



\$~62

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 54/2026, CM APPL. 18104/2026 (under Order XLI Rule 5 CPC)

RAJESH AGGARWAL
S/O SH. SITA RAM AGGARWAL

.....Appellants

SITA RAM AGGARWAL
S/O LATE SH. P. C. AGGARWAL

BOTH R/O C-17, SATYAWATI COLONY,
ASHOK VIHAR PHASE 3,
DELHI-110052

Through: Appearance not given

VERSUS

VIJAY KUMAR
S/O SH. MOHAN SINGH
R/O HOUSE NO 1119
GALI NO 11, SADAR NALA ROAD
HOSHIYAR SINGH MARG
DELHI-110006

.....Respondent

Through: None

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
23.03.2026

%

CM APPL. 18105/2026 (Exemption), CM APPL. 18106/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.



CM APPL. 18107/2026 (under Section 5 of Limitation Act on behalf of the Appellant for Condonation of Delay of One Day in filing the Appeal)

CM APPL.18108/2026 (under Section 5 of the Limitation Act on behalf of the Appellant for Condonation of Delay of 100 days in re-filing the Appeal)

3. The above two Applications have been filed on behalf of the Appellant seeking Condonation of 1 day's delay in filing the Appeal and Condonation of 100 days' delay in re-filing the Appeal.

4. For the reasons stated in the Applications, the delay of 1 day in filing the Appeal and delay of 100 days in re-filing the Appeal is condoned.

5. Both the Applications are allowed and stand disposed of accordingly.

RSA 54/2026:

6. Regular Second Appeal under Section 100 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') has been filed on behalf of the Appellants against the Judgment and Decree dated 20.08.2025, of **the learned Senior Civil Judge**, upholding the Judgement and Decree dated 07.10.2024 of the learned Civil Judge, whereby the Suit of the Respondent / Plaintiff, **was decreed and the Respondent / Plaintiff was declared as owner of the Suit Property and held entitled for Recovery of Arrears of Rent @Rs.40/- per month.**

7. The Respondent / Plaintiff Vijay Kumar had filed a Suit bearing No. 1262/2017 for Declaration, Permanent Injunction and Recovery of Arrears of Rent.

8. The **brief facts** as narrated by the Respondent / Plaintiff, are that he had purchased the Suit Property i.e., Shop bearing No. 6033-6034, ad measuring 32.22 square yards, Basti Harphool Singh, Sadar Nala Road, Hoshiyar Sigh Marg, Delhi-110006 (hereinafter referred to as 'Suit



Property’) from one Shri Deepak, son of Dilbagh Singh, through a *registered Sale Deed dated 20.12.2016*. Shri Deepak had handed over to him the entire chain of documents of the erstwhile owners.

9. In the Sale Deed, it was clearly mentioned that Defendant No. 1 *Rajesh Aggarwal* was a tenant in the Suit Property, on a monthly rent of Rs.40/-. It was further specified that the Plaintiff shall be entitled to receive the rent from Defendant No.1 Shri Deepak from whom the Suit Property was purchased, had also addressed the *Letter dated 20.12.2016 to Defendant No.1* requesting him to pay the rent to the Plaintiff, in respect of the Suit Property w.e.f. 20.12.2016. The Plaintiff claimed that despite receiving the Letter, the Defendant No.1 failed to pay the rent to the Plaintiff, from 01.01.2017 and is in arrears of rent.

10. The Plaintiff after purchasing the Suit Property, paid the Mutation Fee and got the Suit Property mutated in his name in the records of the North Delhi Municipal Corporation, on the basis of the Sale Deed. Thereafter, the Plaintiff cleared the arrears of House Tax amounting to Rs.32,373/-, on 03.01.2017.

11. The Plaintiff’s counsel issued *Legal Notice* dated 31.01.2017 which was served upon Defendant No.1 Rajesh Aggarwal with a request to pay the arrears of rent from 01.01.2017 till 28.02.2017 @ Rs.40/- per month and thereafter, from 01.03.2017 @ Rs.44/- excluding electricity and water charges.

12. The *Defendant No.1 / Rajesh Aggarwal* replied through Letter dated 15.02.2017, claiming that Defendant No.2 Sita Ram Aggarwal, father of Defendant No.1 Rajesh Aggarwal, was the owner of the Suit Property since more than the last twenty years and was enjoying ownership rights, having



purchased the Suit Property from Smt. Suchint Kumari, wife of Late Shri Nanak Chand.

13. The Plaintiff explained that Shri Deepak, his predecessor in interest, had purchased the property from *Shri Vikram Grover*, legal heir of Smt. Suchint Kumari, who had died intestate on 10.07.2004. Her other legal heirs, namely (i) *Smt. Vimmi Grover*, wife of Shri Parveen Juneja and daughter of late Shri Nanak Chand, (ii) *Smt. Jyoti Devi*, wife of Shri Parmod Sehgal and daughter of late Shri Nanak Chand, and (iii) *Shri Pankaj*, son of Shri Nanak Chand, and late Smt. Suchint Kumari, had *executed Relinquishment Deed dated 06.08.2011*, in favour of *Shri Vikram Grover* son of late Shri Nanak Chand and Smt. Suchint Kumari.

14. It was asserted that the Defendant No.2 Sita Ram Aggarwal had no right and title in the Suit Property. That Defendant No.1 and 2 in collusion with each other, intended to usurp the Suit Property of the Plaintiff. The Defendants had also threatened to create third party rights in the Suit Property and to sell it to some builder and involve the Plaintiff in false and fabricated cases.

15. The Plaintiff thus, filed a Suit for ***Declaration of being the owner of the Suit Property; Recovery of Arrears of Rent and to restrain the Defendants from creating a third party right in the Suit Property.***

16. The Suit was contested by the **Defendants / Appellants, who in their Written Statement**, took the defence that the Defendant No.1 Rajesh Aggarwal had no concern with the Suit Property and that the Suit was liable to be dismissed. It was further claimed that there ***was no relationship of a landlord and tenant*** between the Plaintiff and Defendants, and that the Suit was not maintainable.



