

IN THE COURT OF MOHAMMAD EHTESHAM, ASJ-07,
SOUTH EAST DISTRICT, SAKET COURTS, DELHI
(THEN DISTRICT JUDGE-03, SHAHDARA DISTRICT,
KARKARDOOMA COURTS, DELHI)

[Vide Transfer Order No. 09 / D-3 / Gaz.IA / DHC / 2026 dated 25.02.2026 the undersigned was transferred to the present court and the arguments in the present matter was already heard by the undersigned and judgment was reserved].

Civil Suit No.: 976/2016

CNR No. DLSH010006772014

In the matter of:

MUNNAWAR KHAN

S/o Sh. BHURE KHAN

R/o H. No. 1, TAHIR BUILDING,

MASJID WALI GALI NO.1,

CHAJJU GATE, BABARPUR,

SHAHDARA, DELHI-110032

...PLAINTIFF

Versus

MUNNAN KHAN

S/o LATE SH. PUTTAN KHAN,

R/o Z-1/151, LAKDI MARKET, WELCOME,

DELHI – 110053

...DEFENDANT

Date of Institution of suit	:	02.12.2014
Date of reservation of judgment	:	05.02.2026
Date of pronouncement of judgment	:	30.06.2026
Decision	:	Suit Decreed.

JUDGMENT:

1. The present suit has been filed by the Plaintiff against the Defendant for recovery of Rs.7,00,000/- (Rs. Seven Lakhs only) along with pendente lite and future interest at the rate of 24% per annum.
2. Brief facts of the present case as stated in the plaint are as follows:
 - a) That the Defendant is a builder by profession and after purchase of the properties, he erected the building by constructing the flats and then disposed off the flats floor wise.
 - b) That in this regard the Defendant entered into an agreement for purchase of any property and he further entered into an agreement for sale with the prospective buyers of the flats and received the amounts from them and then start raise the construction of flats.
 - c) That vide agreement dated 12.12.2013, the Defendant agreed to sell third floor without roof rights admeasuring 50 sq. yds. in property no. 97, Gali no. 6, Kabir Nagar, Delhi-94 (flat which was under construction at the time of execution of agreement dated 12.12.2013) for a total sale consideration of Rs. 12,20,000/- and out of the said consideration amount, Rs.1 was paid by the Plaintiff to the Defendant at the time of execution of aforesaid agreement. Further, said agreement was also notarized by notary public on

12.12.2013 and was executed in the presence of witnesses and as per the said agreement, date of execution for title documents was fixed as 11.04.2014.

- d) That Defendant had received further payment of Rs.6 lakhs in terms of the agreement on different dates and the Defendant had executed receipts of the same in his own hand writing upon the overleaf of the said agreement as well as extended the time of execution of title documents of the aforesaid property.
- e) That on 01.05.2014, after receiving amount of Rs.2 lakhs, the Defendant lingered on the matter on one pretext or the other and he has not met with the Plaintiff for months, despite the visit of the Plaintiff at his residence.
- f) That on 05.11.2014, when the Plaintiff met the Defendant and asked for execution of title documents of the aforesaid property by receiving the balance amount, the Defendant stated that he has already disposed of the third floor of the aforesaid property and he shall return his Rs.7 lakhs to him after disposing his residential property i.e. Z-1/151, Lakdi Market, Welcome, Delhi - 53. Thereafter, the Plaintiff had come to know that the Defendant had cheated him by taking Rs.7 lakhs from him on different dates, as per the agreement.

g) That on 09.11.2014, the Plaintiff came to know that the Defendant had cheated many persons and a complaint was also lodged with PS Welcome dated 10.11.2014 and on the same date, SI Manish called the Plaintiff at PS Welcome where the Defendant had agreed to pay advance amount of Rs.7 lakhs and in this regard, he had signed an undertaking which was given to the SHO PS Welcome. Further, out of Rs.7 lakhs, Rs.2 lakhs shall be paid by the Defendant on 27.02.2015 and remaining amount of Rs.5 lakhs shall be paid within a period of 08 months from the date of execution of undertaking which was signed by the Defendant and attested by SI Manish .

h) That despite repeated requests and demands, the Defendant had not returned the amount to the Plaintiff. Hence, the present suit.

3. Thereafter, summons of the suit were served to the Defendant. In Written Statement Defendant objected that the present suit of the Plaintiff is not maintainable and is liable to be rejected / dismissed u/o VII rule 11 CPC. On merits, the Defendant denies all the averments of the plaint and the Defendant contended that the Plaintiff is making a false and extortionate claim and that the suit is false, frivolous, and without cause of action. The Defendant has prayed for dismissal of the present suit.

Issues:

4. After completion of pleadings, following issues were framed vide order dated 28.07.2015:
 - 1) Whether the Plaintiff is entitled for recovery of sum of Rs.7,00,000/- (wrongly written as Rs.7,00,00/-)? OPP
 - 2) Whether the Plaintiff is entitled for any interest? If so, at what rate and for what period? OPP
 - 3) Relief.

