



**IN THE COURT OF SH. HEM SINGH, DISTRICT JUDGE-01,
(EAST), KARKARDOOMA COURTS, DELHI**

CS No. 713/17
CNR NO. DLET010120932017

In the matter of :-

Pramila Mehto
W/o Sh. Chaturgun Mehto
R/o B/62-A, Ground & 1st floor,
New Ashok Nagar, Delhi-110096

..... Plaintiff

Versus

1. Mr. Mahesh Kumar
S/o Late Sh. Saudagar Mehto

2. Smt. Munni Mehto
W/o Sh. Mahesh Kumar
Both R/o B/62-A, Ground Floor,
New Ashok Nagar, Delhi-110096

.....Defendant

Date of Institution : 28.10.2017
Date of Reserving Order : 01.04.2026
Date of Decision : 17.04.2026

**SUIT FOR POSSESSION, PERMANENT INJUNCTION AND
LOSS/DAMAGES TOWARDS UNAUTHORIZED USE AND
OCCUPATION**

JUDGMENT:

A) BRIEF FACTS:

1. It is averred in the plaint that the plaintiff is the absolute owner of property bearing No. B/62-A, New Ashok Nagar,

Delhi-110096, admeasuring 60 sq. yards, hereinafter said property, as shown in the site plan. That the said property was originally purchased on 30.08.1990 by the plaintiff's husband in his own name and jointly in the name of his elder brother, Saudagar Mehto. Subsequently, on 11.01.2008, Saudagar Mehto, upon receiving a consideration of Rs.40,000/- from the plaintiff, executed transfer documents including General Power of Attorney, receipt, and Will in favour of the plaintiff. Further, the plaintiff's husband also executed certain documents in her favour transferring his rights in favour of the plaintiff, thereby making the plaintiff the sole and absolute owner of the said property.

i) It is stated that the defendants, being the son and daughter-in-law of Saudagar Mehto, were permitted to occupy a portion of the said property i.e, two rooms, kitchen, and a combined toilet on the ground floor (herein, the suit property) in the year 2008, subject to vacating the same upon demand. However, the defendants have unlawfully continued in possession and have neither paid rent nor utilities charges. That they have also engaged in quarrelsome conduct, used abusive language, and extended threats to the plaintiff and her family.

ii) It is further submitted that the defendants have their own residential property, yet they have illegally and malafidely occupied the suit property and their unauthorized occupation is causing financial loss of Rs.15,000/- per month to the plaintiff.

iii) It is further averred that despite service of legal notice dated 18.04.2017 and corrigendum dated 19.05.2017, the defendants failed to vacate the suit property. That on 25.09.2017, upon being requested again, the defendants refused to hand over possession and threatened to transfer the suit property to third parties.

2. Upon service of summons of the suit, defendants filed written statement. In the written statement, the defendants submit that the present suit is false, frivolous, and liable to be dismissed as the plaintiff has suppressed material facts and has not approached this Hon'ble Court with clean hands. It is stated that the said property bearing No. B/62-A, New Ashok Nagar, Delhi-110096 was purchased on 30.08.1990 by Late Sh. Saudagar Mehto, father of Defendant No. 1, from his own earnings. It is further stated that out of natural love and affection, he permitted the plaintiff and her husband to reside in the property. It is further stated that after his demise, Defendant No. 1, being the legal heir, became the absolute owner of the said property.

i) The defendants categorically deny that the plaintiff has any right, title, or interest in the said property and the alleged documents, including GPA and Will dated 11.01.2008, are false, fabricated, and forged, and do not confer any ownership upon the plaintiff; that the defendants are in lawful possession of the ground floor of the property and are not unauthorized occupants, nor were they ever inducted as licensees in the said property.

3. Thereafter, plaintiff filed replication wherein she has reiterated the facts of the plaint and denied the averments made in the written statement.

