

IN THE COURT OF SH. PITAMBER DUTT,
PRINCIPAL DISTRICT & SESSIONS JUDGE,
PATIALA HOUSE COURTS, NEW DELHI.

RCA DJ No. 02/2023

CNR No. DLND01-000830-2023

Smt. Sat Kaur
Wd/o Late Sh. Balbir Singh,
R/o House no. 8/163, Mehram Nagar,
Delhi Cantt, New Delhi – 110010.

...Appellant / Plaintiff

Versus

1. Director General
National Security Guards,
CGO Complex, Lodhi Road,
New Delhi – 110003.

2. Desh Raj (Since deceased)
2. (1) Smt. Veena (Widow of Elder Son)
2. (1) (a) Sh. Sidharth (Son of Elder Son)
2. (1) (b) Smt. Kanchan (Daughter of Elder Son)
R/o 8/151, Mehram Nagar, Delhi Cantt.
South-West, Delhi – 110010
2. (2) Sh. Mahipal (Son)
2. (3) Smt. Santosh (Daughter)
2. (4) Smt. Geeta (Daughter)

All above at:

R/o House No. 8/257, Village Mehram Nagar,
Delhi Cantt., Delhi – 110010

3. Sh. Kishan Chand (Since Deceased)
(1) Imarti Devi
W/o Late Sh. Kishan Chand
R/o NZB, 529, Gali No. 9, Puran Nagar,
Palam, New Delhi

(2) Sh. Devender
S/o Late Sh. Kishan Chand
R/o NZB, 529, Gali No. 9, Puran Nagar,
Palam, New Delhi.

(3) Govinder
S/o Late Sh. Kishan Chand
R/o NZB, 529, Gali No. 9, Puran Nagar,
Palam, New Delhi

4. Delhi Cantonment Board
Delhi Cantt,
South-West Delhi – 110010

...Respondent / Defendant

Date of Institution : 20.01.2023
Arguments heard on : 18.02.2026
Date of Judgment : 14.03.2026

Appearances:-

Sh. Rishabh Gulati, Ld. Counsels for the Appellant.
Sh. Neeraj Sharma, Ld. Counsel for Respondent No. 1
Sh. Aman Jain and Sh. Mohit Kumar, Ld. Counsels for Respondent
No. 2 and 3.

JUDGMENT

1. Vide this order, I shall decide the appeal filed by the appellant / plaintiff against the impugned judgment and decree dated 19.11.2022, passed by the Ld. Trial Court, whereby the suit filed by the plaintiff was dismissed. The brief facts necessitated in filing of the present appeal as narrated by the appellant, are given as under:-

2. The appellant has averred that the property bearing no. J-44, East Mehram Nagar, New Delhi, was handed over by her father in law Late Charan Singh, during his lifetime to her husband Late Balbir Singh, who expired in October 1999 and since thereafter, she is in physical possession of the property in question. She further averred that Late Charan Singh, during his lifetime, allowed his brothers respondent no. 2 and 3, to construct two small rooms each for their use in the said property, however, after the death of husband of plaintiff, respondent no. 2 and 3 in collusion with respondent no. 1, 3 and 4, started raising unauthorized construction in the suit property, against which plaintiff filed a written complaint dated 30.07.2015 with SHO PS Sadar Bazar, Delhi Cantt, New Delhi.

3. The appellant has further averred that in the first week of April 2016, respondent no. 2 and 3, in collusion with respondent no. 1, 2 and SHO PS Sadar Bazar, Delhi Cantt., (defendant no. 5), again started raising unauthorized construction in the suit property and on her objection, threatened her of dire consequences. Appellant / plaintiff made PCR calls qua the same, which were recorded vide DD no. 20A and 18A and on 24.06.2016, SHO PS Delhi Cantt. submitted action taken report bearing no. 965 qua the same to the Chief Ex. Officer, mentioning a different address of the property. Being constrained by the illegal acts of defendant no. 2 and 3, plaintiff filed a civil suit, wherein respondent no. 1 to 3 filed

their written statement, admitting that new construction is being raised in the suit property.

4. The appellant / plaintiff filed replication to the written statements of the respondent / defendant and after completion of the proceedings, the Ld. Trial Court dismissed the suit filed by the appellant vide impugned judgment dated 19.11.2022. Feeling aggrieved from the impugned Judgment and Decree dated 19.11.2022, the present appeal has been filed for adjudication.

5. Sh. Rishabh Gulati, Ld. Counsel for the appellant / plaintiff has contended that the impugned Judgment has been passed by the Ld. Trial Court, on the basis of conjecture and surmises, without appreciating the pleadings and documents placed on record. He further contended that the Ld. Trial Court has failed to appreciate that documents produced by her shows that appellant / plaintiff is in possession of the suit property. He further contended that the conclusion drawn by the Ld. Trial Court is against the evidence led by the appellant to prove the unauthorized construction raised by respondent no. 2 and 3. He further contended that respondent no. 2 and 3 have not filed any document to show that they were in occupation of the suit property, where unauthorized construction was raised by them. He prayed that appeal may be allowed and impugned Judgment and Decree may be set aside.

