



2026:DHC:6485-DB

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

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Reserved on: 29.04.2026

Date of decision: 11.08.2026

+ MAT. APP. (F.C.) 219/2025
KANCHAN

...Appellant

Through: Mr. Rahul Kumar, Mr. Abhayanand,
Mr. Pawan Pandey and Mr. Rishav
Bainsla, Advs.

versus

HEMANT RAZAK

...Respondent

Through: Mr. Sazid S. R. Shah, Mr. Vikrant
Singh, Ms. Deeksha Dubeya and
Ms. Shreaya Kulshreshta, Advs.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

1. The present appeal assails the order dated 26.03.2025 (“impugned order”) passed by the learned Family Court-02, South District, Saket Courts, New Delhi (“Family Court”) in Execution Petition No.15/2024. By the impugned order the execution petition instituted by the appellant/deeree-holder seeking enforcement of the Settlement Agreement dated 05.07.2013 was dismissed on the ground that the Settlement Agreement did not require the respondent to transfer the first floor of property bearing No.11-285, DDA Flats, Madangir, Pushpa Vihar, New Delhi-110062 in favour of the appellant and merely permitted her to continue residing therein.

2. Briefly stated, the appellant and the respondent solemnised their marriage on 22.08.2008 according to Hindu rites and ceremonies. Out of the said wedlock, a daughter, namely Jasmine, was born on 01.06.2010. The parties resided after their marriage at property bearing No.11-285, DDA Flats, Madangir, Pushpa Vihar, New Delhi-110062. Owing to ideological



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issues, matrimonial discord and differences, they were unable to resume cohabitation and started residing separately in or around September, 2011. The parties ultimately decided to dissolve their marriage by way of mutual consent. Their First Motion Petition under Section 13B(1) of the Hindu Marriage Act, 1955("HMA"), bearing No.1142/2012, was allowed on 13.12.2012, whereafter they proceeded to settle their remaining matrimonial, financial and custodial claims before seeking dissolution of the marriage through the second motion.

3. The parties executed a Settlement Agreement dated 05.07.2013 recording that all their disputes and claims had been mutually and amicably settled between the parties. The Settlement Agreement provided that the custody of the minor daughter would remain with the appellant, who would be responsible for her care, welfare, upbringing, education and marriage, and that the respondent would not claim any right in respect thereof in future. It further recorded that the appellant would not claim any amount from the respondent towards maintenance or permanent alimony, would not seek reimbursement of the expenditure incurred either on herself or upon the daughter, and that the respondent would not make any payment to the appellant apart from giving the first floor of property bearing No.11-285, DDA Flats, Madangir, Pushpa Vihar, New Delhi-110062, where the appellant was residing with the daughter, while the respondent was residing on the ground floor of the same property. The Settlement Deed thus embodied the terms upon which the parties agreed to resolve all their matrimonial, financial and custodial disputes before seeking dissolution of their marriage by mutual consent.

4. The paragraph just above the paragraph no. 1 of the Settlement Deed:



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“That the parties have now settled their all disputes/claims and party no.2 will have to give only 1st floor of the house where first party is residing at the time of grant of First Motion before the Hon’ble Court of District Judge/Additional District Judge Delhi. The said 1st floor also includes all present/past and future expenses/maintenance/permanent alimony/child upbringing expenses/his education/clothing/feeding etc. including any decree or order of maintenance.”

5. Clause 4 of the Settlement Deed further provides: -

“4. That it has been made clear and agreed between the parties that the second party will not pay any payments to the first party apart from the said floor where she is residing and after this first party shall not claim any maintenance or money or anything in future from the second party.”

6. Vide judgment and decree dated 20.07.2013, the Family Court, on the basis of the settlement agreement accepted by both the parties before it, allowed the second motion petition under Section 13B(2) of the HMA and dissolved the marriage by mutual consent. Although the formal decree sheet does not reproduce each term of Ex. P-1 or Ex. P-2 and does not independently direct the respondent to execute a registered conveyance in respect of the first floor, the Family Court record expressly shows that the Settlement Agreement was exhibited before the Court, acknowledged by both parties, and accepted as the basis of the decree, whereupon the parties expressly undertook on oath to abide by its terms.

7. The appellant continued to reside on the first floor of the aforesaid property along with the minor daughter. No instrument transferring ownership of the first floor was ever executed in favour of the appellant. In 2024, the appellant instituted Execution Petition No.15/2024 before the Family Court seeking enforcement of the Settlement Agreement dated 05.07.2013 and a direction to the respondent to transfer the first floor of property bearing No. 11-285, DDA Flats, Madangir, Pushpa Vihar, New



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Delhi-110062 in her favour in terms of the settlement and the undertaking given before the Family Court. The respondent opposed the execution petition contending that the intention of the parties was only to secure the appellant's residence so that she and the minor daughter were not rendered homeless, and that the property belonged to his father; therefore, no question of transfer by the respondent could arise. However, no document to establish that the property belonged to his father was produced before the Court.

