



2025:DHC:5017



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

% Judgment delivered on: 25.06.2025

+ **FAO 318/2016**

**R P BAJAJ**

.....Petitioner

versus

**SHIELA KAPUR & ANR**

.....Respondents

**Advocates who appeared in this case**

For the Petitioner : Mr. Pramod K. Ahuja and Mr. Anshul Sharma, Advocates.

For the Respondents : None.

**CORAM:**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**JUDGMENT**

**TEJAS KARIA, J**

**INTRODUCTION:**

1. The Appellant who is the original Plaintiff has challenged the judgment dated 05.12.2015 (“**Impugned Judgment**”) passed by the learned Additional District Judge-04, South District, Saket Courts, New Delhi (“**ADJ**”), whereby the learned ADJ remanded the Suit of the Appellant to the learned Civil Judge-02, (South), Saket Courts, New Delhi (“**Trial Court**”) along with direction to afford an opportunity to the Appellant to



2025:DHC:5017



correct valuation of the Suit for the purpose of court fees and jurisdiction and to pay requisite fees at the market value of the property bearing No. 13, Kaushalya Park, Hauz Khas, New Delhi (“**suit property**”). The learned ADJ held that the Appellant has sought declaration of ownership with regard to the suit property along with the consequential relief of permanent injunction and as such was required to pay *ad valorem* court fees, as per section 7 (iv)(c) or section 7 (v)(e) of the Court Fees Act, 1870 (“**Court Fees Act**”) after valuing the suit property at the market value.

2. The Appellant is aggrieved by the judgment dated 05.12.2015 passed by the learned ADJ, *inter alia*, on the grounds that (i) the Impugned Judgment has not taken into consideration the provisions of the Suits Valuation Act, 1887 (“**Suits Valuation Act**”) and (ii) the learned ADJ has failed to consider that in another suit bearing Suit No. 18 / 2012 titled as “**Vinod Gupta vs R. P. Bajaj**” filed by Respondent No. 2, who was the original Defendant No. 2 for possession of the suit property and recovery of *mesne* profits / damages for the use and occupation, Respondent No. 2 has valued the said suit for the purpose of court fee and jurisdiction at ₹ 4200/-, being the annual rent / licence fee paid by the Appellant.

3. On this ground, the Appellant has submitted that there cannot be two different yardsticks for the same suit property.

### **FACTUAL BACKGROUND:**

4. The plaint as filed by Appellant in the Suit for declaration as well as consequential relief of permanent injunction declaring the Appellant is the owner of suit property by adverse possession states that on 02.06.1975, the Appellant entered into an agreement to purchase a plot measuring 2500



2025:DHC:5017



square yards situated in Kaushalya Park, Kauz Khas, New Delhi with occupation of suit property measuring 440 sq. yards with constructed room.

5. As per the terms of this agreement, it was agreed between the Appellant and Late Smt. Kaushalya Devi that the Appellant either himself or through nominee undertakes to purchase the suit property at ₹350/- per square yard and shall pay the amount in instalment. It was further mentioned in the agreement that this occupation or intended sale of suit property is subject to the condition that if Late Smt. Kaushalya Devi desires the suit property or whole land to be vacated, it shall be done by the Appellant or other occupants, who have been permitted by Late Smt. Kaushalya Devi on receipt of one week notice asking that the land be vacated and in that case the agreement will stand terminated and the only obligation on Late Smt. Kaushalya Devi will be to refund the earnest money or any advances that may have been received after deducting the retainer charges payable by the Appellant for the use of the suit property for the period involved.

6. The Suit filed by the Appellant further states that the Appellant is in possession of the suit property for more than 36 years and, therefore, he filed the present Suit before the learned Trial Court seeking declaration as well as consequential relief of permanent injunction declaring the Appellant is the owner of suit property by adverse possession.

