



\$~5

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RSA 38/2023, CM APPL. 8441/2023

CM APPL. 8442/2023

BHARAT BHUSHAN ALIAS BHAGWAN DASS BHANI

.....Appellant

Through: Mr. Praveen Suri and Mr. Manoj
Kumar Pandey, Advocates.

versus

RAJESH

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

24.03.2026

%

1. Regular Second Appeal under Section 100 CPC has been filed on behalf of the Appellant against the Judgment of learned SCJ dated 08.04.2019 in Civil Suit No.25690/16 filed by the Plaintiff/Appellant for Recovery of Possession against the Defendant/Respondent which has been upheld in RCA Civil DJ AJ No.46/2019 vide Judgment dated 07.01.2023.

2. The **basic facts** are that the Plaintiff claiming himself to be the owner on the basis of Agreement to Sell etc dated 29.11.1988 had claimed that he had inducted father of the Defendant as a tenant in 1993 and he died in 2002 after which the Defendant became the tenant in the Suit premises. He last paid the rent till 31.12.2006 @ Rs.3,000/- per month, though in cash. It was claimed that the Defendant/Respondent as a defence had set up the Agreement to Sell etc. dated 06.02.1994 executed in favour of father of the Defendant and thus claimed ownership. However, only one page of



Agreement to Sell had been placed on record and the documents on which the Defendant claimed ownership were not even proved in accordance with law. There was preponderance of evidence to show that it is the Plaintiff/Appellant who had inducted the Defendants' father as a tenant and that the Defendant after the demise of his father continued as a tenant in the premises. However, the learned Civil Judge without appreciating the Title documents and the evidence erroneously rejected the Suit on the ground that no Declaration in respect of the ownership was sought. The learned District Judge dismissed the Appeal while observing that the Plaintiff/Appellant had failed to prove the documents of ownership in his favour by placing reliance on the case of Suraj Lamps Industries Pvt. Ltd. vs. State of Haryana & Anr. (2012) 1 SCC 656.

3. The **Substantial Questions of Law** raised in the present Appeal are :

- (i) Whether the documents of ownership of the Plaintiff and the evidence led therein has been appreciated in the right perspective especially in the light of the Judgment of Uma Pandey vs. Munna Pandey AIR 2018 SC 1930?
- (ii) Whether the Section 202 of Indian Contract Act has not been appreciated in the light of the Judgment in Hardeep Kaur vs. Kailash & Ors. 193 (2012) DLT 168?
- (iii) Whether the findings of the learned Civil Court and the Appellate court are perverse and not based on the evidence as well as the Judgment?

4. Notice of the Appeal be served upon the Respondent, on taking steps by the Appellant, to be served through ordinary post and electronic mode,



returnable for the next date of hearing.

5. E-TCR of the learned Trial Court as well as of the First Appellate Court be summoned before the next date of hearing.
6. List before learned Joint Registrar on 21.05.2026.

NEENA BANSAL KRISHNA, J

MARCH 24, 2026/va