8. *Vide* impugned order dated 26.03.2025, the Family Court, dismissed the execution petition holding that, at the time of the second motion, the appellant was residing on the first floor of the property and had been permitted to reside there; that there was no intention to transfer title to the property; and that the execution petition was misconceived and lacked merit.

9. Learned counsel for the appellant submits that the said undertaking formed the principal consideration for waiver of all claims towards past, present and future maintenance/alimony and all present as well as future expenses including education, clothing, food and other expenses of the daughter. It is further submitted that the appellant undertook sole responsibility of the minor daughter, thereby absolving the respondent from future financial obligations on the condition that the said property shall be transferred to her. It is also submitted that the Family Court, having itself found the clause of the Settlement Agreement to be absolutely clear and to speak about transfer of the property, fell into error in declining to enforce the very same clause on an unreasoned and self-contradictory basis. It is urged that the appellant was already residing on the first floor, while the respondent was residing on the ground floor of the said property before the settlement was executed and, therefore, a bare permission to continue residing there could not reasonably constitute the consideration for



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relinquishment of all claims pertaining to herself and the daughter. The stipulation that the respondent would give that first floor would be rendered meaningless unless it was intended to convey something beyond mere continued occupation, namely, transfer of ownership. Further, the clause does not place any restriction on the term 'give' and nowhere mentions that only a right of residence was intended.

10. *Per contra*, learned counsel for the respondent supports the impugned order and submits that it was never agreed between the parties to transfer the title of the property to the appellant nor there was any time prescribed for the same by which it could be inferred that the intent was to transfer the property. He submits that the intention was to ensure that the minor daughter whose custody was taken by the appellant should not be rendered homeless due to the divorce between the parties and that she should stay in the said house only on the first floor. He further contends that the respondent is not the absolute owner of the property and the said property belongs to his father. Therefore, he does not have the power to transfer the title to the appellant.

11. Heard learned counsel for the parties and perused documents placed on record.

12. The principal contention is whether, in terms of the Settlement Deed dated 05.07.2013, the appellant acquires absolute rights in property bearing No. 11-285, DDA Flats, Madangir, PushpaVihar, New Delhi-110062 or merely a right of residence for life.

13. In ***Food Corporation of India & Ors. v. Abhijit Paul***, 2022 SCC ***OnLine SC 1605***, the Supreme Court held:-



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“26. Interpretation of contracts concerns the discernment of the true and correct intention of the parties to it. Words and expressions used in the contract are principal tools to ascertain such intention. While interpreting the words, courts look at the expressions falling for interpretation in the context of other provisions of the contract and also in the context of the contract as a whole. These are intrinsic tools for interpreting a contract. As a principle of interpretation, courts do not resort to materials external to the contract for construing the intention of the parties. There are, however, certain exceptions to the rule excluding reference or reliance on external sources to interpret a contract. One such exception is in the case of a latent ambiguity, which cannot be resolved without reference to extrinsic evidence. Latent ambiguity exists when words in a contract appear to be free from ambiguity; however, when they are sought to be applied to a particular context or question, they are amenable to multiple outcomes.”

14. The Supreme Court in ***Ramkishorelal v. Kamal Narayan & Anr.***, ***AIR 1963 SC 890*** has likewise held: -

“12. The golden Rule of construction, it has been said, is to ascertain the intention of the parties to the instrument after considering all the words, in their ordinary, natural sense. To ascertain this intention the Court had to consider the relevant portion of the document as a whole and also to take into account the circumstances under which the particular words were used. Very often the status and the training of the parties using the words have to be taken into consideration. It has to be borne in mind that very many words are used in more than one sense and that sense differs in different circumstances. Again, even where a particular word has to a trained conveyancer a clear and definite significance and one can be sure about the sense in which such conveyancer would use it, it may not be reasonable and proper to give the same strict interpretation of the word when used by one who is not so equally skilled in the art of conveying.”

15. The material paragraph and Clause 4 of the Settlement Agreement as produced above unequivocally records that Party No. 2 (the husband) will have to give only first floor of the house where Party No. 1 (the wife) is residing and the said giving of first floor includes all present/past and future



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expenses/maintenance/permanent alimony/child upbringing expenses/his education/clothing/feeding etc. including any decree or order of maintenance and that apart from the first floor of the property, the respondent would not make any further payment to the appellant and that the appellant, in turn, would not claim any maintenance, money or any other financial benefit in future. The first floor, therefore, was not an incidental term but constituted the very foundation of the settlement. The appellant was already occupying the first floor when Ex.P-2 was executed. The Settlement Deed did not merely record her possession; it prospectively and mandatorily stipulated that the respondent “will have to give” the first floor. The same clause expressly treated the first floor as covering maintenance, permanent alimony and child-related expenditure, while Clause 4 declared that no payment would be made “apart from the said floor.” No duration, terminating event or condition of revocability was prescribed, nor did the parties employ expressions such as “may reside”, “shall continue to reside”, “licence”, “permissive occupation” or “without creation of any right.” To construe the Settlement Deed as conferring only a temporary or permissive right of residence would render the principal reciprocal promise meaningless and defeat the very purpose of the settlement.