Evidences:

5. To prove his case, Plaintiff examined himself as PW1 and filed his evidence by way of affidavit Ex.PW1/A. He had relied upon the documents which are: 1. Original copy of agreement to sell dated 12.12.2013 Ex.PW1/1, 2. Original police compliant dated 10.11.2014 Ex.PW1/2, 3. Hand written note dated 19.11.2014 Ex.PW1/3, and 4. Documents relating to the Defendants of his property where he was resided Mark A to F.
6. It may be noted herein that on 21.03.2017, none had appeared on behalf of the Defendant to cross examine PW1 and opportunity of the Defendant to cross examine PW1 was closed by order.

7. Thereafter, vide separate statement, Plaintiff had closed his evidence on 21.03.2017.
8. It may further be noted herein that subsequently, an application u/s. 151 CPC for recalling the Plaintiff / PWI was filed on behalf of the Defendant which was subsequently allowed vide order dated 05.09.2018. Thereafter, the PW1 was cross examined by counsel for the Defendant and Plaintiff's evidence was closed on 10.05.2022 by order.
9. Thereafter, the Defendant has led his evidence and examined himself as DW1 and filed his evidence by way of affidavit Ex.DW1/1. The said witness has been cross examined by Id. Counsel for Plaintiff.
10. Thereafter, vide separate statement, Defendant has closed his evidence on 25.05.2023.
11. It may further be noted herein that an application u/o XVIII Rule 17 CPC was moved on behalf of Plaintiff which was subsequently allowed vide order dated 07.10.2023 and two more witnesses of Plaintiff namely Sh. Javed and Insp. Manish Chaudhary were examined by the Plaintiff as PW2 and PW3 respectively. Both the said witnesses were cross examined by Id. Counsel for Defendant.
12. Thereafter, vide separate statement; the Plaintiff has closed his evidence on 06.06.2025.

13. I have heard the final arguments as addressed by Ld. Counsel for Plaintiff as well as Ld. Counsel for Defendant. I have carefully gone through the material available on record.

Plaintiff's Final Arguments:

14. Ld. Counsel for the Plaintiff argued that the agreement to sell (Ex. PW1/1) stands duly proved on record. It was argued that the Defendant, though examined as DW1, he rendered his testimony unreliable, when in his cross examination he denied his own signatures on the written statement and supporting affidavit, which clearly reflects that the Defendant did not approach the witness box with the intention of deposing truthfully, but rather with a predetermined intent to deny all material suggestions put to him thereby indicating a deliberate attempt to evade the truth. It was further contended that the Defendant similarly denied his signatures on Ex. PW1/1 and on the endorsements acknowledging receipt of Rs. 1,00,000/- at the time of execution and Rs. 6,00,000/- subsequently. Ld. Counsel submitted that the Plaintiff has proved the agreement by producing the original document, duly corroborated by independent witnesses PW2 and PW3, and that the Defendant failed to take any steps to disprove his signatures thereon. Ld. Counsel further argued

that although the police complaint dated 10.11.2014 (Ex. PW1/2) does not bear the signature of plaintiff but the same bears the acknowledgment stamp of the concerned Police Station as the original signed complaint was handed over to Police Station. Ld. Counsel for the plaintiff has placed reliance on the judgments passed by the Hon'ble High Court of Delhi in *Hajra Parveen vs. Saeed Ahmad Khan and Anr.*, 2017 STPL 1441 Delhi; *M/S. M.R. JUNEJA I & S(P) LTD vs. M/S R.M. ISPAT PVT. LTD. AND OTHERS*, 2023 STPL 12429 Delhi; and *Smt. Asha Kapoor vs. Shri Hari Om Sharda*, CM (M) No. 885/2010 & CM No. 12169/2010 dated 05.08.2010.

Defendants' Arguments:

15. Ld. Counsel for the Defendant submitted that the Plaintiff's earlier applications under Order XXXVIII Rule 5 CPC and Order XII Rule 6 CPC were dismissed vide orders dated 21.02.2015 and 04.06.2016. It was argued that the suit is based on two documents, i.e., the notarized agreement dated 12.12.2013 (Ex. PW1/1) and a police complaint dated 10.11.2014 (Ex. PW1/2), neither of which has been duly proved, as the Notary was not examined and the complaint does not bear the Plaintiff's signature. It was further contended that the alleged payment of Rs. 7,00,000/- in cash is unsupported, particularly

as the Plaintiff admitted to having no bank account or income tax records and failed to establish the source of funds. It was also argued that no relief of specific performance or mandatory injunction has been sought, and that a similar suit against the Defendant has been dismissed. On these grounds, dismissal of the suit was prayed for.