17. It was denied that the Plaintiff was the owner and in possession of the Suit Property or that he had purchased the Suit Property from Shri Deepak, *vide* a registered Sale Deed.

18. The Appellants / Defendants *took a defence that the title documents / Sale Deed in favour of the Plaintiff, are false and fabricated.* It was claimed that previously, Defendant No.2 Sita Ram had been inducted as a tenant in the Suit Property, by deceased Jagannath, son of Shri Moti Ram. After his death, the Suit Property was sold by his son, *Badrinath to Smt. Suchint Kumari by virtue of registered Sale Deed dated 02.07.1982. Defendant No.2 Sita Ram, thus, became the tenant of Smt. Suchint Kumari, a fact which was very much in the knowledge of the Plaintiff.*

19. The Defendant No.1, Rajesh Aggarwal admitted that he had duly responded to the Legal Notice sent by the Respondent, to inform him that he had no tenancy rights in the Suit Property and in fact, *his father Defendant No.2 Sita Ram was the owner, since last more than 20 years.*

20. The Defendant No.1 thus, *asserted that there **existed no relationship of landlord-tenant** between him and the Plaintiff and that his father Defendant No.2 Sita Ram, who had been initially inducted in the property as a tenant, had subsequently purchased the property from Smt. Suchint Kumari for a sale consideration of Rs.40,000/-, through GPA, Agreement to Sell, Will, and Receipt, all dated 18.11.1994.*

21. The Defendants / Appellants further asserted that the Plaintiff was not in possession of any valid Sale Deed, and that it was a manipulated document which had no value in the eyes of law. Smt. Suchint Kumari had already sold the property to Defendant No.2 Shri Sita Ram, by executing sale documents dated 18.11.1994. The Defendants denied that they were in



arrears of rent and asserted that the Suit of the Plaintiff was liable to be dismissed.

22. The Plaintiff in his **Replication**, re-affirmed the assertions as made in the **Plaint**.

23. The **Issues on the pleadings** were framed on 20.07.2018, as under :

“(1.) Whether the plaintiff is entitled for the decree of injunction, as prayed for? **OPP**

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

(3.) Whether the plaintiff is entitled for recovery of arrears of rent @ Rs.40/- since 01.01.2017 till 28.02.2017 and @ Rs.44/- since 01.03.2017 and future rent from defendant No.1? **OPP**

(4.) **Whether there is no relationship between the plaintiff and defendants as landlord and tenant? OPD**

(5.) **Relief.”**

24. The Plaintiff in support of his case, examined himself as **PW-1** and proved his documents.

25. The **DW-1 Rajesh Aggarwal**, Defendant No.1, and **DW-2 Sita Ram Aggarwal**, Defendant No.2, deposed in support of their case and produced the photocopies of the notarized GPA, Agreement to Sell, Receipt, and Will, all dated 18.11.1994 in support of their defence.

26. The **learned Civil Judge** relied upon the Judgment of the Supreme Court in Suraj Lamps and Industries P. Ltd. vs. State of Haryana, (2009) 7 SCC 363, (2012) 1 SCC 656, to observe that the Agreement to Sell, etc. aside from being unregistered documents, did not confer any ownership or title in the Suit Property on Defendant No.2. On the other hand, the Plaintiff had the Sale Deed *Ex.PW1/2* and the registered Relinquishment Deed *Ex.PW1/11* in favour of **Vikram Grover**, legal heir of **Smt. Suchint Kumari**.



It was thus, held that the Plaintiff was the owner of the Suit Property.

27. Furthermore, reference was made to the Sale Deed dated 20.12.2016 wherein it was clearly recorded that Defendant No.1 Rajesh Aggarwal was a tenant @ Rs.40/- per month. ***It was thus, held that there existed a relationship of landlord-tenant between the Plaintiff and the Defendants.***

28. Consequently, the ***Suit of the Plaintiff was decreed*** and the Plaintiff was declared as the owner of the Suit Property and the Defendants/Appellants were restrained from creating third party rights. ***Moreover, the recovery of arrears of rent @ Rs.40/- per month from 01.01.2017 were directed to be paid by Defendant No.1 Rajesh Aggarwal till he was in occupation of the Suit Property.***

29. The **RCA No. 27/2024** was filed by the Defendants / Appellants before the Court of **learned Senior Civil Judge**, who vide the Impugned Judgment dated 20.08.2025, upheld the Order dated 07.10.2024 of the learned Civil Judge and also *dismissed the Application under Order 41 Rule 27 CPC* that had been filed by the Respondents, for placing additional documents on record.

30. Aggrieved by the dismissal of the Appeal, the present ***Regular Second Appeal***, has been filed.

31. The ***grounds of challenge*** by the Appellants are that the most crucial fact to be proved by the Plaintiff was the *existence of relationship of landlord-tenant* between himself and Defendant No.1. The learned Trial Court has erroneously relied upon the Sale Deed in favour of the Plaintiff.

32. In the case of *Ramji Dayawala and Sons (Pvt.) Ltd. vs. Invest Import*, (1981) 1 SCC 80 it has been held that mere proof of a document's handwriting or execution, does not, by itself, establish the truth of the facts



stated therein.

33. Ld. Counsel for Appellant has submitted that when the veracity of the document's contents is in question, those facts must be proved independently, through admissible evidence from persons capable of attesting to their truth.

34. Reliance is also placed on Union of India vs. Ibraim Uddin and Anr. (2012) 8 SCC 148, wherein reference was made to *Section 90 of the Indian Evidence Act* in respect of 30 years old documents produced from proper custody with due signatures, execution and attestation, to observe that the contents of such a document to be true or had been acted upon, has to be proved like any other fact.

35. The Defendants / Appellants stated that the Sale Deed in question, is a bilateral document having averments about some third party and cannot be used against such third party.