16. The expression “give”, therefore, cannot be construed in isolation or assigned a legal character merely by reference to one of its dictionary meanings. It must be interpreted in the context of the reciprocal obligations, the subject matter of the settlement and the factual position existing when the document was executed. Courts must prefer an interpretation which gives practical efficacy to a negotiated settlement over one which renders its principal reciprocal promise illusory. Matrimonial settlements, particularly those entered into as a permanent substitute for a spouse’s right to



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maintenance, are required to receive a liberal and purposive interpretation. Their object is to provide financial security, bring certainty to the parties and finally resolve all their disputes. The Court must, therefore, adopt an interpretation which advances this object instead of defeating it by relying upon a narrow or purely technical reading of individual expressions. Any interpretation that renders the principal benefit under the settlement uncertain or incapable of effective enforcement would defeat the very purpose for which the parties entered into such settlement and would weaken the value of matrimonial settlements, which Courts have consistently encouraged as a means of ensuring peace between the parties and avoiding future litigation.

17. We are, therefore, unable to sustain the conclusion of the Family Court that the relevant clause was for only a right to reside. Although the language employed is not that of a professionally drafted conveyance, its objective meaning, when the Settlement Deed is read as a whole and in the context in which it was executed, is that the respondent undertook to confer upon the appellant an enduring and substantive proprietary benefit in substitution of her claims towards maintenance and permanent alimony. The expression “will have to give” is executory rather than dispositive. It contemplates an obligation which remained to be performed and not an immediate transfer of title. Consequently, while the Settlement Deed itself did not operate to convey ownership of the first floor, it imposed upon the respondent the obligation to bring about such lawful transfer by execution of the requisite instrument, either by himself, if legally competent to do so, or by procuring the same from the person in whom title was vested.

18. The respondent did not merely inform the Family Court that a settlement existed, he represented on oath that he would abide by Ex.P-2 and



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sought dissolution of the marriage on the footing that all disputes stood finally settled. The appellant, correspondingly, relinquished her claims towards maintenance and permanent alimony. In **R.N. Gosain v. Yashpal Dhir, (1992) 4 SCC 683**, the Supreme Court held:

“10.Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that ‘a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage’.”

19. The respondent cannot, therefore, treat Ex.P-2 as effective for obtaining the decree of divorce and securing the appellant’s relinquishment of her financial claims while denying that the reciprocal obligation undertaken by him imposed any meaningful duty to perform the settlement.

20. The respondent’s contention that the property stands in the name of his father cannot furnish a valid ground to resist execution. The respondent, having voluntarily undertaken, as a term of a solemn settlement recorded in and forming the foundation of a consent decree, to give the first floor of the said property to the appellant, cannot now be permitted to resile from that undertaking by taking recourse to a state of title of which he was, at all material times, fully aware. The respondent gave a misleading impression; if he neither held title to the property nor had the consent of the owner, he could not have represented that he was in a position to confer the first floor upon the appellant, and he thereby induced the appellant to act upon the settlement.

21. The Settlement Agreement, the joint statement recorded before the Family Court and the decree of divorce leaves no manner of doubt that the respondent undertook a binding obligation to secure for the appellant an



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enduring proprietary benefit in respect of the first floor of the property in lieu of her claims towards herself and child's maintenance and permanent alimony.

22. Thus, we find ourselves unable to sustain the view taken by the Family Court. For the reasons aforesaid, we are of the considered view that the impugned order dated 26.03.2025 cannot be sustained and is accordingly set aside.

23. The respondent is directed to take all necessary steps to secure transfer of the first floor of property bearing No.11-285, DDA Flats, Madangir, Pushpa Vihar, New Delhi – 110062 in favour of the appellant by execution and registration of the requisite transfer document(s) and by completing all other formalities required in law within a period of three months from the date of this judgment. In the event the respondent is unable to procure such transfer owing to the refusal of the owner of the property to execute the requisite instrument or for any other reason, the respondent shall, within a further period of two months, pay to the appellant the prevailing fair market value of the first floor, as may be determined by the learned Executing Court in execution proceedings. Upon such payment, the obligation undertaken by the respondent under the Settlement Agreement dated 05.07.2013 shall stand discharged.

24. The appeal is accordingly allowed in the aforesaid terms. Pending application(s), if any, also stand disposed of.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

AUGUST 11, 2026/Harsh/ss