B) ISSUES:

a) Whether the plaintiff is entitled for decree of possession, as claimed in prayer clause 'a' of the plaint? OPP

b) To what damages, the plaintiff is entitled, and if so, at what rate and for what period? OPP

c) Relief.

C) EVIDENCE:

1. To prove her case, the plaintiff filed her evidence affidavit, tendered the same as **Ex. PW1/A** and relied upon the documents i.e, **Ex.PW1/1 to Ex.PW1/13**. (Ex.PW1/2, however, is not on record, and is now marked as mark A)

PW1 was duly cross-examined by the Ld. Counsel for defendants.

2. Plaintiff also examined **Sh. C.G. Mehto (Chaturgan Mehto)** as PW2. He filed his evidence affidavit, tendered the same as **Ex. PW2/A**.

PW2 was not cross-examined, although, opportunity given.

3. Plaintiff also examined **Sh. Kanhiya Lal** as PW3. He filed his evidence affidavit, tendered the same as **Ex. PW3/A**.

PW3 was also not cross-examined, although, opportunity given.

4. Plaintiff also examined **Sh. Anarika Prasad** as PW4. He filed his evidence affidavit, tendered the same as **Ex. PW1/B**. He relied upon the documents i.e **Ex.PW1/10 (colly)** i.e, GPA, receipt deed of Will in favor of plaintiff executed by Sh. Saudagar Mehto and **Ex.PW1/11** i.e, documents executed in favor of plaintiff by the husband of the plaintiff.

Cross-examination of PW4 was deferred at the request of Ld. Counsel for defendants. However, none appeared for cross-examination on next date of hearing.

5. **Sh. Naveen Gandas**, appeared as summoned witness and examined himself as PW5. He brought the summoned record i.e.

record of Registration No. 26818, Book No.IV, Volume No.2576, Page No.9, dated 31.08.1990 and Registration No. 26819, Book No.IV, Volume No.2576, Page No.10 dated 31.08.1990 (inadvertently shown as registration No. 25819 at point Mark X), exhibited the same are **Ex. PW5/A and PW5/B** respectively. He also placed on record the photocopy of the entries of the previous page No. 7, 8 and subsequent entries at page No.11 and 12. These four pages were collectively exhibited as **Ex. PW5/C**.

PW5 was also duly cross-examined by Ld. Counsel for defendants.

6. Thereafter, on the statement of Ld. Counsel for plaintiff, PE was closed vide order dated 14.09.2022 and the matter was fixed for DE.

7. To prove their case, the **defendant no. 1/DW1** filed his evidence affidavit, tendered the same as **Ex.DW1/1** and relied upon the document **Ex.DW1/A (OSR)**- Copy of passbook of father of the deponent comprising signature of Lt. Saudagar Mehto (objected as the same is not on record).

DW1 was duly cross-examined by the Ld. Counsel for plaintiff.

8. **Defendant no. 2/DW2** also filed her evidence affidavit, tendered the same as **Ex.DW2/1** and relied upon the document already exhibited as **Ex.DW1/A (OSR)**.

DW2 was also duly cross-examined by the Ld. Counsel for plaintiff.

9. Defendants also examined **Sh. Suresh Prasad** as DW3. He filed his evidence affidavit, tendered the same as **Ex.DW3/A**. He

relied upon the document already exhibited as **Ex.DW1/A (OSR)**.

DW3 was cross-examined by the Ld. Counsel for plaintiff.

10. Defendants also examined **Sh. Radha Mahto** as DW4. She filed his evidence affidavit, tendered the same as **Ex.DW4/A**. She relied upon the document already exhibited as **Ex.DW1/A (OSR)**.

DW4 was cross-examined by the Ld. Counsel for plaintiff.

11. Thereafter, on the statement of Ld. Counsel for defendants, DE was closed vide order dated 04.02.2026 and the matter was fixed for final arguments.

D) I have heard final arguments addressed by Ld. Counsel for the plaintiff and perused the record. I have considered the same.