36. It is asserted that ***Defendant No.2 is the owner of the Suit Property and there is no relationship of landlord and tenant between the parties.*** It has been erroneously observed that the sale documents have not been proved by the Defendants when in fact, *Mark-PX-1 is the Sale Deed in favour of Smt. Suchint Kumari* which also forms part of chain documents of Plaintiff and he claims to have the originals in his possession.

37. It was the Plaintiff in fact, who was required to prove these documents. *In these documents, it is clearly mentioned that Defendant No.2 was a tenant in the said documents.*

38. Additionally, the Plaintiff in his deposition dated 16.02.2019 and 25.09.2019, had unequivocally admitted in his cross-examination *that Defendant No.2 Shri Sita Ram Aggarwal is the tenant in the Suit Property.*



In light of these facts and circumstances, the Trial Court should have taken an adverse inference against the Plaintiff for concealing material facts, but these facts have been misconstrued against the Defendants.

39. It is further stated that the Trial Court failed in understanding the defence of the Defendants that a presumption existed in favour of a duly registered document under the *Indian Evidence Act, 1872*, and that it is presumed that official acts are performed in a proper and regular manner under *Section 114*, illustration-e of *the Indian Evidence Act, 1872*.

40. That the Trial Court had further failed in considering that the Defendants had not pleaded that the document was not executed, presented or registered. Rather, their defence was that since Smt. Suchint Kumari had already sold the property *vide* Agreement to Sale, GPA, *etc.* all dated 18.11.1994, no further sale could have been made in favour of the subsequent purchasers or the Plaintiff.

41. The learned Trial Court's has erroneously made the observation that there was no doubt or suspicion created by the Defendants in respect of the genuineness, authenticity and validity of the Relinquishment Deed, or that the Defendants could not object to further sale of the property by Mr. Vikram Grover to Sh. Deepak and thereafter, to the Plaintiff.

42. The Defendants further stated that the genuineness, authenticity or validity had nothing to do with *the right, title or interest and authority of the person executing the documents which were in question*.

43. The Defendants thus, contended that it was erroneously observed by the learned Civil Judge that the defence of Defendant No.2, of being the owner in the Suit Property, is meritless and holds no water, with reliance being placed on *Section 17 and 49 of the Indian Registration Act, 1908* and



the judgements in Suraj Lamp & Industries P. Ltd. (supra); Bishan Chand vs. Ved Prakash, 2018 SCC OnLine Del 11408; and Shakeel Ahmed vs. Syed Akhlaq Hussain 2023 SCC OnLine SC 1526.

44. That the learned Trial Court failed to take into account that neither these judgments nor *Section 17 or 49 of the Indian Registration Act, 1908* lay down that a Will is required to be registered or that a Will which is not registered, cannot be received in evidence even after the demise of the testator. The existence of a Will, reflects that Smt. Suchint Kumari had not died intestate, but had executed the Will, despite which, this aspect has not been considered.

45. The circumstances that the documents of Title, were filed by the Defendants, ***clearly created a doubt on the title of the Plaintiff.*** Though it was claimed that Smt. Suchint Kumari issued Rent Receipts from 1982 to 1994, but the same had not been placed on record.

46. The finding that upon a specific query during cross-examination, the Defendant No.2 Sita Ram Aggarwal was unable to name the children of Smt. Suchint Kumari, is highly immaterial.

47. Furthermore, the assumptions and presumptions drawn by the two learned Courts, are incorrect for the simple reason that the stamp papers on which documents had been executed in favour of the Plaintiff, are from Sr. No. 2710 till 2712, issued in favour of Smt. Suchint Kumari, on 18.11.1994. The name of *the Stamp Vendor Naresh Kumar, License No.317* is mentioned and the place of issue is Kashmere Gate, Delhi. The seal of Notary Public is that of M.S Mehta Notary which bears his signatures, which is ascertainable.

48. *Once the Defendant No.2 had become the owner*, there was no requirement of him keeping the Rent Receipts from 1982 to 1994. Some of



the Rent Receipts have been filed by the Defendants in Appeal along with Application under *Order 41 Rule 27 CPC*, though the Application was dismissed. Furthermore, it is not in dispute that the Defendant No.2 has been in possession of the Suit Property since long. There was no requirement to prove this fact, when it was an admitted fact.

49. Furthermore, the Sale Deed from Badrinath to Suchint Kumari, clearly mentions that the *Defendant No.2 was the tenant @ Rs.35/- and had been instructed to pay the rent to Suchint Kumari*. The Mutation does not create or extinguish any rights in the property. **The impugned Judgment granting Permanent Injunction or declaring that the Plaintiff/Respondent is the owner, is not substantiated on the facts of the case.**

50. It was incumbent upon the Plaintiff to seek Declaration in respect of *Will dated 18.11.1994 as Null and Void*, prior to claiming a Declaration of ownership. He was under an obligation to take one or more objections available under the Indian Succession Act. The genuineness of the Will in terms of *Indian Succession Act*, has not been judged.

51. The Plaintiff was required to prove the *Relinquishment Deed dated 05.08.2011*, which has not been proved. The succession of the estate of Smt. Suchint Kumari, took place as per *Section 15 of the Hindu Succession Act* and it would have been succeeded by her husband, sons and daughters, in equal share of 1/5th each. There is nothing to show that *Nanak Chand died intestate, as it has not even been mentioned in the pleadings*. The necessary particulars whether the mother of Shri Nanak Chand, had died or not, has also not been mentioned, because 1/5th share of Shri Nanak Chand in the Suit Property of Suchint Kumari, would then have been inherited by



the mother. Moreover, there are other legal heirs/successors of Shri Nanak Chand, namely, Vimmi, Jyoti, Vikram and Pankaj.

52. It is asserted that none can claim a title better than what he himself has, which principle is recognized in various judgments including P. Kishore Kumar vs. Vittal K. Patkar, Civil Appeal No.7210 of 2011, decided on 20.11.2023, wherein it was observed by the Supreme Court that a vendor cannot transfer a title to the vendee, better than he himself.