16. I have carefully examined the evidence led by both sides. I have also considered the rival arguments advanced by Ld. Counsel for the parties. My issue wise findings are as under:

17. **Issue no. (1)** Whether the Plaintiff is entitled for recovery of sum of Rs.7,00,000/- (wrongly written as Rs.7,00,00/-)? OPP

a) The onus to prove this issue was upon the Plaintiff.

b) The plaintiff has placed on record the original agreement to sell dated 12.12.2013 i.e. Ex. PW1/1. Para 2 of the said document bears an endorsement of payment of Rs.1,00,000 at the time of execution and backside of page no. 4 of the same document also contains acknowledgment of further payment of Rs.6,00,000 in instalments of Rs.1,00,000/-, Rs.50,000/-, Rs.50,000/-, Rs.2,00,000/- and Rs.2,00,000/-, on different dates between 20.12.2013 to 01.05.2014.

c) Perusal of written statement filed by the Defendant reveals that there is no specific denial to the agreement dated 12.12.2013

Ex.PW1/1. Paragraph 2 of the Written Statement is only a general denial with allegations that the plaint is false and concocted, and that the contents are “wrong, incorrect and hence denied,” but the wording mainly denies the sale terms, advance payment, and under-construction status. It does not clearly and unambiguously deny that an agreement dated 12.12.2013 was executed at all. In fact, the denial appears to attack the plaintiff’s version of the transaction rather than squarely denying the document’s existence/execution.

- d) Moreover in paragraph 3 of the written statement also the Defendant merely states the corresponding para of Plaint as “wrong, incorrect and hence denied,” without any specific factual denial of the notarized agreement or its execution on 12.12.2013. So para 3 is also not a robust specific denial of the agreement.
- e) As the defendant has taken only a vague and evasive denial with respect to the agreement to sell Ex.PW1/1. Such a denial cannot be treated as a specific denial in the eyes of law. **Under Order VIII Rule 5 of the Code of Civil Procedure**, facts which are not specifically denied may be taken to be admitted. The defendant

has failed to give a categorical and convincing denial of the execution of the document and the payments recorded therein.

- f) It is relevant to note here that this court is also empowered under **Section 73 of the Indian Evidence Act** to compare the disputed signatures with the admitted signatures. On such comparison, the signatures appearing on Ex.PW1/1 at points 'A', A-2, A-3 and 'B' are found to be similar to the admitted signatures of the defendant on the Vakalatnama and point 'A' of the Written Statement. This comparison supports the plaintiff's case.
- g) Moreover the defendant has not led any expert evidence to disprove his signatures or handwriting appearing on the document Ex.PW1/1.
- h) Further, the plaintiff's testimony is supported by independent witnesses PW2 and PW3. PW2 a property dealer is an independent witness to the transaction and proved the agreement ExPW1/1 and PW3, a police officer has proved police complaint Ex.PW1/2 and has corroborated the subsequent compromise between Plaintiff and Defendant and acknowledgment by the Defendant Ex.PW1/3 at the police

station. Their evidence supports the execution of the agreement and the receipt of money by the defendant.

- i) Moreover, during cross-examination, the defendant initially denied his signatures on the written statement and the accompanying affidavit, but later admitted the same when questioned by the Court. This inconsistency materially undermined the credibility and truthfulness of his testimony.
- j) Thus in view of above discussions and findings, the plaintiff has proved Issue No. 1 on the preponderance of probabilities. Accordingly, Issue No. 1 is decided in favour of the plaintiff and against the defendant.

18. **Issue no. (2)** Whether the Plaintiff is entitled for any interest? If so, at what rate and for what period? OPP

- a) The onus to prove this issue was upon the Plaintiff.
- b) The plaintiff has claimed pendent lite and future interest at the rate of 24% per annum. However the interest at the rate of 24% per annum is unreasonable. Considering the present economic scenario the interest of justice would be served if pendent lite and future interest at the rate of 6% per annum on the principal amount of Rs.7,00,000/- is

awarded to the plaintiff against the defendant from 02.12.2014 (the date of filing of this suit) till realisation.

The pendent lite and future interest is decided accordingly.

c) Thus issue no. 2 is decided accordingly in favor of the plaintiff and against the defendant.

Relief:

19. In view of forgoing discussion, the present suit stands decreed in favour of the Plaintiff and against the Defendant for recovery of an amount of Rs.7,00,000/- (Rupees Seven Lakh only) along with interest @ 6% p.a. on Rs.7,00,000/- from filing of the suit till its realization.
20. Cost of the suit is also awarded in favour of the Plaintiff.
21. Decree sheet be prepared.
22. Pending applications, if any, stand disposed.
23. File be consigned to record room after due compliance.

***(Announced in open Court today
on 30.06.2026)***

(Mohammad Ehtesham)
ASJ-07, South East, Saket Courts, Delhi
*(Then District Judge-03, Shahdara
District, Karkardooma Courts, Delhi)*