

**IN THE COURT OF DISTRICT JUDGE-08 WEST, TIS HAZARI
COURTS, DELHI**

Presided by: Ms. Susheel Bala Dagar

CS DJ 611346/16

CNR Number: DLWT01-000174-2010

In the matter of:

1. Arora & Associates Realty Pvt. Ltd.

Through its AR

Sh. Rajesh Arora (Managing Director)

R/o E-114, Malcha Marg,

Chanakya, New Delhi-110021

2. Sh. K.J. Arora

Through LR

Shri Rajesh Arora (Managing Director)

R/o E-114, Malcha Marg,

Chanakya, New Delhi-110021

..... Plaintiffs

Versus

Smt. Bina Minj

D/o Late Sh. Dhan Kumar

R/o A-1, 48/72, West Punjabi Bagh,

New Delhi-110026.

..... Defendant

Date of institution : 25.03.2010

Date of reserved for judgment : 11.07.2026

Date of judgment : 29.07.2026

Suit for possession and mesne profits

JUDGMENT

Part-I

Brief facts of the case

1. Introduction

1. The present suit has been instituted by M/s Arora & Associates Realty Ltd. and Late Shri Kanwarjit Arora (now represented by his legal representative Shri Rajesh Arora) seeking a decree of possession of the basement portion of property bearing no. A-1, 48/72, West Punjabi Bagh,

New Delhi, recovery of mesne profits/damages, and other consequential reliefs against the defendant. The controversy essentially revolves around the nature of the defendant's occupation of the suit premises. According to the plaintiffs, the defendant was merely a domestic servant who was permitted to occupy the basement as a matter of compassion and convenience during her employment and, therefore, was only a permissive occupant or licensee. It is alleged that after termination of her services in March, 2007, the defendant unlawfully continued to occupy the premises despite repeated requests and legal notices requiring her to vacate.

2. The defendant, on the other hand, disputes the plaintiffs' version and asserted that she was inducted into the suit premises as a tenant in the year 1993 at a monthly rent of Rs.500/- by late Shri Kanwarjit Arora. It is her case that she enjoys the protection of the Delhi Rent Control Act and, consequently, the present civil suit is barred under Section 50 of the said Act. Thus, the principal question requiring adjudication is whether the defendant is a tenant protected by the Delhi Rent Control Act or merely a licensee whose permission to occupy the premises has been validly terminated.

Procedural History

3. The present suit was instituted seeking possession of the basement portion of property bearing no. A-1, 48/72, West Punjabi Bagh, New Delhi, along with mesne profits and consequential reliefs. Upon service of summons, the defendant entered appearance and filed her written statement contesting the suit on facts as well as law. The plaintiffs thereafter filed replication denying the averments contained in the written

statement and reaffirming the case set out in the plaint. Upon completion of pleadings, the Ld. Predecessor framed issues on 27.10.2010. Subsequently, vide order dated 16.05.2016, Issue no.1 relating to tenancy was modified by placing the burden of proving tenancy upon the defendant, the plea having been specifically raised by her.

4. The plaintiffs examined Shri Rajesh Arora as PW-1 and Ms. Lata Nautiyal, Notary Public, as PW-2. The defendant examined herself as DW-1. After conclusion of evidence, final arguments were addressed by both parties and the matter was reserved for judgment. During the pendency of the matter after conclusion of arguments, plaintiff no.2, Late Shri Kanwarjit Arora, expired on 28.04.2026. An application under Order XXII Rule 3 read with Section 151 CPC was thereafter moved on behalf of the plaintiffs seeking substitution of his legal representative. Vide order dated 11.07.2026, the Court allowed the application.

Plaintiffs' Case

5. The plaintiffs pleaded that they became joint owners of Plot no. 48, Road no.72, Punjabi Bagh, New Delhi, through agreements for sale executed during the years 1987 and 1988. Subsequently, a collaboration agreement was entered into for redevelopment of the property, under which the basement portion measuring approximately 2200 square feet fell to the share of the plaintiffs and constitutes the suit property.

6. According to the plaintiffs, the defendant was employed only as a domestic servant and housemaid by plaintiff no.2. During the course of such employment, the defendant requested permission to permit her mother and certain relatives to temporarily occupy the basement because they had no alternative accommodation. The plaintiffs, considering her

request sympathetically, permitted temporary occupation purely as a matter of licence without creating any tenancy or proprietary interest. It was specifically pleaded that the plaintiffs continued paying municipal taxes, electricity charges and continued storing valuable household articles in the basement.

7. The plaintiffs further alleged that during March, 2007 the defendant was caught committing theft on more than one occasion and was consequently removed from service on 23.03.2007. Despite repeated requests to vacate the premises, she continued in illegal occupation. The plaintiffs further alleged that the defendant committed theft of electricity, carried out unauthorized alterations, prevented the plaintiffs from accessing the basement, disposed of furniture stored therein, misused the premises for commercial purposes and even demanded Rs.25,00,000/- for vacating the property. Legal notices dated 01.10.2009 and 03.12.2009 terminating her permissive occupation were stated to have been served, but without success, compelling institution of the present suit.