53. Since Smt. Suchint Kumari did not die intestate but had executed a Will; Vimmi, Jyoti, Vikram and Pankaj did not inherit anything. The *Relinquishment Deed dated 06.08.2011* was a document executed without any right, title and no right could have been created in favour of the Plaintiff.

54. Furthermore, the learned Trial Court failed to read the judgment of Suraj Lamps & Industries P. Ltd. (supra), in its correct context. Reliance is also placed on Bishan Chand (supra).

55. It is further stated that the Sale Deed dated 20.12.2016, it is mentioned that the Defendant No.1 is a tenant in the property. However, how can this Sale Deed be believed wherein it has also been stated that Vendor has handed over physical and peaceful vacant possession to the Vendee and that the same had been taken on the spot.

56. The monthly rent of the property in fact, as per *Sale Deed dated 02.07.1982* was Rs.35/- per month, while the learned Trial Court has wrongly concluded the rent to be Rs.40/- per month as per Sale Deed dated 20.12.2016. As per the Sale Deed dated 20.12.2016, the tax liability of the Respondent/Plaintiff started only after 20.12.2016 when he had purchased the property, but it was stated in the Complaint that the Plaintiff has cleared all



the arrears of House Tax *vide* Receipt dated 03.01.2017 amounting to Rs.32,373/-. The House Tax cannot be for a period subsequent to the Sale Deed *i.e.*, for the period from 27.12.2016 to 03.01.2017. The liability to pay House Tax upto 05.07.2013, was upon Vikram Grover. These facts have been completely overlooked by the learned Trial Court. Even otherwise, the reference to deposit of House Tax, was irrelevant to establish the ownership in the Suit Property.

57. The Civil Courts are not a post office to receive and conceive any document, pleading and hypothesis offered by a Plaintiff, who has approached the Court for a relief. The Plaintiff's case has to stand on its own legs.

58. The Defendant No.1 is mentioned as a tenant in the Sale Deed executed by Deepak, but these facts had not been mentioned in the Sale Deed of Badrinath through which Deepak had eventually purchased the property.

59. A Letter dated 20.12.2016 had been issued by Deepak to Defendant No.1, but this Letter also did not mention that Defendant No.1, is a tenant. This Letter stated that Defendant No.1 shall be paying rent to Vijay Kumar from the date of letter itself *i.e.*, 20.12.2016 which means the Defendant No.1 must have paid the rent till 19.12.2016. However, there is no mention of this fact and the same has not been proved by the Plaintiff.

60. It is not clear why the Plaintiff is claiming rent from 01st January, 2017 and not from 20.12.2016, which is the mandate of the Letter dated 20.12.2016.

61. It is asserted that there is no pleading in the Plaint in regard to the arrears of rent or the Legal Notice dated 31.01.2017 issued on behalf of the



Plaintiff / Respondent Vijay Kumar, the Plaintiff / Respondent or about the payment of rent for the previous periods to the erstwhile owners. Except the rate of rent as Rs.40 per month, none of the other details have been mentioned in the Sale Deed dated 20.12.2016 or in the Letter dated 20.12.2016 of the original landlord. There is no pleading in the Plaint about the terms agreed between the original landlord and Defendant No.1. It was not stated that the tenancy was for a period of three years or that the rent was exclusive of electricity and water charges or that it was payable in advance, in each calendar month.

62. It is thus, claimed that *Defendant No.2 / Appellant No.2 is in possession since long, having acquired the ownership rights from Smt. Suchint Kumari and is carrying all his family business, from the Suit Property.*

63. The requisite documents of Defendant No.2 which had not been placed on record, for which Application under *Order 41 Rule 27 CPC* was filed, which have been erroneously not allowed to be taken on record.

64. The *Declaration of ownership in favour of the Plaintiff*, is erroneous since the property had already been purchased by the Defendant No.2, from Smt. Suchint Kumari. In the Plaint, there is not even a whisper about the status of Defendant No.2 and his relationship to the Suit Property. This is a material concealment about his status in the Suit Property.

65. It has been completely overlooked that *PW1* is not a credible witness. It has not been considered that the facts have been manipulated by the Plaintiff, as there was no mention of Sale Deed in the Letter dated 20.12.2016.

66. Moreover, the relief claimed in the Plaint or in the Application under



Section 14(1)(e) of the Delhi Rent Control Act, 1958 that there was an oral Agreement between his predecessor and Defendant No.1, is contrary to the deposition of *PW1* in his cross-examination that the previous owner Deepak, had not handed over the Rent Agreement between him and the tenant, in respect of the Suit Property. *PW1* did not state that there was no Rent Agreement or that it was an oral tenancy.

67. Both the Courts below have taken an adverse inference against the Defendants for not producing the 25 years old Rent Receipts for the period 1982 to 1994, but no adverse inference had been drawn against the Plaintiff who though claimed that Defendant No.1 was the tenant, but failed to produce even a single receipt or payment of rent by him, to his predecessor. The cross-examination of *DW1* has not been considered, wherein he had explained the entire transaction and the status of the Appellant in the Suit Property.

68. The **substantial questions of law** as raised by the Appellants, are:

- (i) *Whether a substantial error of law was committed by holding that the Sale Deed itself established the relationship of landlord and tenant between the Plaintiff and Defendant No.1, without any independent proof?*
- (ii) *Whether any valid landlord-tenant relationship existed between the Respondent and Appellant No.1 so as to justify a decree for arrears of rent, particularly when no rent had previously been paid or demanded?*
- (iii) *Whether the burden of proving the landlord-*



tenant relationship was wrongly placed on the Appellants, contrary to the settled principle that the party asserting tenancy must prove it?

