



2026:DHC:5087



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Reserved on: 16th March, 2026**
Pronounced on: 8th June, 2026

+ **RFA 991/2023, , CM APPL. 65697/2023 (stay), CM APPL. 65698/2023 (delay) & CM APPL. 65702/2023 (delay)**

SMT. SONU
W/o Shri Naresh
R/o F-215, Gali No.19,
Pul Prahladpur, New Delhi-110044.

.....Appellant

Through: Mr. Narendra Malawaliya, Advocate.

Versus

- HUKAM SINGH (since deceased)**
S/o Sh. Saroppa
Through his LRs
(1a) **SMT. SHEELA**
W/o Late Hukam Singh

(1b) **ROBIN**
S/o Late Hukam Singh

(1c) **DARSHANA**
D/o Late Hukam Singh

(1d) **URMILA**
D/o Late Hukam Singh

All R/o RZF-200, Gali No.18,
Pul Prahladpur,
New Delhi-110044.

.....Respondents

Through: Mr. Nagendra Kasana, Advocate.



CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA
J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Section 96 read with Section 151 CPC has been filed by the *Appellant/Defendant Smt. Sonu* to challenge the *ex-parte Judgment and decree dated 18.10.2019*, whereby the *Suit of the Respondent/ Plaintiff Shri Hukam Singh*, has been partly decreed and the *Appellant has been directed to hand over the Possession of the Suit property and she has been restrained from creating third party interest, in the Suit property.*
2. *The Respondent/Plaintiff Shri Hukam Singh had filed a Suit bearing CS No. 8091/2016 for Possession and Permanent Injunction.*
3. *The facts, in brief*, are that the property bearing No.F-215/19 (Old No.RZH-40A), Mittal Colony, Pul Prahladpur, New Delhi-110044, admeasuring 30 sq. yards (*herein referred to as the "Suit Property"*) was originally owned by Shri Sunil Kumar, who vide Agreement to Sell, etc. dated 21.02.1990 sold the Suit Property to Munna Babu, who in turn sold the Suit Property vide Agreement to Sell, etc. dated 05.11.1993 to Smt. Vishan Devi.
4. The Plaintiff, Hukam Singh purchased the Suit property from Smt. Vishan Devi, his real sister, on 07.03.2004, vide Agreement to Sell etc. for a sale consideration of Rs.2,35,000/- and also acquired the peaceful, vacant possession of the Suit property. He therefore, became an exclusive and sole



owner of the Suit Property. He also got an electricity meter installed in his name on 07.03.2004 and has been regularly paying the electricity Bill.

5. Smt. Vishan Devi was suffering from various age related ailments. The Plaintiff along with his family used to frequently visit her on every alternate day. Smt. Vishan Devi died on 10.06.2014 and the Defendant/Appellant Smt. Sonu, came to attend the funeral. She claimed herself to be the step-daughter of Smt. Vishan Devi, Plaintiff's sister and requested to stay overnight. The Plaintiff being unaware of the malafide motive of Smt. Sonu, permitted her to stay for one night only.

6. However, on her request, he permitted her to stay till the Tehrvi of Smt. Vishan Devi. However, after the Tehrvi ceremony despite repeated requests of the Plaintiff, the Defendant refused to vacate the Suit Property, and with the help of local goons, threatened the Plaintiff with dire consequences. Thereafter, the Plaintiff approached the Police, but no action was taken.

7. The Plaintiff submitted that he had the knowledge that his sister Late Smt. Vishan Devi, had severed all her relations with Smt. Sonu and had debarred and disowned her from all the properties, vide Public Notice dated 27.11.2011 published in Newspaper 'Rashtriya Sahara'. The Plaintiff claimed that the permission granted to the Defendant/Appellant had already been withdrawn and she has no right to continue in the Suit Property, in which she is in possession as a trespasser.

8. He further submitted that the Suit Property could easily fetch a monthly rent of Rs.10,000/- per month, which he is losing and claimed an amount of Rs.10,000/- per month for user and occupation charges. The Suit



was thus, filed by the Plaintiff/Respondent for directing the Defendant to handover the peaceful and vacant possession of the Suit property, and to restrain her from creating any third-party rights in the suit property. The damages for unlawful use and occupation of the Suit Property, were also claimed.