Defendant's Case

8. The defendant contested the suit by raising various preliminary objections relating to maintainability, valuation, locus standi, authority to institute the suit and non-joinder of parties. The principal defence, however, was that she was never a licensee but had been inducted into the suit premises as a tenant in the year 1993 by late Shri Kanwarjit Arora at a monthly rent of Rs.500/-. According to her, an additional amount of Rs.500/- payable towards domestic work was adjusted towards rent and, therefore, a valid tenancy came into existence. She further pleaded that she was employed as a Cook-cum-Peon by the plaintiff company and that

substantial salary dues amounting to Rs.82,500/- remained unpaid after illegal termination of her employment in March, 2007. Labour proceedings challenging such termination were also stated to be pending. The defendant denied every allegation regarding theft, electricity theft, unauthorized construction, commercial misuse, illegal activities and extortion. She asserted that the present suit was instituted only as a counterblast to the labour proceedings initiated by her. It was further pleaded that being a tenant paying rent of Rs.500/- per month, the dispute was exclusively triable by the Rent Controller and the jurisdiction of the Civil Court stood barred under Section 50 of the Delhi Rent Control Act.

Replication

9. The plaintiffs filed replication traversing every allegation contained in the written statement. The plaintiffs specifically denied that the defendant was ever employed by the plaintiff company or that she was inducted as a tenant. It was reiterated that the defendant worked only as a domestic servant of plaintiff no.2 and that temporary occupation of the basement was merely a humanitarian arrangement without creation of any tenancy. The plaintiffs also denied the alleged labour dues and reiterated that the defendant was removed from service after repeatedly committing theft. All objections relating to jurisdiction, locus standi, valuation, authority and maintainability were specifically denied.

Issues :-

10. From the pleadings of the parties and material on record, following issues were framed by Ld. Predecessor vide order dated 27.10.2010:-

Issue no. 1 Whether defendant is a tenant in the suit property at a monthly rate of rent of Rs. 500/- per month? OPP

Issue no. 2 Whether the suit of the plaintiff is barred under the provisions of Section 50 of DRC Act? OPD

Issue no. 3 Whether the suit has been filed by duly authorized person? OPP

Issue no. 4 Whether the suit of the plaintiff is bad for non joinder of necessary parties? OPD

Issue no. 5 Whether the suit is under valued for the purpose of Court fees and jurisdiction? OPD

Issue no. 6 Whether the plaintiff has no locus standi to file the present suit? OPD

Issue no. 7 Whether the plaintiff is entitled to the relief of possession of suit property bearing no. A-1, 48/72, West Punjabi Bagh, New Delhi? OPP

Issue no. 8 Whether the plaintiff is entitled to mesne profit, if any? OPP

Issue no. 9 Relief

Vide order dated 16.05.2016, issue no.1 was modified and same is as under:

Whether the defendant is a tenant in the suit property at a monthly rent of Rs. 500/-? OPD

Plaintiff Evidence:-

PW1/Rajesh Arora

11. PW1/Rajesh Arora has tendered his evidence by way of affidavit and relied upon the following documents : certified true copy of the board resolution dated 19.08.2025 Ex PW1/1, original SPA dated 09.08.2025 Ex. PW1/2, copy of sale deed dated 16.04.1985 Mark A, copy of collaboration agreement dated 09.03.1989 Mark B, copy of

supplementary deed dated 27.10.1985 Mark C, original site plan Ex. PW1/6, copy of complaints dated 31.03.2007, 13.04.2007, 12.04.2007, 13.04.2007, 21.04.2007, 29.05.2007, 29.10.2007, 27.11.2007, 14.01.2008, 27.11.2007 and 10.01.2008 Mark D, copy of complaint dated 06.02.2008 Mark E, certified copies of suit no. 253/2007 and 376/2007 Ex. PW1/8 and Ex. PW1/9 respectively, certified copy of Industrial dispute complaint filed by defendant against plaintiff Ex. PW1/10, copy of house tax receipt of MCD dated 18.06.2009 Mark F, office copy of Legal notice dated 01.10.2009 along with courier receipt on 03.10.2009 Ex. PW1/12, office copies of reminder notice dated 03.12.2009 along with courier receipt, UPC and acknowledgment card Ex. PW1/13, original valuation report dated 11.03.2010 Ex. PW1/14.

12. PW1/Rajesh Arora further relied upon the following documents as per his additional evidence by way of affidavit which are as follows: copy of board resolution dated 21.11.2008 Mark G, copy of authority letter in favour of Sh. K.J. Arora Mark H.

13. PW1/Rajesh Arora has tendered the following documents after allowing the application under Order 18 Rule 17 CPC: copy of sale deed dated 16.04.1985 (already marked as Mark A) Ex. PW1/3, copy of collaboration agreement dated 09.03.1989 (already marked as Mark B) Ex. PW1/4 and copy of supplementary deed dated 27.10.1985 (already marked as Mark C) Ex. PW1/5.

14. During cross examination, PW-1 Rajesh Arora denied the defendant's claim that she was employed by M/s K.J. Arora Associates Realty Pvt. Ltd. as a Cook-cum-Peon or that she was inducted into the suit premises as a tenant with rent adjusted against her salary. He also

denied all allegations regarding non-payment of statutory labour benefits, withholding of salary, illegal termination of service, and any liability towards the defendant. PW-1 admitted that the defendant had instituted labour proceedings challenging her termination but maintained that the plaintiffs had lawfully instituted the present suit through duly authorised representatives. He deposed that the plaintiffs were the owners of the suit property and that the defendant had been employed only as a domestic servant of plaintiff no. 2, drawing a last salary of Rs. 2,000/- per month. PW-1 further denied that the defendant or her family had any tenancy rights or lawful possession over the suit premises, asserting that she was only a licensee permitted to occupy the premises. He also denied allegations relating to delayed salary, wrongful eviction, false complaints, fabricated documents, and malicious prosecution, while maintaining that the complaints regarding theft, electricity theft, and other misconduct against the defendant were genuine. PW-1 consistently denied that the present suit was filed to harass the defendant and reaffirmed that the legal notices, pleadings, and evidence filed by the plaintiffs were genuine and truthful.

