

CNR No. DLCT010173982025
CS DJ 1255/25
ABHA SINHA Vs. NITU MITTAL

12.08.2026

ORDER

1. The present suit has been filed for eviction and possession, recovery of occupational charges/mesne profits and injunction and it is stated that the plaintiff is co-owner of the property bearing no. **Flat/Apartment No. 708, Tower 9 B, The Amaryllis, Phase-1, Kishan Ganj, Delhi (tenanted premises)** and the same was given to the defendant on lease/tenancy in terms of unregistered rent agreement/lease deed dated 15.05.2025.

2. It is submitted that the defendant is residing with her family in the tenanted premises from 01.06.2025 however, they have defaulted in payment of rent from the month of August 2025 and therefore there is breach of the contractual obligation in terms of the rent agreement dated 15.05.2025. According to them, there is also default in making the payment of utility charges and damages were caused to the tenanted premises and therefore, in view of the breach of rent agreement, the defendant has become an illegal and unauthorized occupant in the tenanted premises for which notice dated 06.10.2025 was sent. That the plaintiff in view of the breach of conditions, had filed the present suit.

3. Written statement was filed and it was stated that the present suit has been filed for harassment and causing mental trauma to the defendant as

the defendant had already made excess payments of lease rent and had also incurred expenses of Rs.7,98,300/- for making the suit premises habitable. The non-payment of rent has been denied by the defendant and the detail has been given in the written statement regarding the various payments made.

4. It is further submitted that as per the lease deed, there is lock-in period of 12 months and therefore suit is not maintainable and they are lawful lessee for the premises situated at **Apartment No. 708, Tower 9 B, The Amaryllis, New Rohtak Road, Karol Bagh, Delhi-110005**, in terms of the lease agreement dated 29.04.2025 commencing from 01.06.2025 and has denied the allegations of plaintiff. It is also submitted that cash component of the agreed lease amount was also paid by her to the plaintiff.

5. Along with the WS, some averments in the nature of counter-claim were also introduced wherein there is specification regarding the claim for the expenses incurred by the defendant. Apart from that, application was filed under Order 7 Rule 11 CPC stating that the plaintiff has no cause of action in their favour as there is no rent agreement dated 15.05.2025 and therefore no suit could be filed by the plaintiff for eviction, mesne profit etc on the basis of unregistered agreement and that defendant had already paid lease rent for the entire 24 months including the cash component. It is also submitted that the court fees is insufficient and other grounds were also mentioned.

6. Replication has been filed wherein the allegations of defendant were denied along with the averments of cash payment. Thereafter, application has been filed under Order 12 Rule 6 CPC by the plaintiff on the ground that there are admissions of defendant in WS stating that the plaintiff is the co-owner/ landlord, defendant was inducted as tenant, defendant is in possession and the monthly rent. Reply has been filed to the said application wherein it is stated that the application needs to be dismissed and the averments of the application cannot be adjudicated summarily under Order 12 Rule 6 CPC. Further, similar grounds as stated in the WS and the application under Order 7 Rule 11 CPC have been mentioned.

7. Plaintiff has relied upon the judgment of Hon'ble Delhi High Court titled in **Naseem Ahmad Vs. Deepak Singh** dated 09.10.2025 and they have relied upon some paragraphs which are reproduced below :

“The aforesaid statutory provision has crystallized that in a suit for possession, based on landlord- tenant relationship, a decree can be passed under Order XII Rule 6 CPC, if the following three conditions are met :

i. The existence of the relationship of landlord and tenant between the parties;
ii. That the tenancy is not covered under the DRC Act, 1958; and
iii. That the tenancy has been duly terminated”.

“In the present case, all three conditions under Order XII Rule 6

CPC are fulfilled. Firstly, the appellant/defendant has admitted that he was inducted into possession of the suit premises, as a tenant, by the respondent/plaintiff's mother."

"The Appellant/Defendant's plea that no valid notice of termination was served is untenable. The Commercial Court rightly observed that in appropriate circumstances, summons and pleadings may operate as notice to quit. In view of the prior proceedings and the termination communications on record, this objection does not affect the admitted tenancy relationship or the long-standing default in payment. The tenancy of the Appellant/Defendant stands validly determined in terms of Section 106 TPA. It is reiterated that the Appellant/Defendant was inducted as a tenant by Respondent/Plaintiff's mother, who had earlier terminated the tenancy by notice dated 18th January, 1999. Upon her demise, the Plaintiff, having succeeded to her rights under the Will, again terminated the tenancy by termination notice dated 20th January, 2024. Section 106 TPA provides that in the absence of a contract to the contrary, a lease of immovable property for purposes other than agriculture or manufacture is terminable by fifteen days' notice expiring with the end of a month of tenancy, and once such notice is served the tenant's status is reduced to that of an unauthorised

occupant. Even assuming technical objections to the termination notices, the law is well settled that the very institution of the present suit itself constitutes sufficient notice to quit.”