E) ARGUMENTS:

(i) Ld. counsel for the plaintiff has argued that the said property was originally purchased in the year 1990 by the husband of the plaintiff, though the name of his elder brother namely Lt. Saudagar Mehto was also included in the title documents. It is contended that the inclusion of the elder brother's name was merely nominal and entire sale consideration was paid by the husband of the plaintiff.

(ii) It is further argued that on 11.01.2008, Lt. Saudagar Mehto, after receiving a consideration of Rs.40,000/-, executed documents including General Power of Attorney, Agreement to Sell, Will, and receipt in favour of the plaintiff, thereby transferring his entire share in the said property in favor of the plaintiff. Additionally, certain documents were also executed by the husband of the plaintiff in her favour.

(iii) It is thus submitted that, by virtue of the aforesaid documents, the plaintiff became the absolute owner of the said

property. Consequently, the defendants, have no right, title, or interest in the said property and are unauthorized occupants of the ground floor of the said property i.e, suit property.

(iv) Per contra, Ld. counsel for the defendants has argued that the said property was, in fact, purchased by the father of the defendant no. 1, and the name of the plaintiff's husband was included in the title documents only out of love and affection, without conferring any beneficial ownership upon him.

(v) It is further contended that no valid transfer of title ever took place in favour of the plaintiff. The alleged documents dated 11.01.2008, namely, General Power of Attorney, Agreement to Sell, Will, and receipt, are forged and fabricated documents.

F) ISSUE-WISE FINDINGS:

ISSUE NO. 1: Whether the plaintiff is entitled for decree of possession, as claimed in prayer clause 'a' of the plaint? OPP

1. In brief, the case of the plaintiff is that her husband purchased the said property in the year 1990, however, the name of his elder brother was also included in the title documents. It is further the case of the plaintiff that on 11.01.2008, the elder brother of her husband executed certain documents, namely, General Power of Attorney, Agreement to Sell, Will, and receipt, in her favour after receiving a sum of Rs. 40,000/-, thereby transferring his rights in the said property to the plaintiff.

2. On the other hand, the defendants contended that the said property was purchased by their late father, and the name of the plaintiff's husband was included in the title documents only out of love and affection.

3. It is not in dispute that the originally the said property was purchased jointly in the names of the plaintiff's husband and the father of defendant no. 1.

4. Although, it is the case of the plaintiff that the said property was purchased exclusively by her husband from his own earnings, and that the name of Late Saudagar Mehto was merely included in the title documents, however, it is an admitted position that the title documents stand in the joint names of the plaintiff's husband and Lt. Saudagar Mehto. In such circumstances, a presumption arises that both parties contributed equally towards the sale consideration, unless proved otherwise. Accordingly, the onus was upon the plaintiff to establish that the entire sale consideration was paid solely by her husband.

5. However, no cogent or reliable evidence has been led by the plaintiff to discharge the said burden. Furthermore, the stand taken by the plaintiff inconsistent. On one hand, she claims that the entire consideration was paid by her husband, thereby negating any ownership of Late Saudagar Mehto and on the other hand, she asserts that Late Saudagar Mehto subsequently transferred his share in the property in question to her in the year 2008 for a sum of Rs. 40,000/-. If, in fact, the entire consideration had already been paid by the plaintiff's husband, no explanation has been furnished as to why Late Saudagar Mehto would sell his share for consideration. This contradiction strikes at the root of the plaintiff's case and renders her version doubtful and unworthy of reliance.

6. Since the plaintiff claims that the defendants' father transferred his share in the said property to her in the year 2008 for a consideration of Rs. 40,000/-, the burden to prove the said transaction lies upon the plaintiff. To discharge this burden, the

plaintiff has relied upon Ex-PW1/10, i.e. the General Power of Attorney, Agreement to Sell, Will, and payment receipts all dated 11.01.2008. however defendants have taken the stand that these documents are forged and fabricated.