**PW2/Ms. Lata Nautiyal Notary no. 49568 Chamber no. 704A,
Dwarka Court Complex, Delhi**

15. PW2/Lata Nautiyal brought the record of Notary register showing entry of notarization of SPA dated 09.08.2025 executed by Shri K.J. Arora in favour of Shri Rajesh Arora. The said SPA has been executed and recorded in her notary register against entry no. 1 on 09.08.2025, Ex. PW2/1.

16. During cross examination, PW2/Lata Nautiyal has stated that he

was duly authorized and licensed by the Department of Law and Justice to perform notarization of documents. She testified that she obtained her notarial licence around March 2025. PW2 further confirmed that Mr. K.J. Arora and Mr. Rajesh Arora personally appeared before her for the execution of the Special Power of Attorney (SPA) dated 09th August 2025. She stated that both individuals signed the SPA in her presence, and the document was duly executed before her in accordance with the notarization process.

After cross examination, the plaintiff evidence was closed.

Defendant Evidence:-

DW1/Bina Minj

17. DW1/Bina Minj has tendered her evidence by way of affidavit.

During cross examination, DW-1 Bina Minj deposed that she came to Delhi in 1991 and, through a woman named Nirmala, was introduced to Mr. K.J. Arora in 1993 for employment. She claimed that she worked as a cook-cum-peon for M/s K.J. Arora & Associates Realty Pvt. Ltd. and also at Mr. K.J. Arora's residence until 2007. However, she admitted that she possessed no appointment letter, salary slips, attendance records, identity card, or any other documentary proof of her employment, stating that she was paid in cash. She further claimed that she was inducted into the basement of the suit property as a tenant in 1993 at a monthly rent of Rs. 500/-, but admitted that she had no rent receipts, written tenancy agreement, or rent deposit records.

18. During cross-examination, contradictions emerged regarding whether the rent was adjusted against her salary or paid separately, though she maintained that both arrangements existed at different times.

DW-1 also admitted that she signed her evidence affidavit at her advocate's office and not before a Notary Public or Oath Commissioner. She stated that the plaintiffs owed her Rs. 82,500/- towards withheld salary but could not recall when the alleged deductions began. She admitted that she could not name the employees of the plaintiff company, acknowledged that a theft complaint had been lodged against her by Mr. K.J. Arora, and confirmed that her labour dispute regarding termination was pending before the Labour Court.

19. DW-1 further admitted that she had demanded a three-bedroom flat from the plaintiffs in exchange for vacating the suit property and that police complaints had been lodged against her for refusing to vacate. She also admitted that her married sisters and their families had been residing in the suit property without obtaining the plaintiffs' permission. Despite these admissions, DW-1 consistently maintained that she was a lawful tenant, that the plaintiffs owed her salary dues of Rs. 82,500/-, and denied all allegations of theft, unlawful occupation, electricity theft, commercial misuse of the premises, extortion, or any other misconduct, asserting that her testimony before the Court was truthful.

After cross examination, the defendant evidence was closed.

Final arguments

20. I have heard Shri Ankit Miglani Ld. Counsel for plaintiff and Shri Satvinder Singh and Sh. Piyush Singh, Ld. Counsel for defendant. Ld. Counsel for the plaintiff has filed written synopsis of his arguments alongwith case laws.

Arguments by Ld. Counsel for plaintiff

21. The plaintiffs, in their written arguments, contended that the

defendant was merely a licensee and not a tenant and, therefore, had no legal right to continue in possession of the suit property after termination of the licence. They argued that the burden of proving the existence of a landlord-tenant relationship rested upon the defendant, who failed to produce any rent agreement, rent receipts, lease deed, bank records, or other documentary evidence to establish tenancy. The plaintiffs relied upon the defendant's admissions that she was inducted into the premises by plaintiff no. 2, Sh. K.J. Arora, that no rent agreement or rent receipts existed, and that no rent had ever been deposited before the Rent Controller, while also highlighting contradictions in her testimony regarding payment of rent. The plaintiffs further submitted that the defendant failed to establish the bar under Section 50 of the Delhi Rent Control Act, prove non-joinder of necessary parties, or challenge the plaintiffs' authority or locus standi, as the plaintiffs had proved their ownership and authorisation through documentary evidence and the defendant herself had acknowledged Sh. K.J. Arora as the owner of the suit property. The plaintiffs also relied upon the defendant's admissions that she worked as a cook-cum-peon, was inducted into the premises by Sh. K.J. Arora, allowed her relatives to reside there without permission, demanded a three-bedroom flat in exchange for vacating the property, and was the subject of police complaints for theft and refusal to vacate, contending that these admissions established her status as a permissive occupant. Relying upon the decisions in *Sant Lal Jain v. Avtar Singh* MANU/SC/0295/1985 and *Chandu Lal v. Municipal Corporation of Delhi* MANU/DE/0024/1978, the plaintiffs argued that a licensee acquires no proprietary rights and must surrender possession upon

revocation of the licence. They further submitted that the defendant was liable to pay mesne profits or damages for unauthorised occupation after termination of the licence and prayed for a decree of possession, mesne profits, and all consequential reliefs in their favour.