9. The *Appellant/Defendant Smt. Sonu in her Written Statement* took the *preliminary objection* that the Suit is barred by limitation as the alleged sale documents are of the year 2004. Moreover, the value of the Suit Property was more than Rs.24 lakhs and the Court had no jurisdiction. It was further asserted that Smt. Vishan Devi, her mother had not sold the Suit Property to the Plaintiff and no cause of action was disclosed in the Plaint.

10. The Defendant also asserted that she had been residing in the Suit premises since her birth, being the only legal heir of the deceased mother. She had full right, title, interest in the Suit property, and the Suit of the Plaintiff was liable to be dismissed.

11. She further claimed that Plaintiff had hatched conspiracy with BSES, to get the electricity connection transferred in his name, without the consent of the Defendant, who is the owner of the Suit Property after the demise of her mother Smt. Vishan Devi.

12. **On merits**, it is asserted that Smt. Vishan Devi, her mother was the exclusive owner of the Suit Property. She denied that the property was ever sold by her to the Plaintiff, as alleged by him. It is claimed that Plaintiff had made false and fabricated documents of the Suit Property. Moreover, the Suit had not been filed during the lifetime of Smt. Vishan Devi, which shows the clear manipulation by the Plaintiff, to grab the Suit Property.



13. It was claimed by the Defendant/Appellant that she was residing in the Suit Property, as a family member of the Vishan Devi. She denied that she came to attend the funeral of Smt. Vishan Devi on 10.06.2014 or had been permitted to stay in the Suit property by the Plaintiff for a few days, to attend the Tehrvi ceremony. It is claimed that she has an absolute right, title and interest in the Suit property being the daughter of Smt. Vishan Devi and is in possession of the Suit property. It was submitted that the Suit of the Plaintiff was liable to be dismissed.

14. ***The Plaintiff in his Replication*** reaffirmed the assertions made in the Plaint and denied the allegations made in the Written Statement.

15. In the pleadings, the ***Issues*** were framed as under :

- (i) *Whether the Suit of the Plaintiff is not maintainable for want of pecuniary jurisdiction? OPD.*
- (ii) *Whether the Suit Property is inherited by the Defendant as being the Legal Heir of Smt. Vishan Devi w/o Sh. Ramji Lal? OPD*
- (iii) *Whether the Plaintiff has purchased the Suit Property as stated in para 2 of the Plaint? OPP.*
- (iv) *Whether the Plaintiff is entitled for the Recovery of Possession of immovable property ie. property ad measuring 30 sq. yards bearing no. F-215/19 (old no. RZH-40A), Mittal Colony, Pul Prahladpur, New Delhi-110044 specifically shown in the site plan, Annexure A of the Plaint? OPP.*
- (v) *Whether the Plaintiff is entitled for the Decree of Permanent Injunction whereby Defendant is to be restrained from creating any third party interest in the Suit Property i.e. property ad-measuring 30 sq. yards bearing no. F-215/19 (old no. RZH-40A, Mittal Colony, Pul Prahladpur, New Delhi-110044*



specifically shown in the site plan, Annexure A of the Plaintiff? OPP.

(vi) *Whether the Plaintiff is entitled for any damages on account of unlawful occupation, if yes; to what amount and for what period? OPP.*

(vii) *Relief.*

16. The Plaintiff in support of his evidence examined himself, as **PW1**.

17. **PW2 Smt. Rani, sister** and **PW3 Sh. Sonu brother** of the Plaintiff, corroborated the testimony of the Plaintiff.

18. **PW4 Sh. Devender** is a witness to the GPA documents dated 07.03.2004, in favour of the Plaintiff.