7. Before considering the aspect of genuineness of these documents it would be relevant to discuss the proposition of law with regard to transfer of title by executing sets of documents i.e. Agreement to sell, General Power of Attorney and payment receipt.

8. At this juncture, I would like to refer judgment of the Hon'ble Supreme Court in "*Shakeel Ahmed v. Syed Akhlaq Hussain*" 2023 SCC OnLine SC 1526 wherein the Hon'ble Supreme Court has reiterated and held that no right, title or interest in an immovable property can be transferred by Agreement to sell and general power of attorney. The relevant portion of the judgment reads as under:

"10. Having considered the submissions at the outset, it is to be emphasized that irrespective of what was decided in the case of Suraj Lamps and Industries (supra) the fact remains that no title could be transferred with respect to immovable properties on the basis of an unregistered Agreement to Sell or on the basis of an unregistered General Power of Attorney. The Registration Act, 1908 clearly provides that a document which requires compulsory registration under the Act, would not confer any right, much less a legally enforceable right to approach a Court of Law on its basis. Even if these documents i.e. the Agreement to Sell and the Power of Attorney were registered, still it could not be said that the respondent would have acquired title over the property in question. At best, on the basis of the registered agreement to sell, he could have claimed relief of

specific performance in appropriate proceedings. In this regard, reference may be made to sections 17 and 49 of the Registration Act and section 54 of the Transfer of Property Act, 1882.

11. Law is well settled that no right, title or interest in immovable property can be conferred without a registered document. Even the judgment of this Court in the case of Suraj Lamps & Industries (supra) lays down the same proposition. Reference may also be made to the following judgments of this Court:

(i). Ameer Minhaj v. Deirdre Elizabeth (Wright) Issar

(ii). Balram Singh v. Kelo Devi

(iii). Paul Rubber Industries Private Limited v. Amit Chand Mitra.”

9. It is settled proposition of law that the sets of documents such as GPA, Agreement to Sell, Will etc., do not create title in the immovable property. In **“Suraj Lamp & Industries (P) Ltd.(II) v. State of Haryana” AIR 2012 SUPREME COURT 206** it was held that sale agreements, general power of attorney (GPA), and wills do not constitute valid transfer of title for immovable property. The Supreme Court held that transfer ownership of immovable property can only be done via registered sale deed or conveyance deed.

10. Even in recent judgment titled **“RAMESH CHAND (D) THR. LRS. V/s SURESH CHAND AND ANR. passed on 01.09.2025 in CIVIL APPEAL NO. 6377 OF 2012** Hon'ble Supreme Court of India again reiterated that an agreement to sell does not confer a valid title in an immovable property. The relevant paras of the said judgment are as under:

"12. The Transfer of immovable property inter vivos is governed by the Transfer of Property Act,

1882 (hereinafter referred to as “the TP Act”).

Section 5 of the said TP Act defines “transfer of property” as follows:

“5. ‘Transfer of property’ defined. —In the following sections ‘transfer of property’ means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself or to himself and one or more other living persons and ‘to transfer property’ is to perform such act.”

13. The TP Act envisages five different modes for transferring a property but for the purpose of the present appeal we are only concerned with one of the modes i.e., by way of “Sale” and the same is dealt under section 54 of the TP Act which defines “sale” and a “contract for sale” as follows:

“54. ‘Sale’ defined. — ‘Sale’ is a transfer of ownership in exchange for a price paid or promised or part-paid and part promised.

Sale how made. —Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument. In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property. Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale. —A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself, create any interest in or charge on such property.”

14. Perusal of above said provisions lays down a specific mode of execution of sale deed with respect to immovable property for concluding the sale of a property. In sale for an immovable property the value of which exceeds Rs. 100/-, the three requirements of law are that the transfer of property of sale must take place through a validly executed sale deed, i.e., it must be in writing, properly attested and registered. Unless the sale deed is in writing, attested and registered, the transaction cannot be construed as sale, or in other words, the property will not be transferred.

