



2026:DHC:3528



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Reserved on: 24th February, 2026**

Pronounced on: 27th April, 2026

+ **RFA 91/2026, CM APPL. 5706/2026, 5707/2026 & 5708/2026**

1. **BIRO BAI**

W/o Late Sh. Joginder

2. **JAGSEER SINGH**

S/o Late Sh. Joginder Singh

3. **SUKHWINDER SINGH**

S/o Late Sh. Joginder Singh

4. **BALJEET SINGH**

S/o Late Sh. Joginder Singh

All R/o H.No.47, Sardar Mohalla,

Tughlakabad Village New Delhi-110044Appellants

Through: Mr. Avtar Singh, Advocate

versus

1. **LATE SH. ARUD SINGH (SINCE DECEASED)**
THROUGH LRS

(i) **DARSHAN SINGH**

S/o Late Arud Singh

(ii) **RAJINDER SINGH**

S/o Sh. Kulwant Singh

(iii) **DHARMINDER SINGH**

S/o Sh. Kulwant Singh

2. **MANGE RAM**

S/o Sh. Dhanpal

R/o Plot No. 13, House No.47, Village Tughlakabad

New Delhi-110044

.....Respondents

Through:

None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. Regular First Appeal has been preferred under Section 96 of the *Code of Civil Procedure, 1908* (hereinafter referred to as “CPC”) against the Impugned Judgment dated 22.07.2025, whereby the learned District Judge **dismissed the Suit of the Plaintiffs for Possession, Declaration and Mesne Profits.**

2. **The facts in brief,** are that the Plaintiffs, who are the wife and sons of late Sh. Joginder Singh, claim ownership of property admeasuring 150 sq. yards bearing Plot No. 13, H. No. 47, Sardar Mohalla, Tughlakabad Village, New Delhi-110044 (hereinafter referred to as the “Suit Property”).

3. It was stated that late Sh. Joginder Singh had purchased the suit property on 04.03.1980 from Sardar Bishan Singh, who had acquired the same from Sh. Nanka Singh in 1962. The Plaintiffs further claimed that the Suit Property was the self-acquired property of late Sh. Joginder Singh and upon his demise, devolved upon them, and they have been in continuous and peaceful possession thereof.

4. After the demise of Bishan Singh (the erstwhile owner), his nephew and other family members requested the Plaintiff No. 1 to allow them to store goods in the vacant plot of the Suit Property, which was permitted. The Defendant No. 1 Arud Singh (since deceased), is now represented by his LRs. After some time, Arud Singh started asserting his rights in the Suit Property, which was vehemently opposed by the Plaintiff No. 1.

5. A *Panchayat* was convened, wherein the parties were asked to produce their documents. Defendant No. 1 failed to produce any documents, whereas the Plaintiff adduced the Written Note of Sardar Bishan Singh, through which the property had been transferred to late Sh. Joginder Singh. *The Defendants were reprimanded by the Panchayat.* However, instead of



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mending their ways, they started threatening the Plaintiffs and attempted to dispossess them from the Suit Property. *The Plaintiff also made a Complaint to the DCP, Sarita Vihar, seeking protection of life and property.*

6. The Defendant No. 1, being a man of means, prevailed over the local Police, and in connivance with them, had put up a fence around the Suit Property and demarcated a portion thereof for himself, while the other portion for the Plaintiffs. The Defendant No. 1, Arud Singh, despite knowing the perfect title of the Plaintiffs, under the protection of the local Police, illegally sold a portion of the Suit Property, to the Defendant No. 2.

7. Since then, possession of a portion of the Suit Property is with the Defendants and the Plaintiffs are being prevented from entering their own house. The Plaintiffs thus, terminated the permissive user of Defendant No. 1 in the year 2010 and asked him to hand over the peaceful and vacant possession of the property. However, when the Defendant No. 1 did not do so, the *Plaintiffs filed the present Suit for Possession and Declaration as well as for Mesne Profits.*

8. The Suit was contested by the Defendant No. 1 Sh. Arud Singh, who in his **Written Statement**, took a preliminary objection that the Plaintiffs did not *disclose any cause of action* and Plaintiffs had no *locus standi* to file the present Suit. It was further asserted that the Plaintiff *is guilty of suppression of facts and has concealed material facts.*

9. The Defendant No. 1 explained that the true facts are that Bishan Singh and Jeet Singh were two brothers, who after coming from Pakistan, occupied a part of land with two rooms and one room, each was occupied by the two brothers.