19. No evidence was led by the Defendant and her opportunity to lead the evidence, was closed.

20. **Learned District Judge** on appreciation of the evidence and the testimony of the four witnesses, concluded that the Plaintiff, Hukam Singh had purchased the Suit Property by virtue of GPA etc. dated 07.03.2004 from his sister Smt. Vishan Devi. These documents though may not create absolute ownership, but conferred possessory rights to the Plaintiff.

21. The Defendant/Appellant had claimed herself to be the daughter of Smt. Vishan Devi, but had failed to produce any evidence whatsoever, to prove that she was the daughter of Smt. Vishan Devi. Therefore, it was held that the Defendant had not been able to prove herself to be the daughter or possess any right to continue in the Suit premises.

22. In so far as the damages were concerned, it was observed that no cogent evidence had been led by the Plaintiff and the damages were denied.



However, **the Suit for Possession was decreed**, and the Defendant was directed to handover the peaceful possession of the Suit property within four weeks permanently, and was restrained from creating any third-party interest in the Suit property.

23. Aggrieved by the Judgment and Decree dated 18.10.2019, Smt. Sonu, *the Defendant/Appellant has filed the present Appeal.*

24. The Plaintiff had filed Affidavits of four witnesses, in support of her case. The Plaintiff was duly cross-examined by the Counsel for the Appellant. However, on 21.02.2019, when the other witnesses were examined, they could not be cross-examined by the Counsel for the Appellant, since he was suffering from stomach pain/colitis and the Appellant was not available as she had gone out of town for some urgent work. Perhaps, the opportunity of the Appellant/Defendant to cross-examine the Plaintiff's witnesses was, therefore, closed.

25. Thereafter, on 06.05.2019 no steps were taken by the Plaintiff to summon further witnesses, and the evidence of the Plaintiff was closed on that day. The matter was listed on 06.06.2019 for the evidence of the Defendant/Appellant. However, the counsel for the Defendant could not appear as he met with an accident on 06.04.2019 and FIR No.179/2019 under Section 279/337 IPC P.S. Ambedkar Nagar, was registered. The learned Counsel got bed ridden and his mobile got damaged. *The Defendant was therefore, unable to contact the Counsel and none appeared in the Court on behalf of the Defendant on 06.06.2019.*

26. Thereafter, she contacted the previous counsel to know about the status of the case. Then on 17.10.2019 the counsel for the Defendant



inspected the case file and came to know that because of non-appearance of Defendant and the counsel, opportunity to lead evidence by the Defendant was closed on 21.02.2019. The Defendant engaged a new counsel who appeared on 18.10.2019 and filed the Vakalatnama, though *an ex-parte judgment dated 18.10.2019 was announced.*

27. *The Appellant then moved an Application under Order 9 Rule 13 CPC read with Section 151 CPC for setting aside the ex-parte Judgement dated 18.10.2019.* However, the Application was dismissed on 16.08.2022, by observing that no cogent explanation had been tendered by the Appellant.

28. Therefore, on 31.10.2022, LRs of Respondent/Plaintiff filed an *Execution Petition No.417/2022* before learned ADJ, South-East, Saket Court. The *Warrants of Possession* had been issued against the Appellant. The Bailiff reached the Suit property and it is only then, that the Appellant came to know about the filing of Execution Petition qua the ex-parte Judgment.

29. She then contacted her counsel, who inspected the Court file and they came to know about the Execution Petition. The entire set of documents was provided by the Appellant, to her Counsel. After scrutiny, the counsel for the Appellant found that a pre-mediation summon/request letter along with documents and Application, was issued by the *Mediation Centre in Pre-litigation Case No.13/2014* dated 10.11.2014 by late Hukam Singh prior to filing of the Suit, but this fact had been concealed by the Respondent.

30. Reliance is placed on *A.V. Papayya Sastry & Ors. vs. Govt. of A.P and Ors.*, decided on 07.03.2007, wherein the Supreme Court held that the



litigant who approached the Court, is bound to produce all the documents executed by him which are relevant for the litigation. If vital documents are withheld in order to gain advantage on the other side, then he would be guilty of playing fraud upon the Court as well as the opposite party. It was thus, held that the principle of finality of litigation, cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants.