22. Ld. Counsel for the plaintiff has relied upon the following case laws in support of his arguments: *Sant Lal Jain v. Avtar Singh* MANU/SC/0295/1985, *Chandu Lal v. Municipal Corporation of Delhi* MANU/DE/0024/1978, *Prabhu Dayal v. Roop Kumar & Ors.* MANU/DE/0915/2004, *Vishal Builders Pvt. Ltd. v. DDA & Ors* MANY/DE/8781/2006, *Association for Voluntary Action v. The Child Trust & Ors.* MANU/DE/3387/2013, *Rajeev Tandon & Ors. v. Rashmi Tandon* MANU/DE/0785/2019 and *Stanley Parkar Jones since deceased through a legal heirs (1a) Mrs. Yvonne Rose Jones v. Bansraj Laltaprasad Mishra, Letters Patent Appeal no. 161/1993 from First Appeal no. 1109/1987 decided on 15.04.2008 of Hon'ble High Court of Bombay.*

Arguments by Ld. Counsel for defendant

23. The defendant has not filed any written synopsis of arguments despite opportunity. However, Ld. Counsel for defendant had addressed oral arguments where he contended that the plaintiffs failed to prove their ownership, the existence of a licence, or their entitlement to possession and mesne profits, and therefore the suit deserved dismissal. It is argued that the plaintiffs had produced no contemporaneous document such as a licence deed, written permission, inventory, or correspondence to establish that the defendant occupied the premises as a gratuitous licensee, and that an oral licence alleged after more than eighteen years could not be accepted without corroboration. It is submitted that in case

the services of the defendant was terminated in the year 2007, why the suit has been filed in 2010 and not immediately. It is submitted that the suit has not been properly valued. The valuation of the property is Rs.50 lakhs. It is argued that the defendant is a tenant @ Rs. 500/- per month in lieu of work done by her in the house. The defendant further submitted that the plaintiffs failed to establish a complete chain of title and proper authorisation to institute the suit, pointing out that plaintiff no. 1 was not a party to the original sale deed and collaboration agreement. Late Shri K.J. Arora is owner of property, however, he is mentioned as director of the plaintiff company. Plaintiff no. 2 failed to lead evidence in his personal capacity. The Board Resolution and Special Power of Attorney executed in 2025 could not retrospectively validate the institution of the suit filed in 2010. The defendant maintained that she had consistently claimed to be a tenant inducted in 1993 at a monthly rent of Rs. 500/-, arguing that an oral tenancy is legally valid and that the absence of rent receipts or a written agreement was not fatal, particularly when the plaintiffs themselves admitted maintaining no employment records. The defendant also contended that the plaintiffs failed to prove allegations of theft, electricity theft, illegal activities, unauthorised construction, or sale of furniture by producing any criminal conviction, official records, independent witnesses, or documentary evidence, and argued that mere police complaints could not establish the truth of such allegations. It was further submitted that PW-1's testimony suffered from material weaknesses, including admissions regarding the absence of a termination notice, lack of documentary support for several allegations, and uncertainty regarding ownership. The defendant argued that the plaintiffs

had withheld the best available evidence, inviting an adverse inference against them. The defendant also disputed the validity of the alleged termination of the licence, contending that service of the legal notices had not been proved and that the plaintiffs failed to establish the terms, duration, or revocability of the alleged licence. It was further argued that the plaintiffs had led no evidence regarding the prevailing market rent or comparable properties to justify a claim for mesne profits. The defendant submitted that mere induction into possession by Sh. K.J. Arora did not determine whether the occupation was under a licence or tenancy, and where two competing oral versions existed, the burden remained on the plaintiffs to prove their case. The defendant distinguished the judgments relied upon by the plaintiffs, namely *Sant Lal Jain (supra)* and *Chandu Lal (supra)* on the ground that those decisions were inapplicable where the very existence of a licence was disputed. Accordingly, the defendant prayed that the suit be dismissed with costs as the plaintiffs had failed to discharge the burden of proof.

Court observation and findings

PART II

Appreciation of Evidence and Issue-wise Findings

Principles governing appreciation of evidence

24. Under Sections 104 to 106 BSA, the party who asserts the existence of a particular fact bears the burden of proving it. The burden initially rests upon the plaintiff to establish his entitlement to the relief claimed. However, where the defendant sets up an independent defence such as tenancy, the burden of proving the existence of such tenancy shifts upon the defendant. The standard of proof in civil proceedings is not proof beyond reasonable doubt but proof on the touchstone of

preponderance of probabilities. The Court is required to appreciate the entire evidence as a whole and determine which version appears more probable.

25. It is equally well settled that admissions made by a party during cross-examination constitute substantive evidence. Though an admission is not conclusive, it raises a strong presumption against the maker unless satisfactorily explained. Another equally settled principle is that where the best available evidence is withheld, the Court may draw an adverse inference under Section 119 Illustration (g) BSA. However, such inference cannot be drawn mechanically and only where the withheld evidence was material and within the exclusive possession of the party concerned. The Court has examined the evidence keeping these settled principles in mind.

Issue no.1 Whether the defendant is a tenant in the suit property at a monthly rent of Rs.500/-? OPD

26. The entire defence of the defendant is founded upon the assertion that she was inducted as a tenant by late Shri Kanwarjit Arora (formerly plaintiff no.2) in the year 1993 at a monthly rent of Rs.500/-. If the tenancy is established, the jurisdiction of the Civil Court would stand excluded by virtue of Section 50 of the Delhi Rent Control Act. Conversely, if tenancy is not proved, the defendant would only be a permissive occupant or licensee and would not be entitled to statutory protection. The burden of proving this issue was specifically placed upon the defendant by order dated 16.05.2016.