- (iv) Whether the Courts below erred in relying on a bilateral Sale Deed containing recitals about the third party?*
- (v) Whether the two Courts erred in disregarding the valid and executed Will and other documents in favour of the Appellants?*
- (vi) Whether the Courts misapplied the statutory principles governing burden of proof by requiring the Defendants to prove Issue No.4, when the assertion of ownership and existence of tenancy was solely placed on the Plaintiff?*
- (vii) Whether the Courts below did not apply correctly the legal test by not insisting that Plaintiff prove both ownership of the Suit Property and existence of relationship of landlord and tenant with Defendant No.1?***
- (viii) Whether the Trial Court has committed an error by decreeing a Suit for recovery of rent despite the bar of Section 50 Delhi Rent Control Act?*
- (ix) Whether the Courts erred in holding that the Will had not been produced and presumed intestacy of Suchint Kumari despite the evidence on record?*



- (x) *Whether the Judgment of Suraj Lamp has been erroneously applied to discard the possessory and equitable rights of the Appellant No.2 under the Agreement to Sell etc.?*
- (xi) *Whether the principles laid down in Suraj Lamp and subsequent judgements were applied retrospectively so as to defeat earlier transactions and long-standing possession, without considering the peculiar facts of the case?*
- (xii) *Whether the open, undisturbed possession of the Appellant for over 20 years supported by the Agreement to Sell, etc. can be ignored by relying on technicalities of registration, **contrary to law on adverse possession and part performance under Section 53A of the TPA?***
- (xiii) *Whether non-consideration of material evidence, mis-appreciation of burden of proof and drawing of adverse presumptions without pleadings constitute substantial errors of law warranting interference under Section 100 CPC?*
- (xiv) *Whether the Courts below wrongly assumed pecuniary jurisdiction when the admitted value of the Suit Property is Rs.15,00,000/-?*
- (xv) *Whether the Courts below erred in law by*



treating the mutation entry as proof of title, despite the settled position that such entries serve only fiscal purposes and do not confer ownership?

69. Hence, a prayer is made that the Impugned Judgment of learned Civil Judge as well as that of learned Senior Civil Judge, be set aside and the matter be remanded back for fresh adjudication, with a proper opportunity to the Appellants.

Submissions heard and record perused.

70. The **Substantial Questions of Law** as suggested by the Appellant are reframed as under :

(i) Whether the Respondent/Appellant was able to establish his ownership in the Suit Property on the basis of Sale Deed dated 20.12.2016 executed in his favour by Shri Deepak?

(ii) Whether Shri Sita Ram the Appellant No.2 acquired ownership in the Suit Property by virtue of Agreement to Sell, GPA etc. dated 18.11.1994 executed in his favour by Smt. Suchint Kumari?

(iii) Whether the undisturbed possession of the Appellant for over 20 years supported with Agreement to Sell etc. can be ignored by relying on technicalities of Registration contrary to law on adverse possession and part performance of the Section 53 TPA?

71. The Plaintiff/Respondent had filed a ***Suit for Declaration of***



ownership and arrears of rent from the Appellants.

I. Whether the Respondent Vijay Kumar is the Owner of the Suit Property:

72. *The first challenge raised by the Appellant in the present second Regular Appeal is that the Respondent could not have claimed his ownership on the basis of Sale Deed dated 20.12.2016 executed in his favour by predecessor in interest, Shri Deepak who had earlier purchased the property vide registered Sale Deed dated 05.07.2013 from Sh. Vikram Grover, son/legal heir of erstwhile owner, Smt. Suchint Kumari.*

73. *The Appellants admitted the ownership of Smt. Suchint Kumari, who had purchased the Suit Property by virtue of Sale Deed dated 02.07.1982 from Badri Nath.*

74. The **Respondent** had explained that Smt. Suchint Kumari died intestate and was survived by Vimmi, Jyoti, Vikram and Pankaj. The Relinquishment Deed dated 06.08.2011 Ex.PW1/11 by the three legal heirs in favour of Shri Vikram Grover, was duly proved, establishing that he became the absolute owner. Vikram Grover in turn, sold the property vide Registered Sale Deed dated 05.07.2013 in favour of Deepak, from whom the Suit Property had been purchased by the Respondent/Plaintiff.

75. The **main contention of the Appellants** was that once Smt. Suchint Kumari had sold the property though on the basis of GPA, Agreement to Sell, Will, etc. dated 18.11.1994 to the Appellant No.2 Sita Ram, she was left with no right, title, interest in the Suit Property, and on her demise the Suit Property could not have devolved on her legal heirs.

76. The learned Civil Judge rightly observed that when there was no



doubt or suspicion raised on the *Relinquishment Deed Ex.PW1/11* executed in favour of Shri Vikram Grover, and the same stood duly proved. **Vikram Grover had executed the registered Sale Deed dated 05.07.2013 Ex.PW1/10 in favour of the Shri Deepak, the predecessor in interest and thereafter, a Sale Deed dated 20.12.2016 Ex.PW1/2 was executed in favour of the Plaintiff, establishing the ownership of the Respondent in the Suit Property.**

77. In the context of the challenge raised by the Appellant with respect to the Relinquishment Deed executed in favour of *Vikram Grover*, reference be made to **Section 27 of the Limitation Act, 1963** which provides for the Extinguishment of Right to Property. It states that at the determination of a period thereby limited to any person for instituting a Suit for Possession of any Property, his right to such property shall be extinguished.

78. In the present case, the Appellants never questioned the Relinquishment Deed in favour of *Vikram Grover* or the subsequent Sale Deed dated 05.07.2013 *Ex.PW-1/10* at any point of time and therefore, any challenge to any defect in the Relinquishment Deed stands extinguished in terms of *Section 27 of the Limitation Act, 1963*.

79. Moreover, though there may have been an Agreement to Sell in favour of *Sita Ram*, but it never fructified into a Sale Deed, thereby extinguishing the rights of *Suchint Kumari* in the Suit Property.

80. ***The aforesaid documents including Sale Deed dated 20.12.2016 as duly proved by the Respondent Vijay Kumar, clearly establishes his ownership in the Suit Property.***

81. In light of the Sale Deed dated 20.12.2016 *Ex.PW1/2* coupled with all the chain documents of ownership, ***it was rightly observed by the two***



Courts that the Plaintiff had proved the ownership in the Suit Property; accordingly, held the Respondent as the owner of the Suit Property.