7. The valuation of the present suit is given by the Appellant in para 32 of the Suit filed before the learned Trial Court, and the same is as under-

*“32. That the value for the purpose of court fee and jurisdiction for the relief of declaration is Rs.200/-. On which court fee of Rs.20/- has been affixed and for permanent injunction is Rs.130/- in which court fee of Rs.13/- has been affixed. That as such the total value for the purpose of court fee and jurisdiction is Rs.330/-. As such the total court fee of Rs.33/- has been affixed on the plaint by the*



2025:DHC:5017



*plaintiff.”*

8. At the stage of arguments on the preliminary issue whether the Suit has been properly valued for the purpose of court fees and jurisdiction, the learned Trial Court, *vide* order dated 12.02.2015 observed that the suit property is not properly valued for the purposes of court fees and jurisdiction and rejected the plaint of the Appellant. The relevant extracts are reproduced below-

*“...The present suit is a suit for declaration as well as consequential relief of permanent injunction declaring the plaintiff as owner of the suit property bearing no. 13, Kaushalaya Park, Hauz Khas, New Delhi. The law is apparently clear that where a suit for declaratory decree along with consequential relief is filed the amount of fee payable shall be computed according to the amount at which the relief sought is valued. The value of the suit property has not been mentioned in the prayer clause nor the suit has been properly valued for the purposes of court fee as well as jurisdiction. The judgment relied upon by the defendant categorically and squarely covers the present situation. In view of the above observations and the proposition of law, it is held that suit has not been properly valued for the purposes of court fee and jurisdiction. Accordingly, the plaint is liable to be rejected. Same stands rejected.”*

9. Aggrieved by this rejection of the plaint by the learned Trial Court, the Appellant preferred an appeal before the learned ADJ. The learned ADJ set aside the order dated 12.02.2015 and remanded back the case of the Appellant to the Trial Court with direction that the Appellant be afforded an opportunity to correct the valuation of the Suit for the purpose of court fees and jurisdiction and to pay the requisite court fees.

10. The learned ADJ also directed that the Appellant may ascertain the correct value of the suit property, as per circle rate applicable in Delhi *vide* Notification dated 22.09.2014 bearing No. F.1 (953) /Regn.Br./ DivCom./HQ/ 2014/5943. However, if the correct valuation of the suit



2025:DHC:5017



property for the purpose of court fees and jurisdiction is not possible to be done even with the help of circle rates, the Appellant may be afforded an opportunity to lead evidence for ascertaining the correct valuation of the suit property.

11. Thereafter, the Appellant approached the learned Trial Court but also challenged the order of remand passed by the learned ADJ before this Court under Section 100 read with Section 41 of the Code of Civil Procedure, 1908 (“CPC”). The said appeal filed as regular second appeal was converted into first appeal from order under Order 43 (u) read with Section 104 of CPC pursuant to directions of this Court *vide* order dated 13.07.2016.

12. Following the demise of Respondent No. 1, the only contesting Respondent remaining is Respondent No. 2. In relation to the substitution of the legal representatives of Respondent No. 1, CM No. 15103/2017 was filed under Order XXII Rule 4 and 11 of CPC. This Court disposed of the said Application *vide* order dated 21.04.2017, observing that Respondent No. 1 had never contested the Suit and that rejection of plaint of the Appellant was on account of an application filed by Respondent No. 2. Subsequently, invoking the spirit of Order XXII Rule 4 (4) of CPC, this Court held that it was not necessary to bring the legal representatives of the deceased Respondent No. 1 on record. Accordingly, Respondent No. 2 has remained to be the sole contesting Respondent in the matter.

13. It is also pertinent to note that since 13.07.2016, this Appeal has been listed on more than 30 (thirty) occasions and perusal of the record reflects that the Respondent No. 2 has appeared only intermittently. An opportunity was granted to the learned counsel for Respondent No. 2 to appear and argue the matter on 08.04.2025. However, despite a passover being granted when



2025:DHC:5017



the matter was taken up again, the learned counsel for Respondent No. 2 failed to appear. Accordingly, the matter was heard *ex-parte* after giving sufficient opportunity to Respondent No. 2 to appear and argue the matter.

### **SUBMISSIONS OF THE APPELLANT:**

14. The learned counsel for the Appellant submitted that the learned ADJ failed to apply provisions of the Suits Valuation Act correctly and as the Appellant has uninterrupted possession of the suit property, the suit property should not be valued at market value. It was further submitted that the Appellant should be allowed to value the suit property in the same manner as was done by Respondent No. 2 in his suit for *mesne* profits and possession against the Appellant.

15. The learned counsel for the Appellant has placed reliance on decision of this Court in *Sheila Devi v. Kishan Lal Kalra*, 1974 SCC OnLine Del 136 and the Supreme Court's decision in *Commercial Aviation and Travel Co. v. Vimla Pannalal*, (1988) 3 SCC 423 to submit that plaintiff has a right to place any valuation under paragraph (iv) of Section 7 of the Court Fees Act.