31. The *Objections were filed in the Execution Petition*, wherein the counsel for the Appellant compared the documents i.e. GPA, Will etc., with the documents filed in the Mediation Centre in pre-mediation process. On comparison of the documents, the Appellant realized that forgery, perjury and manipulation in the entire set of title documents filed with the Suit had been done, and the Judgment dated 18.10.2019 and Decree dated 01.08.2023 had been obtained fraudulently.

32. It was claimed that the entire chain of documents qua the Suit property had been manipulated, as a new Municipal Property Number had been mentioned, even though no new number had been allocated to the Suit property.

33. The Appellant claimed that the Respondent is trying to grab the property of the Appellant, through a deep-rooted conspiracy and *has committed perjury and fraud upon the Court*.

34. Furthermore, the *Execution Petition No.417/2022* was not maintainable, as the Decree had been obtained by fraud. The Execution Petition has been dismissed, on 16.05.2023. Thereafter, the Appellant



preferred an Application for Review of the Order, but the same was withdrawn on 11.07.2023.

35. The Respondent had also filed SC No.1525/2015 titled as “Hukam Singh vs. The State” for grant of *Succession Certificate* in respect of employees benefits, etc. of the Appellant’s mother. The Appellant’s name was deleted from the array of parties in the said Petition and it was concealed that the Appellant is the only daughter, entitled to compensation and other benefits, as Smt. Vishan Devi was the Government employee.

36. The *Succession Certificate* was granted, and Hukam Singh along with his brother withdrew the entire amount from the Employer i.e Retirement Benefits GPF etc. A total sum of Rs.10,62,315/- was withdrawn. When the Appellant came to know, she filed an *Appeal against the Order of grant of Succession Certificate*, whereby the *Appeal* was allowed and the grant of *Succession Certificate* which was obtained by fraud, was set aside and the matter was remanded back with directions to array the Appellant Smt. Sonu as a party.

37. The learned ACJ-cum-CCJ-cum-ARC, South-East directed the Respondent to deposit back the entire amount that had been fraudulently withdrawn, under the Certificate of Succession.

38. Reliance is placed on *S.P Chengalvaraya Naidu vs. Jagannath* AIR 1994 SCC (1) 1, wherein the Supreme Court held that fraud avoids all judicial acts, ecclesiastical or temporal. It is settled proposition of law that a Judgment and Decree obtained by fraud, is a nullity and non-est in law.

39. Furthermore, the Supreme Court in the case of *Indian Bank vs. Satyam Fibres (India) Pvt. Ltd.* (1996) 5 SCC 550 held that the judiciary in



India, also possesses inherent power especially under Section 151 CPC to recall its Judgment and Order, if it is obtained by fraud.

40. The Appellant has challenged the impugned Order dated 16.08.2022 and ex-parte Judgment dated 18.10.2019, *on the grounds* that the alleged property documents had been forged and manipulated, to the extent of mentioning new number of the Suit property as F-215/19, Mittal Colony, Pul Prahlad Pur, New Delhi on each document. The signatures of the witnesses were obtained on those documents just before the filing of the Suit, as is evident from the perusal of the documents.

41. The ADJ has failed to appreciate that there was no Agreement to Sell in respect of the Suit Property and the alleged Agreement was without, consideration and is void.

42. It is further averred that from the cross-examination of the Respondent, it is established that he never purchased the Suit property and no documents were ever executed in his favour. The Suit for Possession was therefore, not maintainable, without seeking Declaration.

43. It is settled law that as per the Section 17 of Registration Act read with Section 49 of Registration Act, that where the consideration amount is more than Rs.100/- qua the transfer of immovable property, it must be registered. The transferred documents are all false and fabricated and are unregistered and do not create any right, title, interest in favour of the Plaintiff. Furthermore, these documents were executed in the month of March, 2004, but it was suppressed that at the time of execution of the alleged documents, new property number had not been allotted. This fact has been clarified from the Ration Card in the name of Smt. Vishan Devi



Ex.PW1/3 which had been filed by the Respondent. The Ration Card was issued on 03.11.2004 and the address was mentioned as H-40A, Block Mittal Chowk, Pul Prahlad Pur, Tuglakabad, New Delhi i.e. the old Municipal Number.