15. There is a difference between a sale deed and an agreement for sale, or a contract for sale. A contract for sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. While a sale is a transfer of ownership; a contract for sale is merely a document creating a right to obtain another document, namely a registered sale deed to complete the transaction of sale of an immovable property. Section 54 in its definition of sale does not include an agreement of sale and neither confers any proprietary rights in favour of the transferee nor by itself create any interest or charge in the property. If after entering into a contract for sale of property, the seller without any reasonable excuse avoids executing a sale deed, the buyer can proceed to file a suit for specific performance of the contract.

16. The scope of an agreement for sale has been highlighted by this court in the case of *Suraj Lamp and Industries Private Limited (2) through Director v. State of Haryana and Another*³, wherein this Court observed that:-

“16. Section 54 of the TP Act makes it clear that a contract of sale, that is, an agreement of sale does

not, of itself, create any interest in or charge on such property. This Court in Narandas Karsondas v. S.A. Kamtam [(1977) 3 SCC 247] observed:

“32. A contract of sale does not of itself create any interest in, or charge on, the property. This is expressly declared in Section 54 of the Transfer of Property Act. (See Ram Baran Prasad v. Ram Mohit Hazra [AIR 1967 SC 744]). The fiduciary character of the personal obligation created by a contract for sale is recognised in Section 3 of the Specific Relief Act, 1963, and in Section 91 of the Trusts Act. The personal obligation created by a contract of sale is described in Section 40 of the Transfer of Property Act as an obligation arising out of contract and annexed to the ownership of property, but not amounting to an interest or easement therein.

33. In India, the word ‘transfer’ is defined with reference to the word ‘convey’. ... The word ‘conveys’ in Section 5 of the Transfer of Property Act is used in the wider sense of conveying ownership.

37. ... that only on execution of conveyance, ownership passes from one party to another....”

18. It is thus clear that a transfer of immovable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title or interest in an immovable property can be transferred.

19. Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of the TP Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under Section 53-A of the TP Act). According to the TP Act, an

agreement of sale, whether with possession or without possession, is not a conveyance. Section 54 of the TP Act enacts that sale of immovable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject-matter."

11. The Apex Court in the Ramesh Chand (supra) also held that a General Power of Attorney does not ipso facto constitute an instrument of transfer of an immovable property. The relevant paras of the said judgment are as under:

"A power of attorney is a creation of an agency whereby the grantor authorizes the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him. It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. A General Power of Attorney does not ipso facto constitute an instrument of transfer of an immovable property even where some clauses are introduced in it, holding it to be irrevocable or authorizing the attorney holder to effect sale of the immovable property on behalf of the grantor. It would not ipso facto change the character of the document transforming it into a conveyance deed.

19. A power of attorney is not a sale. A sale involves transfer of all the rights in the property in favour of the transferee but a power of attorney simply authorises the grantee to do certain acts with respect to the property including if the grantor permits to do certain acts with respect to the property including an authority to sell the property.⁵

20. In the case of State of Rajasthan and Others v. Basant Nahata, (2005) 12 SCC 77 it was held that:

"13. A grant of power of attorney is essentially governed by Chapter X of the Contract Act. By

reason of a deed of power of attorney, an agent is formally appointed to act for the principal in one transaction or a series of transactions or to manage the affairs of the principal generally conferring necessary authority upon another person. A deed of power of attorney is executed by the principal in favour of the agent. The agent derives a right to use his name and all acts, deeds and things done by him and subject to the limitations contained in the said deed, the same shall be read as if done by the donor. A power of attorney is, as is well known, a document of convenience.

