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

+ RSA 148/2025

DAYA RAM

.....Appellant

Through: Mr. S.C. Phogat and Mr. Vijay Pal
Singh, Advocates.

versus

M/S SCINDIA POTTERIES AND SERVICES PVT LTD.

.....Respondent

Through: Mr. Anirban Bhattacharya, Ms. Divya
Verma, Ms. Manini Shah and Mr.
Rajeev Chakraborty, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **14.10.2025**

CM APPL. 60350/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CAV 367/2025

Mr. Anirban Bhattacharya, learned counsel appears for the respondent on advance copy; and has been heard in the matter.

The caveat is accordingly discharged.

RSA 148/2025

CM APPL. 60349/2025 (stay)

By way of the present second appeal filed under section 100 of the Code of Civil Procedure 1908, the appellant, who is the occupant



of property bearing Quarter No.65, Scindia Potteries Labour Quarters Complex, Sarojini Nagar, New Delhi, impugns judgment dated 05.06.2025 passed by the learned District Judge-04, Patiala House Courts, New Delhi in appeal bearing RCA DJ No. 5209/2016.

2. *Vide* judgment dated 05.06.2025 the learned first appellate court has dismissed the appeal filed by the appellant against judgment dated 22.08.2014 passed in suit bearing No. 222/2012, by which the learned trial court had decreed the suit filed by the respondent (plaintiff) seeking possession of the suit property from the appellant (defendant).
3. The essence of the argument placed by the appellant before the learned trial court was that they had become owners of the suit property by 'adverse possession'.
4. The court has heard Mr. S.C. Phogat, learned counsel appearing for the appellant; as well as Mr. Anirban Bhattacharya, learned counsel appearing for the respondent, at the stage of issuance of notice itself.
5. Learned counsel appearing for the appellant has drawn attention to the proposed questions of law - 15 in number - that have been set-out in para 2 of the Memo of Appeal.
6. Upon a perusal of the appellant's proposed questions of law, in the opinion of this court, the questions set-out at Serial Nos. I, III, IV, VI, VII, VIII, IX, X and XV are clearly questions of fact, that turn upon the evidence that was marshalled before the learned trial court; and the findings of which court have been upheld by the learned first appellate court. These are accordingly not questions of law that can be entertained by way of the present second appeal.



7. On the other hand, the questions of law set-out at Serial Nos. II, V, XI, XII, XIII and XIV in para 2 of the Memo of Appeal read as under:

“II. Whether the lease once determined can be renewed from the back date or to be executed afresh?

V. Whether the first appellate court was right in relying upon the finding of the Hon'ble HC in different RSA's regarding the ownership/ title of the respondent upon the suit property without any document placed on record by the respondent?

XI. Whether without seeing a declaration in any matter can any court go beyond the prayer so made in the suit and can automatically jump against law in granting additional reliefs in the form of obiter-dicta only be relied on in another cases for any purpose.

XII. Whether without any transfer proof of a company existing on 01.02.1923 in favour of company came into existence on 20.05.1946 be considered for any ownership of the suit land?

XIII. Whether any subsequent order passed by any court can ever be relied to cover the lacuna in suit for possession wherein no document of ownership was filed and the said subsequent order was also obtained by playing fraud and the order itself was wrong wherein the respondent made wrong statement in respect of name of the company in whose favour the suit property was leased out and another letter in actual for change of name dated 31.10.1962 was fraudulently used for transfer of lease?

*XIV. Whether the respondent/plaintiff Company may be considered a successor of the **Gwalior Potteries (Gwalior) Ltd.** without having any documentary proof in this regard?”*



8. This court has heard learned counsel appearing for the parties on the aforequoted proposed questions of law set-out at Serial Nos. II, V, XI, XII, XIII and XIV of para 2 at length.
9. Upon a conspectus of the arguments made on behalf of the appellant, it is clear that insofar as the relationship of the companies - namely M/s Scindia Potteries and Services Pvt. Ltd., M/s Gwalior Potteries (Gwalior) Ltd and M/s Gwalior Potteries (Delhi) Ltd. - is concerned, those questions have already been considered and decided by Co-ordinate Benches of this court in matters relating to other persons/parties who were occupying contiguous properties in the same complex and were similarly situate as the present appellant.
10. In this behalf, the following extracts from the impugned judgment of the learned first appellate court are required to be noted:

