

CIV DJ 846/2024
Raj Kumar Goyal Vs.
Anil Gupta

14.11.2025

Present: Ms. Garima Bhardwaj, Ld. Counsel for plaintiff
(through VC).

Ms. Donika Wahi and Sh. Aman Garg, Ld. Counsels
for plaintiff (newly engaged).

Sh. Manish Kapoor, Ld. Counsel for defendant.

Ms. Garima Bhardwaj, Ld. Counsel for plaintiff, has sought discharge from present case as new counsels have been engaged by the plaintiff. She stands discharged.

After LDOH, an application U/o XII Rule 6 CPC, written arguments in support of the same, certain case laws and application for placing on record petition, documents, etc., pertaining to matter before the Hon'ble High Court along with annexures, were filed on behalf of plaintiff through e-filing and their hard copies were/ are furnished. Be taken on record (except annexures). Copy supplied. Reply to the aforementioned applications, if any, be filed by NDOH with advance copy to the opposite side.

Also after LDOH, an application U/o VII Rule 11 CPC was filed on behalf of defendant through e-filing and its hard copy is furnished. Be taken on record. Copy supplied.

Arguments heard from Ld. Counsel for defendant on the maintainability of the aforementioned application.

Main contention in the application is that the present suit be considered to be under valued and court fees affixed thereon to be insufficient as it is the case of the plaintiff himself that

possession of defendant in the suit property is as an encroacher and not as a tenant, therefore, the valuation of the suit has to be as per market value of the suit property and not equivalent to one year rent thereof and ad-valorem court fees has to be affixed thereon.

Earlier, in order dated 16.07.2025, whereby certain applications of the parties were disposed off, the facts of the present matter were discussed in detail. Therein, inter alia, it was mentioned/ observed that claim of the plaintiff regarding possession of the defendant over the suit property appears to be that the defendant had handed over vacant and peaceful possession of the suit property to him on 15.05.2024, that later on 01.06.2024, the defendant along with his family members had barged into the suit property and had attacked the plaintiff's wife and her nephew, that the plaintiff's wife had made a call to the police and when the police had arrived at the spot, instead of taking action against the defendant and his family members, had taken away keys of the suit property from the plaintiff's wife and handed over the same to the defendant, thereby putting him back into possession of the suit property illegally and that in the FIR no.310, dated 03.06.2024, PS Moti Nagar, which got registered on complaint of the defendant (filed along with plaint), the defendant/ complainant has clearly admitted that he was a tenant in the suit property under the plaintiff.

The case of the plaintiff is that the defendant had taken back the possession of the suit property with the help of police officials in an unlawful manner, hence, from the same it can be inferred that the plaintiff is claiming the defendant to be in possession of the suit property as a tenant and not as a trespasser/ encroacher. Had police complaint from the defendant against the plaintiff would not have been there and the possession of the suit property had not been allegedly restored to the defendant through

the intervention of the police officials, situation would have been different and in that case the defendant might be considered in possession as a tress-passer/ encroacher. Hence, prima facie, there is no merit in the contention that the suit has not been properly valued and sufficient court fees has not been affixed thereon.

In view of above discussion, the application U/o VII Rule 11 CPC is being dismissed being devoid of any merit.

While referring to order dated 09.09.2025, passed by Hon'ble High Court in CM(M) 1748/2025 & CM APPL.56583/2025 (stay), Ld. Counsels for the plaintiff have stated that although vide this petition the defendant has challenged order dated 16.07.2025 passed by this Court allowing the application U/o XV-A CPC, however, it has been made clear by the Court that there is no stay on operation of the impugned order and that so far the defendant has not paid the amount to the plaintiff in compliance of the aforementioned order.

In view of above submissions and considering the fact that the defendant has challenged the order of this Court dated 16.07.2025, before the Hon'ble High Court, the defendant is hereby directed to comply with the order dated 16.07.2025 so as to deposit the amount of arrears of rent and mesne profits/ occupation charges, before this Court by NDOH.

Put up for consideration/ arguments on **02.12.2025**.

(GOPAL SINGH CHAUHAN)
DJ-03, WEST/DELHI
14.11.2025