10. Bishan Singh was doing the business of transport, and had employed Joginder Singh as a labourer. He gave one room and part of vacant land measuring about 50 to 60 sq. yards as accommodation, which was occupied by Joginder Singh as permissive user on license basis, without any consideration. Late Joginder Singh was only a permissive user and at no part of time had he acquired any right, title, interest in the Suit Property.

11. Jeet Singh was the *mama* of Jarnal Singh and Arud Singh (defendants) and their mother was sister of Jeet Singh, who had expired in the childhood of Arud Singh and Jarnal Singh.

12. Therefore, Jeet Singh had more love and affection towards Arud Singh and Jarnal Singh and out of love and affection, had given the Suit Property admeasuring a total area of 225 sq. yards approximately, to Jarnal Singh and Arud Singh who have been in possession for the last more than 40 years. Arud Singh has been using the property for keeping his cattle, i.e. cow and buffalo.

13. A further objection was taken that *the Suit was bad for misjoinder and non-joinder of necessary party*. The land in question, i.e., the room belonged to late Bishan Singh and after him, his legal heirs, i.e., Dhara Singh, Surender Singh, Paramjit Singh and five daughters, who were also necessary party to the present Suit. Defendant No. 1 claimed that he had no concern with the Suit Property that was occupied by Smt. Biro Bai. Moreover, if Defendant No. 1 Arud Singh has been made a party, then his brother Jarnal Singh, is also necessary for the just decision of the dispute raised in the Suit.



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14. The Plaintiff has not *filed a site plan* for which reason as well, the Suit is liable to be dismissed. The Plaintiff has also not produced any title documents to show his right, title, interest in the Suit Property.

15. Furthermore, the *Plaint was not verified nor supported by an Affidavit as mandated under Order VI Rule 15 CPC.*

16. It was also asserted that the Suit was *barred by limitation* as Defendant No. 1 is in peaceful possession of the entire property for the last more than 40 years. It was also asserted that Panchayat convened in Gurudwara on 11.11.2011 and on 12.03.2012, held that Arud Singh and Jarnal Singh were the lawful user and in possession for more than 40 years. The Suit of the Plaintiff was, therefore, liable to be dismissed.

17. **On merits**, all the averments made in the *Plaint* were denied. It was explained that the entire property measured about 150 sq. yards while the Plaintiffs are occupant of only 50-60 sq. yards including the room.

18. The **Appellants in their Replication** to the Written Statement of Defendant No. 1 reaffirmed his assertions contained in the *plaint* and denied that she had been a permissive user of 50-60 sq. yards of the Property in question.

19. **Issues of the pleadings were framed on 17.01.2019 as follows: -**

“(1) Whether the plaintiff is entitled to a decree of possession of the suit property, as prayed for? OPP

(2) Whether the plaintiff is entitled for a decree of declaration, as prayed for? OPP

(3) Whether the plaintiff is entitled for a decree of permanent injunction, as prayed for? OPP

(4) Whether the suit is barred by limitation? OPD



(5) Relief.”

20. The Plaintiff Biro Bai in support of her case appeared as **PW-1** and proved the requisite documents Ex.PW1/1 to PW1/8.

21. **PW-2** Resham Singh, and **PW-3** Avatar Singh corroborated the testimony of the Plaintiff.

22. The Defendants examined **DW-1** Darshan Singh, who proved the requisite documents Ex. DW1/1 to DW1/6.

23. **DW-2** Paramjeet Singh corroborated the testimony of the DW1.

24. **The learned District Judge** in the impugned judgment, after appreciation of the entire evidence led by both the parties, observed that there was no explanation from the Plaintiffs as to why if they were owners of both the rooms, only one room was demolished to raise fresh construction, while the other room remained which was in dilapidated condition, had not been touched.

25. It was observed that the Suit of the Plaintiffs was based on the title through late Succha Singh and then through Sardar Bishan Singh, but the Plaintiffs **had not been able to prove their title.**

26. The chain to establish that the Suit Property had been transferred to the Plaintiffs from the recorded owners, was also not placed on record. Therefore, in terms of Section 54 TPA read with Section 17 Registration Act, it was held that the Plaintiff was not able to prove any right, title, interest in the Suit Property. **The relief of Declaration, Possession as well as of Permanent Injunction was consequently dismissed.**

27. Aggrieved, **the present Appeal** has been preferred.

28. **The grounds of challenge** are that the learned District Judge failed to consider that the Plaintiff was having valid and legal documents to



establish their ownership. The property had been purchased by Sh. Joginder Singh, Husband of Biro Devi on 04.03.1980, from Sardar Bishan Singh, who in turn, had acquired the title in the property from Nanka Singh in the year 1962.