### **ANALYSIS AND REASONS:**

16. To determine the issues involved and evaluate the correctness of findings rendered by the learned ADJ in the Impugned Judgment, it is essential to examine the reliefs sought by the Appellant in the Suit filed before the learned Trial Court. The reliefs sought by the Appellant in the Suit are:

*“a) Decree for declaration may please be passed in favour of plaintiff and against defendants thereby declaring the plaintiff is the owner of 13,*



2025:DHC:5017



*Kaushlya Park, Hauz Khas, New Delhi-110016 of the suit premises by adverse possession.*

*b) Decree for Permanent Injunction be passed in favour of plaintiff and against defendant no. 2 thereby restraining the defendant no. 2 from interfering in the peaceful possession of the plaintiff in the property in question, the defendants be further restrained from dispossessing the plaintiff except by due process of law from the property in question.*

*c) The suit of plaintiff may please be decreed with costs.”*

17. It is not disputed that before the Suit can fall within the ambit of Section 7 (iv)(c) of the Court Fees Act, the relief of injunction must be a consequential relief to the relief of declaration.

18. This Court in ***Sujata Sharma v. Manu Gupta***, 2010 SCC OnLine Del 506 : (2010) 116 DRJ 97 has observed that the term ‘consequential relief’ as used in Section 7 (iv)(c) of the Court Fees Act, refers to a relief that fulfils the following four conditions-

- i. relief must follow directly from the substantive relief;
- ii. its valuation is not capable of being definitely ascertained;
- iii. it is not specifically provided for anywhere in the Court Fees Act; and
- iv. it cannot be claimed independently of the substantive relief.

19. Section 7 (iv)(c) of the Court Fees Act applies to suits where two forms of relief— declaratory relief and consequential relief are so closely linked that if the Court, exercising its discretion, declines to grant the declaratory relief, the claim for consequential relief would necessarily collapse. Thus, one of the essential conditions for a relief to be considered as ‘consequential’ is that it cannot be granted in the absence of declaratory relief to which it is incidental.

20. In other words, the relief must be of such nature that plaintiff is



2025:DHC:5017



required to seek declaratory relief as a necessary precondition to claim the consequential relief. It is against this backdrop that the question whether the relief of injunction sought in the present case constitutes a consequential relief must be considered.

21. In **Anathula Sudhakar v. P. Buchi Reddy (Dead) by LRs. and Others**, (2008) 4 SCC 594, the Supreme Court reiterated the law as to when a suit for permanent injunction can be filed on its own and when it is necessary to also file for a declaration.

“Re: *Question (i)*

13. *The general principles as to when a mere suit for permanent injunction will lie, and when it is necessary to file a suit for declaration and/or possession with injunction as a consequential relief, are well settled. We may refer to them briefly.*

13.1. *Where a plaintiff is in lawful or peaceful possession of a property and such possession is interfered or threatened by the defendant, a suit for an injunction simpliciter will lie. A person has a right to protect his possession against any person who does not prove a better title by seeking a prohibitory injunction. But a person in wrongful possession is not entitled to an injunction against the rightful owner.*

13.2. *Where the title of the plaintiff is not disputed, but he is not in possession, his remedy is to file a suit for possession and seek in addition, if necessary, an injunction. A person out of possession, cannot seek the relief of injunction simpliciter, without claiming the relief of possession.*

13.3. *Where the plaintiff is in possession, but his title to the property is in dispute, or under a cloud, or where the defendant asserts title thereto and there is also a threat of dispossession from the defendant, the plaintiff will have to sue for declaration of title and the consequential relief of injunction.* *Where the title of the plaintiff is under a cloud or in dispute and he is not in possession or not able to establish possession, necessarily the plaintiff will have to file a suit for declaration, possession and injunction.”*

22. The suit property in question is the subject of more than four distinct civil suits. The first was the suit filed by Respondent No. 2 in 1998 against Respondent No. 1, seeking specific performance of an agreement dated 21.05.1975, allegedly executed between Late Smt. Kaushalya Devi and





2025:DHC:5017



Respondent No. 2 for the sale of suit property. It is pertinent to note that the 1998 suit was decreed in favour of Respondent No. 2 *vide* judgment dated 09.11.2000, passed by the learned ADJ, Delhi, and pursuant thereto, a sale deed relating to the suit property was executed on 30.10.2001 in favour of Respondent No. 2 by Respondent No. 1. The second suit was filed by the Appellant against Respondent No. 1, seeking declaration that the agreement dated 30.10.2001 is null, void and not liable to be executable or operative and for cancellation of the said sale deed dated 30.10.2001. The third suit was filed by Respondent No. 2 against the Appellant, seeking possession and *mesne* profits in respect of the suit property. The fourth suit, which the present Suit was filed by the Appellant, against both Respondents No. 1 and 2, seeking declaration as well as consequential relief of permanent injunction declaring the Appellant is the owner of suit property by adverse possession.