6. Sh. Neeraj Sharma, Ld. Counsel for respondent no. 1 has contended that the land on which the suit property is constructed, was transferred to respondent no. 1 and Aviation Research Centre (ARC), jointly by Ministry of Defence, Government of India vide Letter no. 12015/4/85/D (Lands) dated 08.04.1986, which has been encroached upon by the appellant and respondent no. 2 and 3 illegally. He further contended that appellant has no cause of action to file the present appeal. He prayed that appeal may be dismissed.
7. Sh. Aman Jain and Sh. Mohit Kumar, Ld. Counsels for respondent no. 2 and 3 have contended that the appeal filed by the appellant is based on false and frivolous facts. He further contended that no cause of action ever arose in favour of plaintiff and against respondent no. 2 and 3 as appellant has failed to produce any documentary proof to prove her ownership qua the suit property. He further contended that respondent no. 2 and 3 are in possession of the suit property since their birth, hence, appellant cannot claim any relief against them. He prayed that the present appeal is without any merits, therefore, same may be dismissed.
8. I have heard Ld. counsel for the appellant, Ld. counsel for the respondent, perused the appeal, impugned order as well as record. A perusal of the above shows that appellant / plaintiff had filed a suit for permanent and mandatory injunction, with

respect to suit property bearing no. J-44, East Mehram Nagar, New Delhi, measuring 200 Sq. Yards.

9. The appellant / plaintiff has claimed that defendant no.1 is the owner of the suit property and plaintiff is in settled possession of the said property for the last various years.
10. The appellant has further claimed that her father in law was occupying the suit property for the last more than 80 years and at the time of his death, he handed over the possession of the suit property to his son Sh. Balbir Singh, the husband of plaintiff, who died in October 2019 and since then plaintiff is in physical possession of the property in question.
11. The appellant has claimed that her father in law Late Charan Singh, during his lifetime, allowed defendant no. 2 and 3 to construct two small rooms in the said property, apart from those rooms, no portion of the property was in occupation of defendant no. 2 and 3. She further claimed that defendant no. 2 and 3 started raising construction in the suit property after July 2015 and she made complaint in this regard with SHO PS Sadar Bazar, Delhi Cantt. However, no action was taken by the authorities, therefore, the suit was filed.
12. The claim of the plaintiff was controverted by defendant no. 2 and 3 in their written statement and they claimed that plaintiff has no locus standi to file the present suit.

13. The plaintiff has filed the suit for seeking permanent and mandatory injunction on the ground that she is in settled possession of the property in question, whereas defendant no. 2 and 3 raised unauthorized construction and disturbed her peaceful possession in the suit property.
14. To establish her said claim, appellant / plaintiff Smt. Sat Kaur has examined herself as PW – 1 and reiterated the averments made in the plaint in her examination in chief. During cross-examination, PW – 1 deposed that two rooms, shown at points X and Y were earlier in her possession but now the possession has been forcibly taken from her by defendant no. 2 and 3, 15 years back. Again said, 10 to 12 years back. She admitted that as on date she is residing at the address mentioned in her affidavit along with her sons. She further deposed that there is a distance of half kilometer between the suit property and where she is residing as on date. She further deposed that the tenants of defendant no. 2 and 3 are residing in the suit property as on date. She further deposed that the rooms marked as E and F are in the possession of tenants and rooms marked G and H are in the possession of her tenants and the rooms marked I and J are in her possession.
15. The plaintiff has also examined her son PW-6 Sh. Deepak, who admitted in his cross-examination that he is not residing in the suit property.

16. The plaintiff filed the suit for permanent and mandatory injunction on the ground that she is in settled possession of the suit property and defendant no. 2 and 3 are in occupation of two small rooms, in which they are trying to raise unauthorized construction.
17. Admittedly, plaintiff is not the owner of the suit property, which is in the ownership of respondent no. 1 (NSG).
18. The plaintiff has filed the said suit on the ground that she is in settled possession of the suit property through her husband and father in law, whereas respondent no. 2 and 3 have raised unauthorized construction in the said property.
19. The plaintiff however, during her cross-examination has controverted her claim that she is in possession of the suit property and admitted that she was dispossessed forcibly from two rooms by defendant no. 2 and 3, 15 / 10-12 years back.
20. The plaintiff has not made any averment regarding her dispossession in her plaint, where she averred that she is in settled possession of the suit property.
21. It is also relevant to mention that at the later part of her cross-examination, plaintiff admitted that room marked X and Y are with defendant no. 2 and 3. She further stated that rooms marked G and H are in the possession of her tenant. But

surprisingly, rooms mark X & Y and G & H, refers the same rooms in the site plan Ex.PW-1/1.

22. The plaintiff has stated during her cross-examination that she was dispossessed forcibly by defendant no. 2 and 3, 15 years back, therefore, her claim that she is in settled possession of the suit property at the time of filing of the present suit remains unsubstantiated.
23. When the plaintiff was neither the owner nor in possession of the suit property then she has no locus standi to file a suit against the defendants on the allegation that her enjoyment of the property was disturbed.
24. The Ld. Trial Court has considered the pleadings and evidence led before it regarding the entitlement of plaintiff for seeking permanent and mandatory injunction and has thus rightly held that the plaintiff is talking about her right of being obstructed due to the alleged illegal construction by defendant no. 2 and 3, however, she has failed to prove her possession in the property in question.
25. The Ld. Trial Court has considered the pleadings and evidence led on record minutely and has rightly held that plaintiff is not entitled for the relief claimed and has thus rightly dismissed the suit and I find no infirmity in the judgment.

26. In view of the above facts and circumstances, I am of the considered view that the Ld. Trial Court has passed a well reasoned judgment, dismissing the suit filed by the plaintiff and I find no legal infirmity in the same. Accordingly, the appeal filed by the appellant against Judgment and Decree dated 19.11.2022 is dismissed.

27. Trial Court Record be sent back along with copy of this order. Appeal file be consigned to Record Room after due compliance.

**Announced in the open Court
Today i.e. on 14.03.2026**

**(PITAMBER DUTT)
Principal District & Sessions Judge,
New Delhi District,
Patiala House Courts New Delhi.**