27. The defendant examined herself as DW-1. She deposed that she was inducted into the basement premises by Shri Kanwarjit Arora in the

year 1993 and agreed to pay rent of Rs.500/- per month. She further stated that sometimes the rent was adjusted against her salary while at other times the rent was separately paid by her or by her mother. However, during her cross-examination several material admissions emerged. Firstly, DW-1 admitted that there was no written tenancy agreement. Secondly, she admitted that no rent receipts were ever issued. Thirdly, she admitted that she had never instituted any proceedings for deposit of rent before the Rent Controller.

28. Most importantly, her oral testimony materially contradicted her own pleadings. In the written statement she pleaded that rent of Rs.500/- stood adjusted against the additional salary paid by Shri Kanwarjit Arora. During cross-examination, however, she deposed that she and her mother used to pay rent separately and subsequently attempted to explain the contradiction by stating that both situations existed at different times. The inconsistency is not a minor discrepancy arising from lapse of memory. It strikes at the very foundation of the alleged tenancy because the mode of payment of rent constitutes an essential term of the tenancy itself.

29. The defendant was further unable to identify the person who allegedly collected rent on behalf of Shri Kanwarjit Arora. She could not produce any documentary proof whatsoever of payment of rent extending over nearly fourteen years.

The Court is conscious that an oral tenancy is legally permissible and that absence of a written lease by itself does not negate tenancy. Nevertheless, where tenancy is specifically denied and the burden lies upon the defendant, some reliable evidence establishing payment of rent or conduct consistent with tenancy is expected.

30. In the present case, there is none. On the contrary, the admissions made by DW-1 probabilise the plaintiffs' version. DW-1 categorically admitted that she entered the premises only because Shri Kanwarjit Arora inducted her there. She further admitted that she never obtained permission for allowing her married sisters and their respective families to reside in the premises after their marriages. Such conduct is inconsistent with ordinary incidents of tenancy where the tenant ordinarily asserts independent possessory rights. Rather, the defendant admitted that permission originally emanated from Shri Kanwarjit Arora himself.

31. Further, the defendant admitted demanding a three-bedroom flat from the plaintiffs before vacating the premises. Had the defendant genuinely considered herself a statutory tenant protected under the Delhi Rent Control Act, there would ordinarily be no occasion to demand alternative accommodation in exchange for vacating the premises. The Court also notices that despite alleging continuous tenancy since 1993, the defendant produced no documentary evidence such as: electricity bills in her own name; ration card showing tenancy; municipal correspondence; income-tax records; bank records reflecting payment of rent; rent receipts; correspondence asserting tenancy prior to institution of the suit.

32. While absence of each individual document may not be decisive, the complete absence of any documentary material over such a prolonged period significantly weakens the defence. The plaintiffs, on the other hand, consistently pleaded that the defendant was initially permitted to occupy the basement because she was employed as a domestic servant

and requested temporary accommodation for her mother and relatives. The plaintiffs maintained throughout that such occupation was merely permissive and revocable.

33. PW-1 remained consistent during cross-examination in denying the alleged tenancy and repeatedly asserted that the defendant was only a permissive occupant. The Court finds no material contradiction in this aspect of PW-1's testimony. The Ld. Counsel for the plaintiffs has rightly relied upon *Sant Lal Jain v. Avtar Singh*, MANU/SC/0295/1985, wherein the Hon'ble Supreme Court held that after termination of licence, the licensee has no legal right to continue in possession and is liable to surrender possession to the licensor. Reliance upon *Chandu Lal v. Municipal Corporation of Delhi*, MANU/DE/0024/1978, is equally apposite, wherein the Hon'ble Delhi High Court held that a bare licence does not create any interest in immovable property.

34. The Court is conscious that these caselaws become applicable only after the plaintiffs establish that the defendant was a licensee. In the facts of the present case, the defendant has failed to discharge the burden cast upon her to establish tenancy. Consequently, the plaintiffs' version becomes substantially more probable. Accordingly, the Court holds that the defendant has failed to prove that she was inducted as a tenant at a monthly rent of Rs.500/-. Issue no.1 is decided against the defendant and in favour of the plaintiffs.

Issue no.2 Whether the suit is barred under Section 50 of the Delhi Rent Control Act? OPD

35. The burden of proving this issue also rested upon the defendant. Section 50 of the Delhi Rent Control Act bars the jurisdiction of the Civil

Court only where the relationship of landlord and tenant exists and the premises are governed by the provisions of the Act. Since Issue no.1 has been decided against the defendant and the defendant has failed to establish the relationship of landlord and tenant, the foundation for invoking Section 50 DRC itself disappears. The defendant has not produced any evidence showing payment of rent, protection under the Rent Act or any order passed by the Rent Controller recognising her tenancy. Consequently, the statutory bar contained in Section 50 DRC is not attracted. The Civil Court therefore possesses jurisdiction to entertain and decide the present suit. Issue no.2 is accordingly decided against the defendant.

Issue no.3 Whether the suit has been filed by a duly authorised person?
OPP

36. The plaintiffs were required to establish that the suit was instituted and prosecuted by duly authorised representatives. PW-1 proved the Board Resolution authorising him as Ex. PW1/1 and the Special Power of Attorney executed by late Shri Kanwarjit Arora as Ex. PW1/2. The execution of the Special Power of Attorney was further corroborated by PW-2, the Notary Public, who produced the relevant notarial register and proved the notarisation of the document. The testimony of PW-2 remained substantially unshaken during cross-examination.