29. The documents *qua* sale purchase dated 04.03.1980, were placed on record, which was further supported by Voters I-Card, Ration Card, and even the Electricity Connection proving the possession of the Plaintiffs in the Suit Property. Furthermore, witness Avtar Singh had proved the execution of sale document dated 04.03.1980, as he was the signatory to the said document. These documents have been rejected on flimsy grounds, by the learned District Judge.

30. It has also not been considered that the Defendants failed to place on record even a single document to show their right, title, interest in the Suit Property. The Defendants have not been able to prove their ownership in any manner, nor have they placed a single document *qua* the same.

31. A Legal Notice was duly served upon the Defendants and several complaints had been made against the Defendants, in regard to their endeavour to dispossess the Plaintiffs and also of threatening them with dire consequences.

32. The learned District Judge erringly observed that PW3 Avtar Singh had deposed falsely on oath, as he denied his signatures on Ex.DW1/4. In fact, PW2 Resham Singh had denied his signatures as he was not a part of the Panchayat dated 11.11.2011. It has been wrongly observed that he did not know the names of Panchayat members. Since he was not present, there is no question of him knowing the names of the Panchayat members.



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33. The Appellants further submitted that the reasons for demolishing the part of the building, i.e., one room was because of the financial constraints and they had planned to reconstruct the remaining building after they had been able to get the resources. The construction of one room and not the second room, cannot be held against the Appellants.

34. It is further asserted that it has been erringly observed that there were no sale consideration and purchase of the Suit Property. It is explained that a meeting for sale-purchase of Suit Property, was held at the premises, where all the members were present. However, the Appellant No. 1 was in the other room and was not aware of the consideration amount. Joginder Singh, husband of Appellant No. 1, was a person of reserved nature and the women of said era were not open and thus, the consideration amount had not been revealed to her. However, PW3 Avtar Singh in his cross-examination had given the sale consideration amount as Rs.16,000/-. This aspect has again, not been appreciated by the learned District Judge.

35. Furthermore, the learned Trial Court has erringly rejected the testimony of PW-2 as he was two years old when the Appellants came to reside in the property, and further the Plaintiff was seven years when they were given permission, to keep their woods in the property. However, the DW-1, who was eight years old, and DW-2 who was five years old at the time when Appellants started residing in the premises, was believed.

36. DW-2 Paramjeet Singh had deposed in his affidavit of evidence that the property belonged to Bishan Singh, though, in his cross-examination he asserted that the property belonged to Jeet Singh. Such contradiction in his testimony, has again not been appreciated.



37. It has also not been considered that PW-1, the Plaintiff was an illiterate lady who qua the property number, answered by saying it is correct. However, bare perusal of the document dated 04.03.1980 shows that the property number mentioned therein, is plot No.13. Such facts have again been overlooked.

38. The learned District Judge erringly observed that the document Ex.PW1/2 only mentions about two rooms, but not any vacant land and also does not mention that Sardar Nanka Singh was the owner of the property in question nor sale consideration was mentioned. It has been explained that document dated 04.03.1980 clearly mentions that Sardar Nanka Singh gave two rooms, i.e., the Suit Property to Bishan Singh in the year 1962 who became the absolute owner and had thereafter, he had given ownership to Sardar Joginder Singh. These evidences had not been rightly appreciated.

39. It has also not been considered that both DW-1 Darshan Singh s/o Defendant No. 1 and DW-2 Paramjeet Singh s/o Late Bishan Singh, were both interested witnesses. It is, therefore, submitted that the Impugned Judgment of the learned District Judge, is liable to be set aside.

Submissions heard and record perused.

40. The Plaintiff / Appellant had filed the Suit for Possession, Declaration and *Mesne Profits* in respect of Suit Property. The case of the Plaintiff, as detailed in the Plaint and in affidavit of evidence of PW-1 Smt. Biro Bai, is that the Suit Property initially belonged to Sh. Nanka Singh and was acquired by Sardar Bishan Singh in the year 1962. The suit property was thereafter, purchased by late Sh. Joginder Singh (husband of Plaintiff / Appellant No.1) from Sardar Bishan Singh and the Suit Property. Thus, it was the self-acquired Property of late Sh. Joginder Singh and the Plaintiffs /



Appellants have been in peaceful possession of the Suit Property and enjoying since 1980.