II. Whether Appellant No.2, Sita Ram is the Owner of the Suit Property:

82. The Appellant No.1 had claimed that in fact, it was Appellant No.2 Sita Ram, who was initially inducted as a tenant in the Suit Property by Jagan Nath, father of Sh. Badri Nath. The Suit Property was then sold by Badri Nath to Smt. Suchint Kumari through a registered Sale Deed dated 02.07.1982, under whom Appellant No.2 Sita Ram became a tenant. Appellant No. 2 Sita Ram, thereafter purchased the Suit Property from Smt. Suchint Kumari ***on the basis of Agreement to Sell, GPA, etc., dated 18.11.1994, and he became the Owner.***

83. The claim of ownership of Appellant No.2 Sita Ram was solely based on the notarized GPA *Ex.DW2/A*, Agreement to Sell *Ex.DW2/B*, Affidavit *Ex.DW2/C*, Will *Ex.DW2/D*, and Receipt *Ex.DW2/E*, all dated 18.11.1994, but *it is a settled law that these documents may confer a right to a party to get the Sale Deed executed, but per se, they are not the documents of ownership, in favour of the holder of the documents.*

84. Significantly, the original documents were not produced by Appellant No. 2 Sita Ram. Even if it is accepted that there were GPA, Agreement to Sell, *etc.*, executed in favour of the Appellant No.2, but till such time a Sale Deed on the basis of that Agreement to Sell was executed, no ownership rights can be claimed in the Suit Property, as observed in the case of Suraj Lamp (supra). Furthermore, these documents relied upon by the Appellant, are not even registered to have entitled them for the protection under Section 53A of the *Transfer of Property Act, 1882* (Hereinafter referred to as



‘TPA’). The contentions of the Appellants that Sita Ram became the owner of the Suit Property, therefore, was not proved on record.

85. It was further contended that the Agreement to Sell, GPA, etc., in favour of Sita Ram were of 1994 and the Judgement of Suraj Lamp (supra) came in the year 2009, and it cannot be given retrospective effect.

86. However, this contention that the Judgment was not applicable to the documents executed in 1994, is absolutely fallacious for the simple reason that an Agreement to Sell, GPA, etc., do not *ipso facto* create any ownership in favour of the person holding these documents, as has been held in the case of Suraj Lamp (supra). In the Judgment of Suraj Lamp (supra), it was extensively discussed that the Agreement to Sell, Will, GPA, etc., do not create any right in the immovable property, though the holder of the documents may seek specific performance of these documents or may seek protection of his Possession under Section 53(A) TPA, in case the documents are registered.

87. *The learned Trial Court as well as the Appellate Court, therefore, rightly held that even if these documents in favour of Appellant No.2 are admitted, they do not confer any ownership right in respect of the Suit Property in his favour, in terms of Suraj Lamp (supra).*

88. The Appellants have further contended that there was a Will dated 18.11.1994 also executed by Smt. Suchint Kumari, in favour of Defendant / Appellant No.2 and she did not die intestate. However, this Will was not propagated for all these years by the Appellants and not even proved during the trial, in accordance with law.

89. The original document i.e., Will dated 18.11.1994, has neither been produced nor has it been proved on behalf of the Appellants, in accordance



with *Section 68* of the *Indian Evidence Act, 1872*. No attesting witness has been examined to establish the authenticity of the Will.

90. In order to assert a claim on the basis of the Will, the onus was on the Defendants / Appellants to have proved the Will, in accordance with law, which they have miserably failed to do. **Thus, it cannot be said that Defendant No.2 succeeded in establishing an ownership in his favour, by virtue of the Will dated 18.11.1994.**

91. Further, *Section 49* of the *Indian Registration Act, 1908* provides that a document which is unregistered, does not affect the immovable property and cannot be received in evidence. Merely by referring to documents without proving the same, cannot confer any right, title or interest on the Appellant No.2. The learned Trial Court as well as the Appellate Court, therefore, rightly discarded the plea of ownership, in favour of Appellant No.2.

92. It is, therefore, concluded that the Appellants had miserably failed to prove that Appellant No.2 Sita Ram had acquired ownership rights in 1994 or was occupying the property in the said capacity of owner.

III. Whether Rajesh Aggarwal / Appellant No.1 was the Tenant in the Suit Property:

93. The next significant question is whether Sh. Rajesh Aggarwal, Appellant No.1 is a Tenant, in the Suit Property. Appellant No.1 Rajesh has completely denied being a tenant, by asserting the original tenancy in the name of his father and has taken a stand of never being a tenant in the Suit Property.



94. It was admitted that the *Appellant No.2, Sita Ram Aggarwal*, in fact, had been inducted as a tenant, way back in 1982.

95. The Appellants had filed an *Application* under *Order 41 Rule 27 CPC* in the First Appeal, to place on record various Rent Receipts. This Application, was however dismissed. Even if these Rent Receipts are considered, they only supplement the Sale Deed *Mark-PX-1* dated 02.07.1982 of Badrinath in favour of Smt. Suchint Kumari, wherein it was clearly stated that Appellant No.2 Sita Ram was the tenant. There is no evidence whatsoever, to establish when Appellant No.1 Rajesh was ever inducted as a tenant.

96. The Appellant No.1 Rajesh has categorically denied being a tenant in the Suit Property, by claiming that he was doing business in the Suit Property with his father, who had initially been inducted as a tenant, but had thereafter acquired ownership by virtue of the Agreement to Sell, GPA, etc. This defence had been replicated in the **Written Statement**. The Appellant No.1 Rajesh, therefore, had rightly contended that he was never a tenant in the Suit Property and expressly repudiated the status of a tenant in the Suit Property.

97. This confusion about Appellant No.1 Rajesh being a tenant, commenced from the Sale Deed dated 20.12.2016 *Ex.PW1/2*, executed by Sh. Deepak in favour of Sh. Vijay Kumar, wherein Appellant No.1 Rajesh Aggarwal was stated to be the tenant in the Suit Property, at the monthly rent of Rs. 40/- and it was also recorded that hence forth, Plaintiff / Respondent shall be entitled to recover the Rent from Appellant No.1 Rajesh.