*“20. In light of the additional documents produced by the appellant/defendant in the appeal, the respondent/plaintiff was also permitted to lead additional evidence in the appeal proceedings. The appellant produced and proved a **letter dated 20.05.2024 Ex.RW-2/1 from the office of the L&DO as per which upon certain payments made by the respondent to the L&DO, the order of the L&DO for re-entry into the leased premises stood as withdrawn and the title and right of the respondent under the lease stood restored.***

“21. Through the additional evidence led in the appeal proceedings in the form of the letter dated 20.05.2024 Ex.RW-2/1 from the L&DO to the respondent/plaintiff, the plaintiff has clearly been able to show that it was the lessee under the lease for the premises in which the suit property was situated and that the lease was subsisting. Hence, in so far as the title of the respondent/plaintiff to the suit property is concerned, the plaintiff has clearly been able to show that it was the lessee under the perpetual lease deed granted by the L&DO.



“22. Further, *there have been various other litigations by the plaintiff for possession against occupants of other quarters in the same Scindia Potteries complex at Sarojini Nagar, New Delhi. In these litigations, similar to the present case, the plaintiff had sought possession on the basis of the perpetual lease deed granted by the L&DO, whereas the occupants sought to contest the suit by disputing the title of the plaintiff to the suit property and also by raising the plea of having become owners by adverse possession, similar to the plea as raised by the defendant in the present case.*

“23. In the decision dated 24.11.2015 of the Hon'ble High Court of Delhi in RSA No. 404/2015 entitled as Hari Kishan v. Scindia Potteries & Services Pvt. Ltd., 2015 SCC OnLine Del 13584, the plaintiff had filed the suit seeking possession of Quarter No.74 in the Scindia Potteries Complex, Sarojini Nagar, New Delhi. In the said case, similar to the present case, the defendant had disputed the title of the plaintiff to the suit property and had also raised the defence that he had become owner by way of adverse possession. In Hari Kishan (supra), with regard to the title of the plaintiff to the premises in question, the Hon'ble High court held as under :

“9. Before this Court, the submission of counsel for the appellant is twofold. Learned counsel, firstly, submits that the respondent/plaintiff had not been able to establish its ownership in respect of the suit property. Learned counsel submits that the perpetual lease deed dated 18.01.1921 was executed by the Secretary to the Govt. of India in favour of Development Corporation of India, which was duly registered on 04.04.1921 in the office of the Sub-Registrar, Kashmiri Gate, Delhi. The said lease deed in Ex. PW-2/1. Learned counsel submits that the only document produced by the plaintiff to claim ownership was the letter dated 31.10.1962 Ex. PW-1/1 issued by the L&DO in favour of the plaintiff showing change of name of the plaintiff company from Gwalior Potteries Pvt. Ltd. to Scindia Potteries Pvt. Ltd. Admittedly, no other document of ownership in favour of the plaintiff company in respect of the suit property was produced.

10. I do not find any merit in this submission. The Crown Grant was made in favour of Gwalior Potteries (Delhi) Pvt. Ltd. and it did not require any formal indenture being crated since it was a Crown Grant. In any event, there is a registered perpetual lease Ex. PW-2/1. The communication dated 31.10.1962 Ex. PW-1/1 recognises the plaintiff company as the successor of Gwalior Potteries (Delhi) Pvt. Ltd. In the face of the said communication Ex. PW-1/1 read with the earlier grant, and in view of the



provisions of the Government Grant Act, it does not lie in the mouth of the appellant to challenge the ownership of the respondent/plaintiff qua the suit property. The perpetual lease stand mutated in the name of the respondent. There is no mandatory requirement in law, that a fresh lease should have been executed in favour of the respondent.

(Emphasis supplied by me)

“24. Thus, the title of the plaintiff to the entire premises under the perpetual lease deed by the L&DO in favour of the plaintiff was recognised by the Hon'ble High Court in Hari Kishan (supra).