37. During the pendency of the proceedings, plaintiff no.2 expired. By order dated 11.07.2026, the Court allowed substitution of Shri Rajesh Arora as the legal representative of deceased plaintiff no.2 after considering the registered Will dated 15.05.2007. The Court also recorded that probate of the Will was not mandatory in Delhi and that the right to

sue survived in favour of Shri Rajesh Arora for the purpose of continuation of the proceedings. The objection of the defendant regarding want of authority therefore no longer survives. The Court is satisfied that the present suit has been validly prosecuted through duly authorised representatives. Issue no.3 is accordingly decided in favour of the plaintiffs and against the defendant.

PART III

38. The Court now proceeds to determine the remaining preliminary objections raised by the defendant. These objections pertain to the alleged non-joinder of necessary parties, valuation of the suit, and locus standi of the plaintiffs. Since these objections go to the maintainability of the suit, they are considered before examining the plaintiffs' entitlement to possession.

Issue no. 4 Whether the suit of the plaintiff is bad for non-joinder of necessary parties? OPD

39. The burden of proving this issue was upon the defendant. The defendant pleaded that M/s Sabharwal Developers & Promoters Pvt. Ltd. was a necessary party since the said company had executed the collaboration agreement relating to the property and was allegedly a co-owner of the suit property. The plaintiffs denied the said objection and asserted that the defendant had no right to question the *inter se* title of the owners or the necessity of impleading the builder.

40. It is well settled that a necessary party is one in whose absence no effective decree can be passed. A proper party is one whose presence enables the Court to completely adjudicate the controversy, though no relief is necessarily claimed against such party. The present suit is one for

possession and mesne profits against the defendant who is admittedly in occupation of the suit premises. The defendant herself admitted during her cross-examination that she was inducted into possession by late Shri Kanwarjit Arora, whom she considered to be the owner of the premises. She further admitted that she had no knowledge regarding M/s Sabharwal Developers & Promoters Pvt. Ltd. This admission is of considerable significance.

41. A person who has entered possession through one individual cannot ordinarily insist that another person claiming derivative rights should have been impleaded before possession can be recovered. The collaboration agreement relied upon by the plaintiffs merely explains the manner in which the basement came to the plaintiffs' share after redevelopment. The defendant never pleaded that the builder was in possession of the basement or that any relief was sought against the builder. Even otherwise, it is a settled proposition that one co-owner is competent to maintain a suit for recovery of possession against a trespasser or licensee unless another co-owner disputes such action. No such dispute exists in the present case.

42. The Hon'ble Supreme Court in *Sri Ram Pasricha v. Jagannath (1976) 4 SCC 184*, held that one co-owner is competent to maintain proceedings for eviction and that the tenant cannot insist upon the joinder of every co-owner. Similarly, in *Dhannalal v. Kalawatibai (2002) 6 SCC 16*, the Hon'ble Supreme Court reiterated that every co-owner owns every part of the joint property and is competent to seek eviction of an unauthorized occupant.

43. The defendant has failed to produce any material demonstrating

that any decree passed in favour of the plaintiffs would become ineffective in absence of the builder. Accordingly, the objection regarding non-joinder is wholly devoid of merit. Issue no. 4 is decided in favour of the plaintiffs and against the defendant.

Issue no. 5 Whether the suit is undervalued for the purpose of Court fee and jurisdiction? OPD

44. The burden of proving this issue also rested upon the defendant. The defendant merely pleaded that the property was worth more than Rs.50,00,000/- and therefore the suit had been undervalued. However, pleadings are not evidence. The defendant neither examined any valuer nor produced any sale transaction of comparable properties. No circle rate notification was produced. No valuation report was placed on record. No witness from the Sub-Registrar's office or Revenue Department was examined.

45. On the contrary, the plaintiffs proved a valuation report dated 11.03.2010 as Ex. PW1/14, which remained substantially unrebutted during cross-examination. It is settled law that the party alleging improper valuation must establish the same through cogent evidence. A mere suggestion in cross-examination or a bald plea in the written statement cannot discharge the burden cast under Sections 104 and 105 BSA. The defendant has completely failed to discharge the burden cast upon her. Consequently, the objection regarding valuation and pecuniary jurisdiction deserves rejection. Issue no. 5 is decided in favour of the plaintiffs and against the defendant.

Issue no. 6 Whether the plaintiff has no locus standi to file the present suit? OPD

46. The burden of proof again rested upon the defendant. The defendant sought to dispute the plaintiffs' ownership by contending that no title documents had been produced and that plaintiff no.1 had no ownership rights. The objection cannot be accepted. The plaintiffs produced the sale deed, supplementary deed and collaboration agreement, which were subsequently exhibited as Ex. PW1/3, Ex. PW1/4 and Ex. PW1/5 after permission was granted by the Court. More importantly, the defendant herself repeatedly admitted that she entered the premises through Shri Kanwarjit Arora and considered him to be the owner. These admissions attract the doctrine of estoppel embodied in Section 122 BSA.

47. Section 122 BSA provides that a tenant or person who has entered possession through another is estopped from disputing the title of the person who inducted him into possession during the continuance of such possession. Although the plaintiffs dispute the existence of tenancy, the principle underlying Section 122 BSA equally applies to a person claiming through the owner who was initially permitted to enter possession.

48. The Hon'ble Supreme Court in ***Bansraj Laltaprasad Mishra*** (supra) recognised that a person deriving possession from another cannot ordinarily dispute the title of the person who inducted him. Likewise, the Delhi High Court in ***Prabhu Dayal*** (supra), held that a permissive occupant cannot question the title of the person through whom possession was obtained. The defendant's own evidence completely demolishes the plea regarding absence of locus standi.

