

IN THE COURT OF VIKAS GARG, DISTRICT
JUDGE-05 (EAST),
KARKARDOOMA COURTS, DELHI.

CS No. 651/2024

CNR No. DLET01-006290-2024

Nivedita Magon
W/o Sh. P. N. Magon
R/o D-30, Bhakti Kunj, Ist Floor
Pandav Nagar, Delhi

Alternate Address:-
A-44, 1st Floor, Ganesh Nagar
Pandav Nagar Complex, Delhi.

.....Plaintiff.

Versus

Ramashray Yadav
S/o Sh. Chillar Ram
R/o A-44, 2nd Floor Front Side,
Ganesh Nagar Pandav Nagar Complex
Delhi-110092.

.....Defendant.

**SUIT FOR POSSESSION, RECOVERY OF ARREARS OF RENT,
DAMAGES/MESNE PROFITS AND PERMANENT
INJUNCTION**

JUDGMENT

[On the Application of the Plaintiff under Order 12 Rule 6 read with Section 151 of the Code of Civil Procedure (CPC)]

This suit has been instituted by the plaintiff seeking possession, recovery of arrears of rent, damages/mesne profits, and permanent injunction in respect of the suit property.

The plaintiff asserts ownership of the suit property and claims to have rented it to the defendant for a period of 11 months commencing from 01.11.2023, pursuant to a rent deed executed between the parties. The plaintiff alleges that the defendant failed to pay rent since March 2024, thereby breaching the rent agreement, which entitles the plaintiff to possession and other reliefs. The plaintiff now seeks a decree in its favor under Order 12 Rule 6 of the CPC based on admissions made by the defendant.

Admissions by the Defendant:

The defendant has admitted to the tenancy, the landlord-tenant relationship, the plaintiff's ownership of the suit property, and the duration of the tenancy. Relevant excerpts from paragraphs 3 to 5 of the preliminary objections in the defendant's written statement are reproduced as follows:

“3. That the plaintiff has not come to this Hon'ble Court with clean hands and has concealed the true and correct material facts from this Hon'ble Court. It is submitted that at the time of letting out the

suit property, the defendant has paid a sum of Rs.1,65,000/- in cash on 15.11.2023 to the plaintiff for installation of lift in the suit property with an assurance that the said amount either adjust in the rent or the same will return to the defendant at the time of vacating the tenanted premises. It is further submitted that the answering defendant has paid rent to the plaintiff till July 2024 and as and when the defendant asked rent receipt from the plaintiff, the plaintiff stated to the defendant that she is the owner of the tenanted/ suit property and no other tenant come for asked the rent receipt and due to the said reason the plaintiff has not issued rent receipt for the tenanted premises regarding acceptance of the rent from the defendant has loosed HRA benefit Sum of Rs.2,50,000/- from his Department due to non-producing of rent receipts. Apart from this Defendant is paying Rs.2,000/- Per Month for parking and other charges as per rent agreement but respondent did not provide the same and the said very fact has been concealed by the plaintiff before this Hon'ble Court, hence the suit is liable to be dismissed with heavy costs.

4. That on dated 12.08.2024 the entire kitchen overhead wardrobe fell down on the wife of the defendant while she was working in the kitchen which caused injury on her head and hand including damage of many objects kept in the wardrobe. The information of this accident was provided to the plaintiff through Whatsapp but plaintiff did not even react on this accident. Due this accident the defendant suffered physical, mental and financial loss of Rs.50,000/-.

5. That on 02.02.2024, plaintiff and the builder, namely Amar Bajpai got involved in huge scuffle for the possession of those flats which was builder's share and this scuffle turned into physical scuffle which later damaged electricity connection, water motor

connection and main-gate-auto-lock-system. After intervention of P.S. Mandawali only electricity connection was restored after 3 days and all the residents of the building had to survive without water and electricity for next 3 days, even till now all the residents have to go to ground floor to switch-on water motor and open the main gate when someone comes-in the building. Due to this type of bad activities of plaintiff, defendant suffered official work, study of defendant's children and daily uses work for another three days. That the defendant requested many times to plaintiff to restore the electricity connection but plaintiff did not hear defendant's request. Ultimately defendant gave an application/complaint to the SHO P.S. Mandawali, Delhi on dated 21.03.2024.”