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52. Execution of a power of attorney in terms of the provisions of the Contract Act as also the Powers of Attorney Act is valid. A power of attorney, we have noticed hereinbefore, is executed by the donor so as to enable the donee to act on his behalf. Except in cases where power of attorney is coupled with interest, it is revocable. The donee in exercise of his power under such power of attorney only acts in place of the donor subject of course to the powers granted to him by reason thereof. He cannot use the power of attorney for his own benefit. He acts in a fiduciary capacity. Any act of infidelity or breach of trust is a matter between the donor and the donee."

21. Further, the position of a power of attorney with respect to conferment of title was explained by this Court in the case of Suraj Lamp (supra), thus:

"20. A power of attorney is not an instrument of transfer in regard to any right, title or interest in an immovable property. The power of attorney is creation of an agency whereby the grantor authorises the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him (see Section 1-A and Section 2 of the Powers of

Attorney Act, 1882). It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. Even an irrevocable attorney does not have the effect of transferring title to the grantee."

12. It is not the case of the plaintiff that she has acquired title of the said property by virtue of any conveyance/ sale deed, therefore, in view of the law laid down by the Hon'ble Supreme Court, this Court is of considered view that plaintiff has failed to prove the fact that she has purchased the share of Lt. Saudagar Mehto. I also do not agree with the contention of Ld. Counsel of plaintiff that the judgment passed by the Hon'ble Supreme Court in Suraj Lamp (supra) is prospective in nature. Even recently, the Apex Court in Shakeel Ahmed (supra) has rejected the contention that the Suraj Lamp judgment is only prospective. The relevant paras of said judgment are reproduced hereunder:

"9. It was also submitted that the judgment in the case of Suraj Lamps & Industries Pvt. Ltd. Vs. State of Haryana and Anr.1, which was of the year 2011, had prospective application and would not have any bearing on the title of the respondents which came to him under the customary documents executed in the year 2008 much prior to the judgment in the case of Suraj Lamps & Industries (supra)."

"10. Having considered the submissions at the outset, it is to be emphasized that irrespective of what was decided in the case of Suraj Lamps and Industries(supra) the fact remains that no title could be transferred with respect to immovable properties on the basis of an unregistered Agreement to Sell or on the basis of an unregistered General Power of

Attorney.”

13. Ld. Counsel for the plaintiff also argued that the plaintiff has become the owner of the said property by virtue of the Will dated 11.01.2008. In view of this Court, the said argument is also not tenable. The plaintiff is not claiming any right, title, or interest in the said property as a successor or legal heir of late Saudagar Mehto. It is not the case of the plaintiff that she has inherited the said property by way of succession.

14. Rather, the case of the plaintiff is that she allegedly purchased the said property from late Saudagar Mehto on the basis of certain documents, namely, a General Power of Attorney, Agreement to Sell, Will, and a payment receipt.

15. In considered opinion of this Court, there exists a fundamental distinction between a Will executed as a testamentary instrument under the Indian Succession Act, 1925 and a Will purportedly executed as part of a set of documents to effectuate transfer of ownership in immovable property.

16. The Hon'ble Supreme Court in *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana* (Supra) has categorically held that transactions of the nature of General Power of Attorney, Agreement to Sell, and Will, even when executed together, do not convey ownership nor create any title in respect of immovable property.

17. In view of the settled legal position, the documents relied upon by the plaintiff, namely the Agreement to Sell, General Power of Attorney, Will, and receipt, do not confer any right, title, or interest in the said property in her favour. Accordingly,

this issue is decided against the plaintiff.

ISSUE NO. 2: To what damages, the plaintiff is entitled, and if so, at what rate and for what period? OPP

In view of the findings given while adjudicating issue no. 1, this issue is also decided against the plaintiff.

Relief

In light of the findings recorded above, the suit of the plaintiff is hereby dismissed.

No order as to cost.

Decree sheet be prepared accordingly.

File be consigned to record room as per rules.

**Announced in the open
Court on 17.04.2026**

**(Hem Singh)
District Judge-01
(East)/KKD/Delhi**