“The Supreme Court in Nopany Investments (P.) Ltd. v. Santokh Singh (Supra) has held that, in the context of tenancy for commercial purposes, the service of notice under Section 106 of TPA is a mandatory condition that precedes the termination. However, it is further clarified that the institution of a suit for possession itself operates as a notice to quit, satisfying the statutory requirement under Section 106 TPA.”

“Furthermore, the statutory scheme under Section 106 TPA also underscores that, in absence of specific contrary agreement, the landlord's right to terminate the tenancy is not fettered except by the statutory requirement of termination notice. Once such notice is served or deemed served (as by institution of a suit), the tenancy stands terminated, and the tenant's status is reduced to that of an unauthorised occupant.”

8. Defendant has also relied upon the judgments titled **Jai Mata Builders Vs. National Insurance Company Ltd. (DHC) dated 20.09.2012** and stated that there should be unambiguous and unequivocal admission. They have also relied upon the judgment of Hon'ble Supreme Court in

Modern Hotel, gudur represented by M.N Vs. K. Radhakrishnaiah and Ors. Decided on 26.04.1989 and drawn attention towards the following paragraphs :-

“The court referred to the doctrine of pari-delicto and held that the same was not applicable against the tenant. In M/s. Sarwan Kumar Onkar Nath Vs. Subhas Kumar Agarwalla, (1987) 4 SCC 546, Salimuddin’s case came for consideration. This was also a dispute under the Bihar Act where two months’ rent had been paid in advance by the tenant to the landlord on the stipulation that the advance amount would be liable to be adjusted towards arrears of rent, whenever necessary or required. The Court held that the tenant could not be evicted on the ground of default in the payment of rent for two months even if the tenant failed to ask the landlord to make adjustment of the advance amount in the absence of any agreement requiring the tenant to inform the landlord as to when such adjustment is to be made. This Court said that when the Rent Act prohibited the landlord to claim such advance payment, the tenant could not be considered to be a defaulter and the doctrine of pari-delicto was not attracted to such a fact-situation.”

9. Written submissions were filed by the defendant to both the applications and with the written submissions of the application under

Order 7 Rule 11 CPC defendant has relied upon the judgment titled **Saleem Bhai & Ors. Vs. State of Maharashtra & Ors.** decided on 17.12.2002 by Hon'ble Supreme Court and has relied upon the following paragraphs and stated that the application under Order 7 Rule 11 CPC has to be decided firstly.

“a direction to file the written statement without deciding the application under Order VII Rule 11 CPC. cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from non-exercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court, however, did not advert to these aspects. We are, therefore, of the view that for the afore-mentioned reasons, the common order under challenge is liable to be set aside and we, accordingly, do so. We remit the cases to the trial court for deciding the application under Order VII Rule 11 CPC. on the basis of the averments in the plaint, after affording an opportunity of being heard to the parties in accordance with law.”

10. Apart from that it is submitted that there is only lease deed in this case and no rent agreement was executed and therefore there is no cause of action, identity of tenanted premises is not clear as “floor” has not been mentioned in the agreement, plaintiff has not filed any details /

table to show the rent receipt and that the suit property is worth Rs.4 crore and therefore this court has no pecuniary jurisdiction.

11. Upon this, it is submitted on behalf of plaintiff through the written submissions and orally that as per **Section 106 of Transfer of Property Act**, only notice has to be given and no reason is to be assigned for evicting the tenant and they had relied upon the judgment titled as **Dhanapal Chettiar Vs. Yesodai Ammal** of Hon'ble Supreme Court decided on 23.08.1979.

12. Heard. Record Perused.

13. Regarding the submission that the application under Order 7 Rule 11 CPC may be decided firstly, I am of the view that the other application under Order 12 Rule 6 CPC can be taken up simultaneously as if the application under Order 7 Rule 11 CPC is allowed, the application of the plaintiff will be infructuous and vice-versa and therefore, both needs to be decided simultaneously. Further, the grounds in both the applications are very much similar and deciding both the applications will be expeditious and will avoid multiplicity of proceedings.

14. For the purpose of deciding application under Order 7 Rule 11 CPC averments in the plaint are to be seen and to decide the application under Order 12 Rule 6 CPC, the pleadings are to be seen. Firstly, following are the important admissions of defendant in the written statement :-

*“That the Defendant is a law-abiding citizen of India, residing at **Apartment No.708**,*

Tower 9B, Unity The Amaryllis, Phase I, New Rohtak Road, Karol Bagh, Delhi-110005, i.e. the Suit premises in accordance with the Lease Deed dated 29.04.2025, with a Lock-in period of 12 months, and thus the Suit is liable to be dismissed on this ground alone.

That the Defendant is a lawful lessee of Lessor/Plaintiff and residing in the premises situated at Apartment No.708, Tower 9B, The Amaryllis, Phase-1, New Rohtak Road, Karol Bagh, Delhi-110005 (herein after referred to as “the Suit property”), under a valid, subsisting and binding Lease agreement dated 29.04.2025, Commencing from 01.06.2025, admittedly, executed with the plaintiff. Copy of the Lease Agreement is already annexed with plaint.”