49. DW-1 admitted that Shri Kanwarjit Arora inducted her into possession; that she regarded him as the owner. She remained in

possession only because he permitted her to occupy the premises initially. Having entered possession through the plaintiff no. 2 late Shri Kanwarjit Arora, the defendant cannot now challenge their locus standi merely because internal ownership documents are questioned. The Court also finds that during pendency of the proceedings plaintiff no.2 expired.

50. By order dated 11.07.2026, the Court substituted Shri Rajesh Arora as the legal representative of deceased plaintiff no.2 after considering the registered Will dated 15.05.2007 and specifically recording that probate is not compulsory in Delhi and that the right to sue survives in favour of Shri Rajesh Arora. Therefore, the objection regarding locus standi no longer survives. The plaintiffs have successfully established that they are competent to maintain the present proceedings. Issue no. 6 is accordingly decided in favour of the plaintiffs and against the defendant.

Findings on Preliminary Issues

51. The cumulative effect of the above discussion is that every preliminary objection raised by the defendant has failed. The defendant has not established: existence of tenancy; applicability of Section 50 of the Delhi Rent Control Act; non-joinder of any necessary party; improper valuation; lack of locus standi. On the contrary, the evidence led by the plaintiffs inspires greater confidence and is corroborated by the admissions made by DW-1 during her cross-examination.

PART IV

The Court shall now proceed to examine the substantive questions relating to the plaintiffs' entitlement to possession and mesne profits.

Issue no. 7 Whether the plaintiff is entitled to the relief of possession of suit property bearing no. A-1, 48/72, West Punjabi Bagh, New Delhi?

OPP

52. The plaintiffs seek possession on the ground that the defendant was merely a permissive occupant whose licence stood revoked, whereas the defendant asserts that she is a statutory tenant paying rent of Rs.500/- per month and consequently cannot be evicted by a civil Court. The Court has already held while deciding Issue Nos. 1 and 2 that the defendant has failed to prove the existence of tenancy and that the suit is not barred by Section 50 Delhi Rent Control Act. Nevertheless, the plaintiffs must independently establish their entitlement to recovery of possession.

Nature of defendant's possession

53. The undisputed facts emerging from the evidence deserve notice. The defendant herself admitted that she came to Delhi in the year 1991. She further admitted that she first met late Shri Kanwarjit Arora through one Nirmala, who arranged employment for domestic workers. She admitted that she entered the suit premises only after meeting Shri Kanwarjit Arora. She further admitted that Shri Kanwarjit Arora inducted her into the basement premises. These admissions establish beyond controversy that the defendant did not enter possession in her own independent right. Her possession originated solely through the permission of late Shri Kanwarjit Arora. The only dispute is whether such permission constituted a tenancy or merely a licence.

54. For reasons already recorded while deciding Issue no.1, the Court has found that the defendant has completely failed to prove tenancy. Once tenancy fails, the only reasonable conclusion emerging from the evidence is that possession was permissive in nature.

Conduct of the parties

55. The subsequent conduct of the parties also supports the plaintiffs' version. PW-1 consistently deposed that the defendant was permitted to occupy the basement because she sought temporary accommodation for her mother and relatives. The plaintiffs further deposed that after termination of her employment they repeatedly requested the defendant to vacate the premises. Complaints were made before the police. Legal notices dated 01.10.2009 and 03.12.2009 were also issued.

56. Although the defendant denied service of notices, she admitted during cross-examination that police complaints regarding her refusal to vacate had indeed been made and that the police had visited her. More importantly, DW-1 admitted demanding a three-bedroom flat from the plaintiffs before vacating the premises. If the defendant genuinely believed herself to be a statutory tenant protected under the Delhi Rent Control Act, there would ordinarily be no occasion to negotiate alternate accommodation as consideration for vacating. The admission probabilises the plaintiffs' case that the defendant continued in occupation despite repeated demands for possession.

Effect of failure to prove tenancy

57. The defendant has repeatedly argued that absence of documentary evidence cannot defeat an oral tenancy. This proposition is correct in law. However, every oral tenancy must nevertheless be established by reliable evidence. In the present case, not a single contemporaneous circumstance supports the defence. There are no rent receipts, no rent agreement, no rent deposit proceedings, no correspondence referring to tenancy, no electricity connection in the defendant's own name showing independent tenancy, no municipal record describing the defendant as tenant, no

witness who allegedly collected rent. The Court cannot presume tenancy merely because long possession is established. Long possession by itself does not mature into tenancy. Equally, mere continuation in possession after revocation of permission does not create proprietary rights.

Applicability of Supreme Court precedents

58. The plaintiffs have relied upon *Sant Lal Jain* (supra). In the said judgment the Hon'ble Supreme Court held that where possession originated under a licence, the licensee cannot resist recovery of possession after termination of licence merely because considerable time has elapsed. The Court observed that a licensee acquires no interest in immovable property and becomes liable to restore possession immediately after revocation.

59. The plaintiffs have also relied upon *Chandu Lal* (supra), wherein the Hon'ble Delhi High Court reiterated that a licence merely permits lawful occupation without creating any transferable or heritable interest in immovable property. Similarly, *Prabhu Dayal* (supra), explains that permissive possession cannot be converted into ownership merely because the occupant continues in possession for several years. These caselaws correctly state the governing legal principles.