Additionally, paragraphs 1 to 3 of the plaint and the corresponding replies in the defendant’s written statement are pertinent and reproduced as follows:

Sr. No.	Para of 1 to 3 of plaint	Para of 1 to 3 of reply in WS
1.	That plaintiff is absolute owners of property No. A-44, situated at Ganesh Nagar, Pandav Nagar Complex, Delhi 92.	That the contents of Para No.1 of the plaint are matter of record, need no reply.
2.	That on 01.11.2023, the defendant entered into the rent agreement with plaintiff with respect of one flat consisting two room set along with one dining room, Kitchen, bathroom and latrin situated at	That the contents of Para No.2 of the plaint are matter of record, need no reply.

	the IInd floor of the property bearing No. A- 44 area measuring 100 sq yds. Situated at Ganesh Nagar, Pandav Nagar Complex, Delhi-110092 fitted with electricity meter and with all fitting and fixtures (hereafter called the tenanted premises), at a monthly rent of Rs.18,000/- Pm excluding electricity and water charges on or before 10th day of each English calendar month and Rs.2,000/- pm for parking of Vehicle and other charges.	
3.	That the said agreement was entered for a period of eleven months commencing from 01.11.2023. The defendant paid Rs. 60,000/- on 01.11.2023 in which includes Rs. 5,000/- for police verification and rent agreement. The plaintiff adjusted Rs. 55,000/- in the rent of month November, December and January which was remaining with her.	That the contents of Para No.3 of the plaint are partly wrong and denied, and partly admitted. It is admitted that the rent agreement was executed between plaintiff and defendant. It is denied that the rent agreement commencing from 01.11.2023. It is submitted that the rent agreement was executed on 15.11.2023 and plaintiff intentionally mentioned the date of 15 commencement as 01.11.2023. It is also denied that the defendant paid Rs.60,000/- on 01.11.2023 which includes Rs.5,000/- for police verification and rent agreement. It is submitted that the defendant paid Rs.1,65,000/- in cash for installation of lift in the suit property as advance

		demanded by plaintiff and Rs.60,000/- as one month advance rent and security deposit of two months. It is denied that plaintiff adjusted Rs.55,000/- in the rent for the month of November, December and January. It is submitted that defendant regularly paid the rent of suit property on time for each and every month.
--	--	---

Further, paragraph 2 of the preliminary objections in the defendant's reply to the application under Order 12 Rule 6 read with Section 151 CPC is relevant and reproduced as follows:

“2. That in written statement filed by the defendant only admitted the relationship of landlord and tenant and also rent agreement executed between the parties on dated 15.11.2023, but in para no. 3 of the written statement filed by the defendant, defendant raised some objection/defends i.e. defendant has paid a sum of Rs.1,65,000/- to the plaintiff in cash for installation of lift in the suit property with an assurance that the said amount either adjust in the rent or the same will return to the defendant at the time of vacating the tenanted premises. It is further submitted that the answering defendant has paid rent to the plaintiff till July 2024, as cash because plaintiff used to force for cash payment of rent from initial period, as and when the defendant asked rent receipt from the plaintiff, the plaintiff stated to the defendant that she is the owner of the tenanted / suit property and no other tenant come for

asked the rent receipt and due to the said reason the plaintiff has not issued rent receipt for the tenanted premises regarding acceptance of the rent from the defendant and the said fact has been concealed by the plaintiff before this Hon'ble Court, hence the present application is liable to be dismissed with heavy costs.”

Analysis:

The defendant's written statement and reply to the application clearly admit the plaintiff's ownership, the existence of the tenancy, the landlord-tenant relationship, the execution of the rent deed, and the tenure of the tenancy. The plaintiff's suit is primarily based on the alleged breach of the rent agreement due to non-payment of rent. Whether such a breach occurred is a matter requiring trial and cannot be determined under Order 12 Rule 6 CPC in the present circumstances. However, it is undisputed that the tenancy was for a fixed term of 11 months. Even if the defendant's claimed commencement date of 15.11.2023 is considered, the tenancy has expired by efflux of time.

The defendant has raised various grievances, including disputes over the commencement date of the rent agreement, payments made for a lift installation, non-issuance of rent receipts, an incident involving a kitchen wardrobe, and disruptions caused by a scuffle involving the plaintiff. These issues, however, do not confer any lien or right over the suit property to the defendant and are insufficient to preclude the Court from granting a decree of possession in favor of the plaintiff.