41. The Plaintiffs, in order to establish the ownership of late Sh. Joginder Singh, have relied on *a hand-written Note dated 04.03.1980 Ex.PW-1/2 executed by Sardar Bishan Singh in favour of Sh. Joginder Singh s/o Sucha Singh*. In the said Note, it is written that in the year 1962, Sardar Nanka Singh had given two houses to Sardar Bishan Singh, on which he had complete ownership rights. These two houses were handed-over by him to late Sh. Joginder Singh in the year 1980 and Sardar Bishan Singh had no ownership rights in the Property and *that Sh. Joginder Singh and Sh. Sucha Singh would be responsible for the houses*.

42. The facts were further explained by DW-1 Sh. Darshan Singh, who deposed in his Affidavit of Evidence that he had personal knowledge about the facts of the case. He explained that Sardar Bishan Singh and Sh. Jeet Singh were brothers and after coming from Pakistan, they had occupied a part of land with two rooms, out of which one room, which was occupied by Sh. Jeet Singh and the other room was occupied by Sardar Bishan Singh.

43. Sardar Bishan Singh was in the business of Transport and had employed Sh. Joginder Singh, as a labour. He later gave one room and a part of vacant land admeasuring 50-60 square yards to Sh. Joginder Singh, as Permissive User, on licence basis, without any consideration and since then Sh. Joginder Singh along with his family had been residing in the said Property.

44. After the demise of Sardar Bishan Singh, Sh. Joginder Singh continued to stay in that Property with the permission of the son of Sardar Bishan Singh. Sh. Jeet Singh and Sardar Bishan Singh were *mama* of Sh.



Arud Singh (Defendant No.1) and Sh. Jarnal Singh, whose mother i.e. sister of Sh. Jeet Singh, had expired during the childhood of Sh. Arud Singh and Sh. Jarnal Singh. Due to love and affection towards Sh. Arud Singh and Sh. Jarnal Singh and out of love and affection, he gave one room and vacant land admeasuring approximately 225 square yards to Sh. Jarnal Singh and Sh. Arud Singh and both are in peaceful possession for last more than 40 years.

45. Arud Singh / Defendant No.1 had been using the suit property for keeping his cattle that were cows and buffaloes, on the vacant plot. The site plan has been exhibited as DW-1/2.

46. Likewise, DW-2 Sh. Paramjeet Singh s/o late Sh. Bishan Singh, in his testimony corroborated the testimony of the DW-1 that Sh. Jeet Singh and Sh. Bishan Singh were brothers.

47. The **first aspect**, which emerges from the testimony of the witnesses, is that the Suit is essentially based on Possessory Rights, rather than Proprietary Rights. Sh. Bishan Singh and Sh. Jeet Singh admittedly had occupied this Property in 1962, having taken it from Sh. Nanka Singh and since then Sh. Bishan Singh and Sh. Jeet Singh have been in possession of this Property.

48. It is not in dispute that late Sh. Joginder Singh was the labourer working for Sh. Bishan Singh, who had been given one room with surrounding land admeasuring 50-60 square yards in 1984, for residence. PW-1 Smt. Biro Bai w/o late Sh. Joginder Singh, in her cross-examination, has admitted that her husband was working with Sh. Bishan Singh.

49. The only document to establish the Ownership Rights is the Note Ex.PW-1/2. The said Note also corroborates that all the parties were



claiming Possessory Rights and the same had been created and handed over to late Sh. Joginder Singh in 1980 and since then, he and his family have been residing in a portion of property in question.

50. The Defendants have also not questioned the peaceful possession by the family of Sh. Joginder Singh in this part of 50-60 square yards, which comprises of a room and some open area.

51. *However, the dispute has been raised by the Plaintiffs in respect of adjoining land of 150 square yards which contains of open land and the structures, and have claimed that this piece of property was also given to the Plaintiffs by late Sh. Bishan Singh.*

52. However, DW- 1 Dharshan Singh s/o late Sh. Arud Singh as well as DW-2 Paramjeet Singh s/o late Sh. Bishan Singh had explained that the second Room had been handed over to Sh. Arud Singh and Sh. Jarnal Singh, being the nephews of Sh. Jeet Singh and that they have been in possession of the same, for a long time.

53. The Plaintiffs though, claimed that they were in possession of the entire Property, but have not been able to show that the second Room was also in their possession. *Admittedly, the second Room is in the possession and occupation of the Defendants.*

54. The Plaintiffs claimed that after the demise of Sh. Bishan Singh, on the request of the Defendants, who were his nephews and other family members, Plaintiff No.1 permitted them to keep their wood in the vacant land of the Suit Property.