15. Therefore, there are clear and categorical admission from the side of defendant stating that they are the tenant of the premises i.e. **Apartment No. 708, Tower 9 B, The Amaryllis, New Rohtak Road, Karol Bagh, Delhi-110005.**

16. It is pertinent to note that the lease deed dated 15.05.2025 (as stated by the plaintiff) and the same dated 29.04.2025 (as stated by the defendant) is qua the property i.e. Apartment no. 708, in Tower 9B, on First Floor, measuring about _____ sq.feet along with parking situated at the Amaryllis, Central Delhi, Phase-I, Kishan Ganj, Delhi. Both the parties are relying upon the said lease deed which is unregistered.

17. As per **Section 17 read with Section 49 of the Registration Act**, a document which is required to be registered compulsorily will be taken into consideration only for limited purpose i.e. for a contract or specific performance or as evidence of any collateral transaction. Further, it is settled law that the nature of tenancy can be seen as a collateral transaction through an unregistered document. Defendant has assailed the said agreement of lease on the ground that it is not a rent agreement.

18. However, literal interpretation has to be given to a document in question. Documents are to be construed in common parlance and not through technicality. When a person gives a property to another on lease / tenancy, he only wishes to transfer the property for that purpose in lieu of the monthly income in the form of rent amount and that person is not concerned with the technicality of rent/ lease agreement. Therefore, the submissions of the defendant on this aspect cannot be considered.

19. Further, if there is dispute regarding the giving of first floor in the rent agreement then why the defendant has continued to be in the possession of the property for which she is paying rent. Upon query from this court, SPA of defendant could not tell as to who is the owner of the property in which the defendant is residing and stated that it is a different property. Nothing produced on record to show that the said property is different except the omission of the word “floor” in lease agreement.

20. By payment of rent regularly, the tenant has accepted the accommodation. Similarly, if a smaller property was given to the defendant for tenancy, they should have not agreed to continue however, according to them they had paid the rent for entire 24 months. The act of defendant in making payment of the whole tenancy amount is contradictory to their stand that smaller premises was given to them. Even if the legal notice dated 06.10.2025 is seen/perused there is demand for the premises **Flat/Apartment No. 708, Tower 9 B, The Amaryllis, Phase-1, Kishan Ganj, Delhi (tenanted premises)** which is also the prayer in the main suit. It is the common practice that the lease agreements are prepared by the brokers and are drafts are filled later on and are common for all the transactions concluded by the broker and therefore some clerical mistake can take place.

21. Per contra the special power of attorney of defendant dated 21.02.2026 is also regarding the same property and nothing has been mentioned regarding the “floor”. Therefore, the defendant is defending their case for the same property for which prayer is sought and for which special power of attorney was prepared for defence. Most importantly the bills for repair submitted by the defendant for his claim are also not mentioning “floor” hence, I do not find any merit regarding the submissions that the identity of suit property is disputed as that there is no cause of action in favour of the plaintiff.

22. Regarding the legal notice, though technically it was sent to defendant before the expiration of the lock-in period however, the suit

has been filed for claiming possession and it is settled law that filing of suit by the landlord is a deemed notice for vacation. The judgment filed by the plaintiff titled **Naseem Ahmad Vs. Deepak Singh** squarely applies to the fact of this case and more importantly when the suit is being continued even after the lock-in period, it shows the intention of the plaintiff / landlord and there is continuous deemed notice for vacation.

23. It is then submitted that there is doubt as to who is the owner of the suit property. In this regard, it will be relevant to go through the **Section 116 of Indian Evidence Act** which says that the tenant cannot dispute/deny that the landlord has no title. Therefore, such submissions cannot be accepted especially keeping in view that the tenant had already paid the rent for entire period to the plaintiff and is now estopped from taking this ground.

24. It is also submitted that the suit is undervalued. Nothing has been shown as to how the suit is undervalued. No document filed regarding the valuation. On the contrary, the tenant is not allowed to dispute the ownership of landlord which will also include the value/cost of the tenanted premises. However, in case the plaintiff has not paid the proper court fees, the deficiency can be corrected.

25. Regarding the submissions that the suit property was renovated/ repaired etc by the defendant, counter-claim had been filed which will be decided as per evidence adduced by both the parties and this cannot be an impediment in deciding the present applications. Similarly, if any

security amount has been given, that can also be adjusted finally at the time of adjudication of rent / counter-claim along with the allegations/ averments that cash were taken or not taken and how much rent was received by the plaintiff. To decide these averments, inquiry is required in this case which can prove/disprove those facts and that too only after proper trial and for which it is necessary to keep the suit alive along with the counter-claim.

26. Therefore, the application of plaintiff under Order 12 Rule 6 CPC is allowed keeping in view that there are clear, categorical and unambiguous admissions from the side of defendant stating that the plaintiff is owner of the suit property as discussed above. On the similar and other grounds mentioned above, the application filed by defendant under Order 7 Rule 11 CPC is dismissed. Court fee if deficient, to be considered during trial.

27. Application under Section 152 CPC to correct the error in the order sheet will be taken up on the next date.

**Announced in the open court
on 12.08.2026**

**(ANIL KUMAR PASWAN)
DJ-15/Central/THC/Delhi**