Judicial Precedent:

The observations of the Hon'ble Delhi High Court in ***Abdul Hameed Vs. Charanjeet Lal Mehra*** are directly applicable to the present case and are reproduced as follows:

“12. From the bare perusal of the lease deed filed by the defendants on record, it is seen therefrom that the lease deed is for 119 months. In para-2 of the said lease deed, it has been mentioned that lease was for 119 months beginning from 2.12.1986 and thereafter the lease was to expire by efflux of time on 2.11.1996. The averments made in the written statement read with the documents filed and relied by the defendants makes it clear in unequivocal and unambiguous terms that the lease was to expire on 2.11.1996. It is well settled proposition of law that the relief under Order 12, Rule 6 of the CPC is a discretionary relief and is not a matter of right. However, in the case before me where the defendants themselves have admitted the execution of the lease deed, which is filed on record by them stipulating that lease shall expire by efflux of time on 2.11.1996, having taken that stand in the year 1990 when the written statement was filed, why should plaintiff wait for final hearing of the matter which may take years in this Court. To my mind, the essence of justice is expeditious judgment if can be given on the admission of the defendants, why Court should allow the defendants to remain in possession after such a clear and unequivocal stand taken by the defendants on its free Will. In somewhat similar circumstances, in S.L. Associates Pvt. Ltd. Vs. Karnataka Handloom Development, Court held:

"Even assuming in favour of the plaintiff that the lease was to be further extended for a period of

three years without the consent of the plaintiff as per the terms of the said agreement. That period of three years has also now come to an end during the pendency of the suit. No doubt, a suit must be practical in all stages on the cause of action as it existed on its date of commencement. But the Court may however in suitable cases take notice of the events which have happened since the institution of the suit and afford relief to the parties on the basis of altered conditions. This must be done by the Court by giving relief to the parties on the basis of altered circumstances in order to shorten litigation and get complete justice between the parties.

The facts of the case before me are exactly similar with the facts of the case before the Division Bench of the Madhya Pradesh High Court in the case of Sikar Chand and Others Vs. Mast Bari Bai and Others and in that case also a decree for eviction was passed in favour of the plaintiff under the provisions of Rule 6, Order 12 of CPC."

13. In Sikar Chand and Others's case (supra) the Court held:

Where in a suit for eviction after the expiry of a lease on the defense being taken that under a compromise the term of the lease was extended by 10 years the plaintiff made an application (without admitting the agreement) that even under Order 12,

Rule 6 since the extended term had also expired, it was open to the Court to base a judgment under Order 12, Rule 6 against the defendant on the basis of his own admissions because it is clear from the case as set up by him that he was not entitled to continue in possession of any case after the expiry of the fresh term of 10 years.....

It is no doubt true that ordinarily the plaintiff is entitled to a relief only on the basis of the cause of action stated in the plaint but it is open to the Court in suitable cases to afford a relief on the basis of the case as set up by the defendant. In such a case there is no prejudice to the defendant because the relief legitimately springs from the case as set up by him."

14. A Division Bench of this Court in Surjit Sachdev Vs. Kazakhstan Investment Services Pvt. Ltd., 1997 II AD (Delhi) 518 held as under:

"The question now is that whether there is any admission or not so as to entitle the plaintiff to have a decree for possession. The factors which deserve to be taken into consideration in order to enable the Court to pass a decree in plaintiff's favour as regards possession of the suit property by defendant as a tenancy; and (b) determination of such relation in any of the contingency as envisaged in Section 111 of the Transfer of Property Act. One of the modes stated therein is by efflux of time limited by the lease. Only on unequivocal admission of the

above two factors will entitle the plaintiff to a decree on admission. Admission need not be made expressly in the pleadings. Even on constructive admissions Court can proceed to pass a decree in plaintiff's favour.”

15. This Court in Lakshmikant Shreekant (HUF) through its Karta Vs. M.N. Dastur & Company Pvt. Ltd. took the similar view. In K. Kishore & Construction (HUF) Vs. Allahabad Bank, 1998 , a learned Single Judge of this Court held:

"A plaintiff may move for judgment under this provision at any stage. This can obviously be availed even after he has joined issues on the defense. The admission may be made either in pleadings or otherwise which means that the admissions contained in documents written or executed between the parties before the action is brought are also sufficient for the purpose of this rule."

16. Similar view was taken by another learned Single Judge of this Court in Atma Ram Properties Pvt. Ltd. Vs. Air India, 1991 I AD (Delhi) 641. Even in Surjit Sachdev's case (supra), Division Bench of this Court held that after the expiry of lease coming to an end defendants had no right to continue in possession and admission need not be made in the pleadings even constructive admission can form the basis of a decree passed under Order 12, Rule 6.

17. Disapproving the arguments that under the provisions of Section 116 of the Transfer of Property Act holding over

possession by tenant after the expiry of period of lease, the Division Bench in Surjit Sachdev's case (supra) held that:

"For holding over of tenancy is it absolutely necessary that the lease is allowed to continue to remain in possession of the property after expiry of the period of lease."