“25. Similarly, in the decision dated 18.11.2016 of the Hon'ble High Court of Delhi in RSA No. 86/2016 entitled as Sukhbir Singh v. Scindia Potteries & Services Pvt. Ltd., 2016 SCC OnLine Del 6053, the plaintiff had filed the suit seeking possession of Quarter No. 36 in the Scindia Potteries Complex, Sarojini Nagar, New Delhi. In the said case also, the defendant had sought to challenge the title of the plaintiff to the suit property and also raised the defence that he had become owner by way of adverse possession. In Sukhbir Singh (supra), the Hon'ble High Court took the note of the decision in Hari Kishan (supra) to recognise the title of the plaintiff to the complex, as under:

“16. In RSA No.404/2015, subject matter of which was Quarter No.74, the question of ownership of M/s. Scindia Potteries & Services Pvt. Ltd. in respect of the said complex was examined. M/s Scindia Potteries & Services Pvt. Ltd was held to be owner observing as under:

* * * * *

(emphasis supplied)

11. Attention of this court is also drawn to the provisions of section 13 of the Indian Evidence Act 1872, which reads as under:

13. Facts relevant when right or custom is in question.—Where the question is as to the existence of any right or custom, the following facts are relevant:—

(a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence;



(b) particular instances in which the right or custom was claimed, recognized or exercised, or in which its exercise was disputed, asserted or departed from.

(emphasis supplied)

12. Based on section 13 of the Evidence Act, it is argued on behalf of the respondent, that when assessing the existence of a claimed right, section 13 permits the court to take into account historical actions, records, and transactions. It is submitted that it is relevant for this court to consider the historical treatment of that right - viz., the title of the respondent to the suit property and their right to get back possession from other persons who were similarly situate as the present appellant. It is the respondent's contention that the manner in which that right was claimed, asserted and recognised by the courts in previous proceedings against other persons who were similarly situate, including by Co-ordinate Benches of this court, is relevant for deciding whether any substantial question of law arises in the present proceedings. It is submitted that the contentions raised by similarly situate persons have been repelled by the courts in multiple other proceedings; and that therefore, even in the present case, the right of the respondent to obtain possession of the suit property from the appellant, on point of fact, must be viewed similarly, before entertaining the present second appeal.
13. Upon considering the submissions made, and in view of what is apparent from a perusal of the impugned judgement, and the extracts contained therein, this court is of the view that the rights and contentions of the present appellant are materially the same as those



of the other parties referred to in the impugned judgment of the learned first appellate court. It is beyond dispute that the appellant is also one of several persons who have been occupying the labour quarters in the Scindia Potteries Complex, several of whom have suffered decrees for dispossession before the learned trial court, which have been upheld in the first appeals and even in the regular second appeals preferred by those other persons before Co-Ordinate Benches of this court, as narrated in the impugned judgment and extracted above.

14. Furthermore, it is also now the established fact that it is the respondent who is entitled to recover possession of the labour quarters in the Scindia Potteries Complex.
15. In these circumstances, this court is of the view that there is merit in the respondent's contention that the existence of the respondent's right to recover possession of the labour quarters in the Scindia Potteries Complex from the occupants thereof, which was claimed in other similar proceedings, has been recognized and exercised in those proceedings.
16. Nothing on the record or in the submissions made on behalf of the appellant appears to carve-out any distinction in favour of the appellant from the other persons who were occupants of the contiguous quarters in the same complex.
17. In this view of the matter, section 13 of the Indian Evidence Act has been correctly invoked in the present case, especially since the scope of the present proceedings under section 100 of the CPC is limited



and, in any case, this court cannot enter upon disputed questions of fact.

18. As a sequitur to the above, this court is of the view that the proposed questions of law as set-out in serial Nos. II, V, XI, XII, XIII and XIV in para 2 of the memo of appeal are also *not substantial questions of law* that require consideration in the present proceedings.
19. Accordingly, there is no reason or basis to entertain the present regular second appeal, which is therefore dismissed at the stage of issuance of notice itself.
20. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 14, 2025/V. Rawat/ak/ss