55. Plaintiff / Smt. Biro Bai, considering the *bona fide* request of Defendant No.1 permitted them to keep their stock and the wood on the



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vacant land of the Suit Property. However, over a passage of time, the Defendants started asserting their Rights in the Suit Land.

56. The Appellant had relied upon the handwritten Note Ex.PW-1/2, of Bishan Singh, but it merely mentions about two houses and there is no mention of any vacant land.

57. According to the defendants, in view of the dispute raised by the Appellant, a *panchayat* of the Village Seniors was held on 11.11.2011, wherein the matter was amicably settled, in terms of settlement Ex. DW-1/4. In this settlement of *panchayat*, it had been recorded that one room was with Sh. Joginder Singh, while the other room was with Sh. Arud Singh and Sh. Jarnal Singh and that both the families amicably settled the dispute. It was also written that the Sh. Jarnal Singh and Sh. Arud Singh have been in possession of the room, for last 40 years.

58. The factum of a *panchayat* being commenced was admitted by the Plaintiff / PW-1 as well. In her cross examination, she has claimed that only one *panchayat* meeting had taken place, but was unable to give any date or otherwise.

59. DW-1 Dharshan Singh had deposed that second meeting was held on 12.03.2012 vide letter Ex. DW-1/5 in the Gurudwara. However, this did not constitute a second *panchayat* meeting, a fact which was also denied by PW-1. The perusal of Letter Ex. DW-1/5, reflects that the *panchayat* members had written this Letter dated 12.03.2012 to SHO, P.S. Govind Puri, informing him about the settlement between the parties, that had taken place in the *panchayat* meeting on 11.11.2011.

60. Thus, the testimony of PW-1 is correct that only one *panchayat* Meeting was held on 11.11.2011, because on 12.03.2012, only a Letter



Ex.DW-1/5 had been written by the *panchayat* Members to the SHO, informing about the settlement between the parties.

61. From comprehensive reading of evidence of the Plaintiffs' as well as the Defendants' witnesses, it emerges that indeed there was a settlement, whereby it was endorsed that one room was with the Plaintiffs, while the second room was with the Defendants.

62. The *next significant aspect* for consideration, is *the date since when the Defendants are in possession*. According to the testimony of DW-1 and DW-2, they have been in possession since during the lifetime of Sh. Bishan Singh and Sh. Jeet Singh. Pertinently, the Plaintiff Smt. Biro Bai had claimed that she had permitted them to occupy the vacant land which they sought for keeping the wood on the vacant land, but there is no date mentioned either in the Plaint or in the evidence, since when the Defendants were permitted to occupy the said alleged vacant land.

63. From the evidence on record, it clearly emerges that Defendants being the nephews of Sh. Jeet Singh, had been permitted to occupy the Property, since during the lifetime of Sh. Bishan Singh and not permitted to occupy the Property with the permission of the Plaintiffs, as claimed by the Appellant. There have been Complaints and skirmishes between the parties in regard to the vacant plot, but there is no evidence to show that the Appellants ever acquired a possessory Right, in respect of the vacant land.

64. The overwhelming evidence, which are on record, shows that Appellant is in possession of the Suit Property i.e. a structure alongside the land measuring 40-50 square yards with a room constructed on it. There is no evidence whatsoever, to show that the Defendants were either inducted as permissive users or that the Plaintiffs ever acquired the Right, Title or



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Possessory Right in this Suit Property. In fact, the evidence of the Defendants established their long settled, open, possession.

65. The Plaintiff / Appellant has contended that the testimony of PW-2 has been disbelieved by observing that he was only 07 years old in the year 1984-85, but Ld. Trial Court has accepted the testimony of DW-1, who was barely 08 years old. It may be pertinent to note herein that from the evidence and the admissions of PW-1 herself, the long settled possession of the Defendants in the Suit Property has been established and no cogent evidence has been led to prove that Smt. Biro Bai was in possession of the Suit Property or that she had permitted the Defendants to use the Property for storing wood and keeping their stock, in the year 1984-85.

66. **Learned District Judge**, thus, on appreciation of the evidence, has rightly concluded that the present Suit was based not on Title, but on the possession through Sardar Bishan Singh and *that the long-settled Possession in the Suit Property, was established in favour of the Defendants.*

67. It has been further rightly held that the Plaintiffs had failed to establish any ownership right in the Suit Property and the Suit of the Plaintiff for Possession and Injunction has been rightly, dismissed.

68. There is no merit in the present Appeal, which is hereby, **dismissed** along with pending Applications, if any.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 27, 2026

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