23. It is also pertinent to note that the agreement dated 02.06.1975 on which the Appellant has relied on in the present Suit was executed between one Mr. R.P. Kapur and the Appellant for the purchase of suit property. *Prima facie*, it appears that there is no disclosure in regard to the capacity in which Mr. R.P. Kapur, authorised himself to enter into and execute the said agreement in favour of the Appellant.

24. In order to resolve the controversy involved in the present Appeal, the provision of Section 8 of the Suits Valuation Act, 1887 and relevant provisions of Section 7 of the Court Fees Act, 1870 are reproduced below respectively:



2025:DHC:5017



*“8. Court-fee value and jurisdictional value to be the same in certain suits.—Wherein suits other than those referred to in the Court-fees Act, 1870, Section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable ad valorem under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.”*

and

*“7. Computation of fees payable in certain suits.—The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:*

*(i) xxxxxx*

*(ii) xxxxxx*

*(iii) xxxxxx*

*(iv) In suits—*

*(a) xxxxxx*

*(b) xxxxxx*

*(c) for a declaratory decree and consequential relief.—to obtain a declaratory decree or order, where consequential relief is prayed,*

*(d) for an injunction.—to obtain an injunction,*

*(e) for easements.—for a right to some benefit (not herein otherwise provided for) to arise out of land, and*

*(f) xxxxxx*

*(v) for possession of land, houses and gardens—In suits for the possession of land, houses and gardens according to the value of the subject-matter; and such value shall be deemed to be where the subject-matter is land, and*

*(a) xxxxxx*

*(b) xxxxxx*

*(c) xxxxxx*

*(d) xxxxxx*

*(e) for houses and gardens-Where the subject-matter is a house or garden according to the market-value of the house or garden;...”*

25. Upon perusal of the plaint as filed by the Appellant in the present Suit, the Appellant has acknowledged that Respondent No. 2 has created clouds on the title of the Appellant. Therefore, by applying the principles as laid down by the Supreme Court in **Anathula Sudhakar** (*supra*), the Appellant will have to sue for declaration of title and the consequential relief



2025:DHC:5017



of injunction. Based on the facts and circumstances as stated by the Appellant in the plaint and considering the provisions of law as reproduced above, it is clear that the relief of permanent injunction as sought by the Appellant is a consequential relief to the declaratory relief.

26. As regards, the discretion of plaintiff to value the reliefs sought, it was observed in *Shiela Devi (supra)* and *Commercial Aviation (supra)*, that though plaintiff is free to make own estimation of the relief sought in the plaint and such valuation for purposes of court fee and jurisdiction has to be ordinarily accepted, and it is only in cases where it appears to the court on a consideration of facts and circumstances of the case that the valuation is arbitrary, unreasonable and the plaint has been demonstratively undervalued, the court can examine the valuation and can revise the same.

27. It was further observed where there are objective standards of valuation or, in other words, the plaintiff or the court can reasonably value the relief correctly on certain definite and positive materials, the plaintiff will not be permitted to put an arbitrary valuation *de hors* such objective standards or materials. It was further observed that the plaintiff cannot whimsically choose a ridiculous figure for filing the suit most arbitrarily where there are positive materials and / or objective standards of valuation of the relief appearing on the face of the plaint.

28. In the present case, the nature of the relief sought being a declaration of ownership by adverse possession along with a consequential injunction and the existence of objective benchmarks such as the circle rate notification dated 22.09.2014, provides a definite standard for valuation which the Appellant has not taken into consideration.

29. In light of the above discussion, there is no infirmity in the directions



2025:DHC:5017



given by the learned ADJ *vide* the Impugned Judgment. Accordingly, no case for interference with the Impugned Judgment is made out by the Appellant. Accordingly, the Appeal is hereby dismissed. Pending application(s), if any, stands disposed of.

**TEJAS KARIA, J**

**JUNE 25, 2025**

*HK/ns/A*

*Click here to check corrigendum, if any*