Allegations regarding theft and misconduct

60. The plaintiffs have levelled serious allegations regarding theft, electricity theft, illegal commercial activities and unauthorized construction. These allegations have not been independently proved. No police officer has been examined. No investigating officer entered the witness box. No official from BSES has been examined. No criminal conviction has been proved. No municipal authority has been examined.

No inventory of missing furniture has been produced. Accordingly, while these allegations may have formed the background leading to deterioration of relations between the parties, they cannot constitute the basis for granting possession.

61. The decree for possession rests not upon allegations of misconduct but upon the legal conclusion that the defendant has failed to establish any enforceable legal right to continue in occupation after revocation of permission.

Better title

62. In a suit for possession against a person claiming no independent title, the plaintiff is not required to establish perfect title against the whole world. It is sufficient if the plaintiff establishes a title better than the defendant. The defendant herself admits that possession originated through Shri Kanwarjit Arora. Thus, the plaintiffs unquestionably possess a better title than the defendant.

63. The Hon'ble Supreme Court in *Rame Gowda v. M. Varadappa Naidu*, (2004) 1 SCC 769, recognised that a person having better possessory title is entitled to recover possession from one having an inferior claim. Applying the above principle, the plaintiffs are clearly entitled to recovery of possession. Accordingly, Issue no.7 is decided in favour of the plaintiffs and against the defendant.

Issue no. 8: Whether the plaintiff is entitled to mesne profits, if any? OPP

64. The onus to prove this issue was upon the plaintiffs. Although a specific issue regarding entitlement to mesne profits was framed by the Ld. Predecessor Court on 27.10.2010, the plaintiffs failed to lead any cogent or substantive evidence for determination of mesne profits. The

law is well settled that a claim for mesne profits is not a natural or automatic consequence of a decree for possession. Mesne profits constitute compensation for wrongful use and occupation of immovable property and, therefore, the claimant must establish, by satisfactory evidence, the period of unauthorized occupation as well as the reasonable market rental value or the actual profits which the person in wrongful possession either received or might with ordinary diligence have received.

65. In the present case, the plaintiffs did not examine any property dealer, valuer or any independent witness to prove the prevailing rental value of the suit property. No lease deeds of comparable properties situated in the locality were placed on record. No documentary evidence showing the prevalent market rent of similar basement premises in Punjabi Bagh was produced. Even the valuation report Ex. PW1/14 pertains only to the valuation of the property and not to its rental value or the quantum of mesne profits. During the course of evidence, PW-1 also did not depose regarding the basis on which the amount of mesne profits claimed in the plaint was computed. Apart from making a general prayer for grant of mesne profits, no evidence whatsoever was led to enable the Court to quantify such damages.

66. It is settled law that the burden of proving mesne profits rests upon the plaintiff. In *M.C. Agrawal (HUF) v. Sahara India & Ors., 183 (2011) DLT 105*, the Hon'ble Delhi High Court held that although Courts may, in appropriate cases, take judicial notice of escalation in rentals where some foundational evidence exists, a plaintiff cannot succeed merely by making a bald claim without laying the requisite evidentiary foundation.

Similarly, in *Fateh Chand v. Balkishan Dass*, (1964) 1 SCR 515, the Hon'ble Supreme Court emphasized that compensation or damages cannot be awarded in the absence of proof and cannot be based upon conjectures or surmises.

67. In the present case, despite a specific issue having been framed and despite full opportunity being available throughout the trial, the plaintiffs consciously chose not to lead any evidence whatsoever regarding the quantum of mesne profits. The Court cannot undertake a speculative assessment in the absence of any evidentiary basis. A party upon whom the burden of proof lies must stand or fall on the strength of its own evidence. Accordingly, the plaintiffs have failed to discharge the burden cast upon them in respect of Issue no. 8. Issue no. 8 is, decided against the plaintiffs and in favour of the defendant.

Relief

68. In view of the findings returned on the issues framed, the Court holds that the plaintiffs have successfully established that the defendant failed to prove her plea of tenancy and that her possession over the suit property was merely permissive. The plaintiffs have further established a better legal right to seek recovery of possession of the suit property. Thus, the plaintiffs are entitled to a decree for possession. However, the plaintiffs have failed to discharge the burden of proving their entitlement to mesne profits, despite a specific issue having been framed and opportunity having been granted to lead evidence in that regard. Accordingly, the relief of mesne profits cannot be granted. The suit is, therefore, partly decreed in the following terms:

(i) A decree of possession is hereby passed in favour of the plaintiffs

and against the defendant in respect of the basement portion admeasuring approximately 2200 square feet forming part of property bearing no. A-1, 48/72, West Punjabi Bagh, New Delhi, as shown in the site plan Ex. PW1/6.

(ii) The defendant, her family members, servants, agents or any person claiming through or under her are directed to hand over peaceful and vacant possession of the suit property to the plaintiffs within two months from the date of this judgment.

(iii) The prayer for recovery of mesne profits/damages for use and occupation is rejected, the plaintiffs having failed to adduce any evidence in support thereof despite the specific issue framed by the Court and opportunity afforded during trial.

In the facts and circumstances of the case, considering that the plaintiffs have succeeded substantially in obtaining the principal relief of possession but have failed in respect of mesne profits, the plaintiffs shall also be entitled to the costs of the suit. Pending applications, if any, stand disposed of. Let a decree sheet be drawn up accordingly.

File be consigned to Record Room.

**Announced in open Court
on 29th Day of July 2026**

(This judgment contains 31 pages.)

**(Susheel Bala Dagar)
District Judge-08, West
Tis Hazari Courts, Delhi.**