98. Not only this, Sh. Deepak, the erstwhile owner, also served a Letter



dated 20.12.2016 of attornment to the Respondent and also to Appellant No. 1 Rajesh Aggarwal, stating that the Suit Property was sold by Sh. Deepak to the Plaintiff / Respondent Vijay Kumar, and that the Plaintiff / Respondent Vijay shall be entitled to Recovery of Rent from Appellant No.1 @ Rs.40/- per month, from the date of letter itself *i.e.*, 20.12.2016.

99. The contents of the Sale Deed dated 20.12.2016 *Ex.PW1/2* as well as Letter dated 20.12.2016 of attornment, thus, narrated that it was Appellant No.1 Rajesh Aggarwal, who was the tenant.

100. The Plaintiff / Respondent, being the subsequent purchaser, had no personal knowledge about who was the original tenant. On the basis of the information conveyed to him, he had issued a Legal Notice dated 31.01.2017, which had been served upon Appellant No.1 Rajesh Aggarwal for claiming the arrears of rent.

101. In response to this Letter of the Landlord, Appellant No.1 Rajesh had sent a Reply dated 15.02.2017 *clarifying that Sita Ram, father of the Appellant No.1 Rajesh, was the owner of the shop since the last 20 years, which was purchased from its erstwhile owner Smt. Suchint Kumari.*

102. There is not an iota of evidence to establish that Appellant No.1 Rajesh was ever inducted as a tenant, as has also been claimed by him. The confusion occurred due to recitals in subsequent Sale Deed dated 20.12.2016 *Ex.PW1/2*, but Sh. Deepak was not a privy to the earlier events and this recital was contradictory to the earlier sale documents. *It has been established that Appellant No.1 Rajesh was merely in occupation of the Suit Property along with his father, Appellant No.2 Sita Ram who had initially been inducted as a tenant, and was never inducted as a tenant. His status, even as per himself, is not that of a tenant, but of an occupant along with*



his father, Appellant No.2 Sita Ram.

IV. Whether there existed a Relationship of Landlord-Tenant between the Appellants and the Respondent:

103. The *next aspect* which has been raised in the Second Appeal was, whether Appellant No.2 Sita Ram had been in occupation of the Suit Property as an owner as he claimed to have purchased the Suit Property in 1994, and therefore, ***whether there existed no relationship of landlord-tenant between the parties.***

104. The Appellant No.2 Sita Ram had taken a categorical defence that though he had been initially inducted as a tenant, but he ceased to be so since 18.11.1994 when he acquired ownership by virtue of the Agreement to Sell, GPA, etc. It has already been held that these documents did not confer any right any ownership on Appellant No.2 Sita Ram.

105. The **question of law which emerges is, what is the status of a tenant who denounces being a tenant in the Suit Property.** It raises an interesting proposition of law as to whether such claim of Appellant No.2, resulted in forfeiture of his status as a tenant.

106. Section 111(g) TPA deals with Determination of Lease and provides for circumstances in which the lease of immovable property gets determined. It reads as under:

By forfeiture; that is to say,

(1) in case the lessee breaks an express condition which provides that, on breach thereof, the lessor may re-enter; or

(2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself; or



(3) the lessee is adjudicated an insolvent and the lease provides that the lessor may re-enter on the happening of such event; and in any of these cases the lessor or his transferee gives notice in writing to the lessee of his intention to determine the lease.

107. In Mohammad Amir Ahmad Khan vs. Municipal Board of Sitapur and Ors., MANU/SC/0326/1964, while making a reference to the case of Maharaja of Jeypore vs. Rukmini Pattamahadevi, MANU/PR/0154/1919, AIR 1919 PC 1, the Apex Court observed that the principles embodied in *Section 111(g) TPA* are equally applicable to tenancies in which the TPA does not apply, on the ground of the same being in consonance with justice, equity, and good conscious. It was further observed that it was clear law that permanent tenancies are within the rule and *are liable to forfeiture, if there is a disclaimer of tenancy or denial of the landlord's title*. This disclaimer of repudiation of landlord's title, *must be clear and unequivocal and made to the knowledge of the landlord*. It was further observed that where there is a disclaimer of tenancy and repudiation of landlord's title, *it would amount to forfeiture of relationship of landlord and tenant*.

108. In Kundan Mal vs. Gurudutta, MANU/SC/0280/1989, JT 1989 (1) SC 147, it was held that the principle of forfeiture on disclaimer is founded on the rule that a man cannot approbate and reprobate at the same time. Since the consequence of applying the rule is very serious, it must be held that the denial has to be clear and in unequivocal terms.

109. Similar observations were made by the Supreme Court in Majati Subbarao vs. P.V.K. Krishna Rao (Deceased) by Lrs. AIR 1989 SC 2187. It was observed that it is abundantly clear from the decision of the Apex Court



in Kundan Mal vs. Gurudutta, JT 1989 (1) SC 147, that the principle of forfeiture on disclaimer was founded on the rule *that a man cannot approbate and reprobate at the same time*. Since the consequence of applying the rule was very serious, *it must be held that the denial of title has to be clear and in unequivocal terms*. It was further noted that where there is a provision under the Rent Act for eviction on the ground of repudiation of the title, then the remedy with the landlord is only to approach under the Rent Act, as was the case in Rajasthan Rent Law.

110. Certain State tenancy laws provide denial of title of landlord, as a ground for eviction, in which case the remedy for the landlord is to approach under Rent Law, but where there is no such provision in Rent Act as in Delhi, the only remedy remains under the general civil law, to which the *Transfer of Property Act, 1882* is applicable.

111. In the case of Hatimullah and Ors. vs. Mahamad Arju Choudhury MANU/WB/0396/1927, 113 Ind. Cas. 13, this aspect was further explained by observing that where the tenant denies the Plaintiff's title to recover rent on the *bona fide* ground of seeking information of such title or having such title established in a Court of law in order to protect himself, he cannot be charged with disclaiming the Plaintiff's title. *But, where the disclaimer is done not with this object, but with expressed repudiation of tenancy under the Plaintiff, it would operate as forfeiture.*

112. The principle of forfeiture as recognized, was initially stated to be that a denial of title in the Written Statement, cannot be taken advantage of in that Suit, but can be taken advantage of only in a subsequent Suit to be filed by the landlord.