18. It has not even been argued by the defendants that the plaintiffs have allowed the defendants to continue in possession of the property in question after expiry of lease period on 2.11.1996. In any event of the matter holding over is an act of expiration of the term which does not necessarily create a tenancy of any kind.

19. The intent and object of incorporating Rule 6 of Order 12 by the Parliament in the Code of Civil Procedure is to enable a party to obtain speedy judgment to the extent of the relief which according to the admission of other party, he is entitled to. If a relief emanates on the basis of case set up by the defendants, no prejudice is caused to the defendants because the relief springs from the case set up by the defendants. What is important to know that unlike prior to the Amending Act, 1977 the filing of formal application under Order 12, Rule 6 is not required now. Now amended provisions of Order 12, Rule 6 of the CPC, judgment on admissions, the Court may at any stage of the suit either on the application of any party or on its own motion, make such order or give such judgment as it may think fit having regard to such admissions. Therefore, I have no hesitation in holding that in view of the specific stand of defendants in para-1 of written statement read with lease deed filed by the defendants themselves, there is an unequivocal and unambiguous admission made by the defendants that lease would expire by efflux of time on 2.11.1996. That being

so, no other issue with regard to possession has to be taken into consideration and aforesaid admission on the part of defendants will entitle the plaintiffs for a judgment/decreed on admission.

20. Coming to the arguments advanced by the learned Counsel for the defendants that judgment on admission under Order 12, Rule 6 of the CPC is a matter of discretion and written statement was to be read as a whole and, therefore, provisions of Order 12, Rule 6 of the CPC would not be applicable and the provisions of Order 12, Rule 6 be interpreted in restricted manner. I may quote the following dictum of Jessel M.R. in Mellor Vs. Sidebottom, (1877) 5 Ch.342, interpreting Rules and Orders of the Supreme Court, Order XXXII, Rule 6 which is in pari materia with the said rule. The learned Judge declined to interpret Order XII, Rule 6 so as to restrict its operation stating:

"In my opinion, it would be lamentable if the discretion, which, for the best of reasons, has been left free and untrammelled by the Legislature, were to be crystallized by judicial decisions, as it would become in course of time, by one Judge attempting to prescribe definite rules with a view to bind other Judges in the exercise of the discretion which must be applied with due regard to the varying circumstances of each particular case. I must consequently decline to interpret Order XII, Rule 6, so as to restrict its operation to cases where the plaintiff accepts the admission of the defendant in its entirety or where the claim is severable into distinct portions and the defendant admits his liability in respect of one such fragment of the

claim. I do not also feel pressed by the argument that if a decree is made first on admission in respect of one portion of the claim and then on investigation as to the remainder, there may ultimately be two decrees in same suit. I see nothing objectionable in principle to such a result."

21. It would thus appear that the powers under Order XII, Rule 6 must be left free and untrammelled which cannot be crystallized into any rigid rule of universal application but the discretionary powers thereunder must be applied with due regard to the varying circumstances of each particular case.

22. There is no force in the arguments of the learned Counsel for the defendants that no fresh notice of termination of lease was given by the plaintiff after expiry of lease period i.e. 2.11.1996 and, therefore, the defendants will be holding over the tenancy on month to month basis and it would be necessary to have a notice under Section 106 of the Transfer of Property Act and there will be no question for determination of holding over of tenancy by efflux of time under Section 111 of the Transfer of Property Act. No plea of holding over has been made by the defendants. In Smt. Shanti Devi Vs. Amal Kumar Banerjee AIR 1981 SC 1550, it was held that after expiration of the period of lease by efflux of time there was no requirement of issuing notice for determination of the lease."

The Hon'ble Delhi High Court has clarified that courts may consider subsequent events, such as the expiry of a tenancy, when passing a decree under Order 12 Rule 6 CPC. Furthermore, no notice is

required for the termination of a lease that has expired by efflux of time. These principles are directly applicable to the present case.

Conclusion:

In light of the admissions made by the defendant and the legal principles outlined above, the plaintiff's suit is partly decreed under Order 12 Rule 6 CPC. The plaintiff is entitled to a decree of possession for the suit property, described as one flat measuring 100 square yards on the second floor of property No. A-44, situated at Ganesh Nagar, Pandav Nagar Complex, Delhi-110092.

Order:

The suit is partly decreed under Order 12 Rule 6 CPC.

A decree of possession is granted in favor of the plaintiff for the suit property, as described above.

The decree sheet shall be prepared accordingly.

The matter is listed for further proceedings regarding the remaining reliefs on 30.07.2025.

**Pronounced in the open court
on 26th May, 2025**

**(Vikas Garg)
District Judge-05 /EAST
KKD, Delhi- 26.05.2025**