendant No. 1 since 1988 till about 2012 and they had admitted him as their landlord.

49. The claim of the Plaintiffs is that in the year 2012, while preparing for their evidence in the Eviction Petition filed by Defendant No. 1 under the Delhi Rent Control Act, *they became aware that he had no documents of title or ownership in favour of Defendant No.1* and that he had made a fraudulent misrepresentation, which was accepted by them in earnestness, which led them into admitting Defendant No. 1 as the landlord, and thereafter, they started paying rent to him, which they continued to pay till 2012 after which, the present Suit for Declaration and Permanent Injunction had been filed by them.



50. The learned Civil Judge, as well as, the learned District Judge observed the long conduct of the Plaintiffs in accepting Defendant No. 1 as a landlord and paying rent to him shows that the relationship of landlord-tenant, stood admitted. The status of Defendant No. 1 could not have been challenged by the Plaintiffs, after a period of 25 years.

51. The main ground on which, the Appellants had sought to justify their conduct, was by *alleging fraud and misrepresentation*, which according to them, came to light on 11.08.2012, while preparing for evidence in the Eviction Petition. It was held by the learned Civil Judge, as well as, by the learned District Judge in Appeal, that no fraud or misrepresentation could be proved by the Plaintiffs and therefore, by their conduct, they accepted the Defendant No. 1 as the landlord. The Plaintiffs having admitted the status in the Suit Property as a tenant and having acquiescenced into Defendant No. 1 being the landlord, they were estopped under Section 116 of the Indian Evidence Act, 1872 to question the title of the Defendant No. 1. It was thus, concluded that, in the light of their being a relationship of landlord and the tenant, the Plaintiffs were not entitled to seek a Declaration against Defendant No. 1. Connected to this aspect of Defendant No. 1 being the landlord, his ownership had also been questioned by the Plaintiffs.

52. Defendant No. 1 had placed on record the Agreement to Sell (**Ex.DW-1/11**). Significantly, Defendant Nos. 2 to 6 were a party to the present Suit, however, they failed to contest the present Suit or challenge the assertions made by Defendant No. 1. Not only this, an Application had also been filed under Order 1 Rule 10 CPC on behalf of Smt. Ramwati, wife of Defendant No. 1, wherein all the documents on the basis of which, she had



acquired the ownership of the Suit Property, were placed on record which unfortunately, had been erroneously rejected by the learned Civil Judge.

53. Be as it may, the documents of sale i.e. the Agreement to Sell etc., had come on record to show that Smt. Ramwati had purchased the Suit Property from Defendant Nos. 2 to 6, a fact which had not been contested by them, though they are party to the Suit.

54. These documents were, therefore, sufficient to show that Smt. Ramwati had stepped into the shoes of the erstwhile owners. While these documents may not confer absolute ownership as has been held in the case of Suraj Lamp & Industries (P) Ltd. Tr. Dir vs State of Haryana & Anr., AIR 2012 SC 206, however, they are sufficient to show that Smt. Ramwati had stepped into the shoes of erstwhile owner and became entitled to claim rent from the Plaintiffs *qua* the Suit Property. She became a landlord *vis-a-vis* the Plaintiffs, as has been clearly established from the evidence on record.

55. Subsequently, Defendant No. 1 during evidence had proved the GPA dated 23.10.2002 (Ex.DW-1/1) that had been executed by Smt. Ramwati in his favour, to manage the Suit Property and collect rent from the Plaintiffs. The documents and the evidence as placed on record, clearly reflected that Defendant No. 1 had become the landlord and was entitled to claim rent from the Plaintiffs.

56. Therefore, while Defendant No. 1 was not able to prove his absolute ownership *qua* the Suit Property, however, the documents, as well as, the evidence and the admission of the parties, *clearly proved the relationship of the landlord and tenant between the parties*. There is no infirmity or illegality in this regard.



57. Another plea that had been taken by the Plaintiffs, was that the learned Trial Court had erroneously observed the Suit of the Plaintiffs, ***to be barred by limitation***. It was asserted that, the fact that Defendant No. 1 had no documents of ownership in his favour, and the challenge arose for the first time in the year 2012, when the plaintiff/Appellant became aware of the **fraud**. Consequently, the present Suit for Declaration and Permanent Injunction was filed in the year 2012.

58. Insofar as, the declaration of the Plaintiffs being a tenant in the Suit Property was concerned, it was an admitted fact and there was no declaration warranted in this regard.

59. In regard to the Declaration in respect of Defendant No. 1 not being a landlord, is concerned, the Plaintiffs had the right to seek such clarification about his status in 1988 when he first asserted his rights in the Suit Property,. However, the same were never questioned or challenged by the Plaintiffs.

60. Furthermore, it was claimed by the Plaintiffs that it was in 2012 that they came to know that Defendant No. 1 was not the owner of the Suit Property and that he had no documents in this regard. It is pertinent to note that, no explanation has been given by the Plaintiffs as to how did they acquire the aforesaid knowledge.

61. It has been vaguely stated that while preparing for the evidence for the Eviction Petition, the Plaintiffs realised that the Defendant No. 1 had no ownership papers; such a plea without there being any specific explanation, cannot be accepted. No facts or evidence whatsoever, about the alleged fraud has been given. Mere assertion of fraud without any explanation, is not sufficient to consider the plea of fraud.



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62. It may also be observed that the question of ownership of the Appellant in the Suit Property, cannot be challenged by the Plaintiffs for whom, the only pertinent question is *whether there exist the relationship of landlord-tenant*, which has been held through appreciation of evidence to have been established between the parties.

63. In view of the aforesaid discussion, there is no substantial question of law, which has been raised and there is no merit in the present Appeal, which is hereby **dismissed**. Pending Application(s), if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

May 29, 2026/RS