113. However, in the case of Sada Ram & Ors. vs. Gajjan Shiama



MANU/PH/0080/1970, AIR 1970 P&H 511; Shiv Parshad vs. Smt. Shila Rani MANU/HP/0009/1974, AIR 1974 HP 22, it has been held that the proposition that a denial of title in the Written Statement cannot be taken advantage of that Suit, but can be taken advantage of only in a subsequent Suit to be filed by the landlord, *would only lead to unnecessary multiplicity of legal proceedings* as the landlord would then be obliged to file a second suit for ejectment of the tenant on the ground of forfeiture, entailed by the tenants' denial of his character as a tenant in the Written Statement.

114. In Sheikh Miadhar vs. Rajani Kanta Roy, MANU/WB/0481/1909, 5 Ind. Cas. 708, more light was thrown on this aspect, wherein it was held that where in a suit for rent the Defendant denies the Plaintiff's title and claims to hold under a third party, *the Defendant can be, in a Suit for ejectment by the landlord, debarred from pleading his tenancy and claiming protection of possession on that ground.* It was further observed that this principle was embodied in *Section 111(g) TPA*, wherein one of the grounds for forfeiture, was to set up a title in the third person or in himself.

115. In the case of Arjunlal Bhatt Mall Gothani and Ors. vs. Girish Chandra Dutta and Ors., MANU/SC/0326/1973, AIR 1973 SC 2256, similar plea of having acquired ownership by virtue of documents of purchase was raised by the tenant, who further claimed that because of this Agreement, the old relationship of landlord and tenant, had come to any end. It was held that the rights of the parties had to be worked out, on the basis of this subsequent Agreement. **It was obvious that when such Agreements stood cancelled, the landlord would automatically be entitled to possession, under the terms of the Agreement.**

116. In the case of Guru Amarjit Singh vs. Rattan Chand and Ors.,



MANU/SC/0065/1994, AIR 1994 SC 227, the *doctrine of forfeiture* was explained to be founded upon the existence of a lease under jural relationship between a lessor and a lessee, as contemplated under *Section 105 TPA*. It is implicit that if the lease is in operation, the lessor has been given a right to determine the lease for committing breach of a covenant or for disclaimer by the lessee on the happening of any of the events specified therein. The tenant, by repudiation of the relationship of landlord-tenant, exposes himself to the risk of forfeiting his lease and giving a right to the lessor to determine the lease. *The repudiation, however, must be clear and unequivocal and anterior to the issuance of the notice determining the lease.* **Where there was an unequivocal admission of the earlier relationship of landlord-tenant, but denial in the subsequent litigation, the tenant forfeits its right to lease.**

117. The Principles of Forfeiture as encapsulated in *Section 111(g)(2)*, may be crystallized as under:

- (i) *There is denial of title of landlord or the status as a tenant; and*
- (ii) *It must be clear and unequivocal and anterior to the issuance of the notice determining the lease.*

118. Applying the aforesaid principles, in the present case, it is evident that the Appellants had, categorically in clear and unequivocal terms, repudiated the ownership of the Respondent by asserting that the documents of sale on the basis of which they were claiming their ownership was illegal and was not capable of conferring any ownership rights on the Respondent. The Appellants have completely denied the ownership tile of the Respondent Vijay, though it has been proved otherwise.

119. Not only this, in the Reply dated 15.02.2017 given by the Appellants,



a specific plea was taken that Sita Ram had acquired ownership of the Suit Property, and there existed no relationship of landlord and tenant between the parties.

120. The Appellant Sita Ram, as per his own assertions, ceased to be a tenant as his status allegedly, metamorphosed into that of an owner, though the documents of title as discussed above, do not confer ownership on him.

121. There is overwhelming evidence on record to show that there was a complete repudiation of the ownership of the Respondent in the Suit Property. ***Further, there was complete repudiation of the status of Appellant No. 2 Sita Ram in the Suit Property, as a tenant.***

122. The status of appellants as tenant, thus, stood forfeited and it is held that the relationship of Landlord-tenant ceased to exist between the parties.

V. Whether the Suit was barred under Section 50 Delhi Rent Control Act, 1958:

123. An objection has been taken by the Appellants that the present Suit was barred under *Section 50 of the Delhi Rent Control Act, 1958* since the rate of rent was Rs.40/- per month.

124. It has been exhaustively discussed that there is no relationship of landlord tenant, and therefore, *Delhi Rent Control Act, 1958* is not applicable.

125. Moreover, it has been rightly argued on behalf of the Respondent that there is no provision whatsoever under the *Delhi Rent Control Act, 1958* either for declaration of the title or for recovery of rent. These two aspects clearly fall within the domain of Civil Suit and therefore, the present Suit



was maintainable. It is only the eviction or the standard rent, which has specifically governed by *the Delhi Rent Control Act, 1958*; therefore, this objection is also not tenable.

Conclusion:

126. In the light of the above discussion, **it is concluded the Appellants have forfeited their status as tenants under Section 111(g) TPA and it is held that there exists no relationship of Landlord-tenant between the parties.**

127. They being in occupation of the Suit Property without any legal right, title or entitlement or even as a tenant, are liable to pay the occupation charges.

128. The present Suit was for recovery of arrears of occupation charges (*though described as rent*), **is thus, maintainable.** The Plaintiff / Respondent had limited his claim to the rate of Rs.40/- per month, which has been rightly granted by the learned Civil judge and rightly upheld in First Regular Appeal.

129. For the reasons discussed above, the present Appeal, is hereby, **dismissed.**

130. The pending Application(s), if any, also stand disposed of, accordingly.

NEENA BANSAL KRISHNA, J

MARCH 23, 2026/va