44. Furthermore, in Suraj Lamp & Industries Pvt. Ltd. vs. State of Haryana & Anr. SLP (C) 13917 of 2009 and Judgment Ramesh Chand vs. Suresh Chand 2025 INSC 1059 relied by the learned ADJ in the Judgment dated 18.10.2016, is not applicable to the facts in the present case.

45. In Smriti Debbarma vs. Prabha Ranjan Debbarma 2023 Civil Appeal No.178/2019 the Supreme Court held that the Plaintiff must establish his legal title to the property, to be entitled to a Decree of Possession. The Defendant cannot be dispossessed, unless the Plaintiff has established a better right and title over the Suit property. A person who is in possession, is assumed to have a character of owner and has a legal right against the entire world except the rightful owner.

46. It is further submitted that the non-appearance of the Counsel for the Defendant during the cross-examination of some witnesses of the Plaintiff and inability to lead the evidence of the Appellant was for the circumstances explained herein above. It is, therefore, submitted that the impugned Judgment dated 18.10.2019 be set aside.

47. The ***Respondent in reply to the Appeal***, has submitted that the learned ADJ has given cogent reasons for decreeing the Suit, in favour of the Plaintiff. It is further explained that the Application under Order 9 Rule 13 (4) CPC filed by the Appellant, was dismissed vide Order dated 16.08.2022, which has not been challenged further by the Appellant.



48. Furthermore, first *Execution Petition No.417/2022* was dismissed for want of Decree Sheet, as the counsel for the Plaintiff had inadvertently forgotten to deposit the deficit Court Fee of Rs.231/- and Decree sheet was not prepared. Deficit Court Fee was deposited, thereafter second *Execution Petition No.612/2023* was filed, which is pending adjudication.

49. It is submitted that the Suit Property was self-acquired property of the Plaintiff's sister, from whom the Plaintiff had purchased the Suit Property. The Succession Certificate in his favour in respect of the movable properties of Late Smt. Vishan Devi, has already been granted. It is, therefore, submitted that there is no merit in the present Appeal, which is liable to be dismissed.

50. The *Appellant in the Rejoinder* has reaffirmed the grounds as stated in the Appeal.

Submissions heard and record perused.

51. *The Plaintiff/Respondent had filed a Suit for Possession on the basis of the Agreement to Sell etc. executed in his favour. He had explained the chain of ownership and had deposed that the Suit Property was purchased by Munna Babu from Sunil Kumar through Agreement to Sell, GPA etc. dated 21.02.1990 Ex.PW1/14 and Ex.PW1/15 respectively. Thereafter, Shri Munna Babu sold the property to Smt. Vishan Devi the real sister of the Plaintiff vide Agreement to Sell, GPA, Receipt etc. dated 05.11.2019 Ex. PW1/10 to Ex.PW1/13.*

52. Smt. Vishan Devi, the real sister sold the Suit Property to the Plaintiff vide GPA, Agreement to Sell, etc. dated 07.03.2004 which are



Ex.PW1/4 to Ex. 1/9. PW1 Sh. Hukum Singh, the Plaintiff, who proved these documents, was duly cross-examined by the Defendant, but no contradiction could be brought forth in the cross-examination.

53. The only aspect on which the Appellant challenged the genuineness of the document, was that the new Municipal Number i.e. F-215/19 was mentioned in the Agreement to Sell, when in fact this new number had not been allocated to the Suit Property. The Plaintiff may have mentioned the new property number, but the identity of the property is not in question. Pertinently, no cogent evidence has been laid by the Appellant to prove that these documents were fraudulent. Merely because the new property number has been mentioned would be of little consequence in view of the identity of the property not being in dispute.

54. The entire chain of documents in respect of the purchase of the Suit property from Sunil Kumar till the Plaintiff, have been duly proved. The chain of documents coupled with those in favour of the Plaintiff, therefore, established that the Plaintiff acquired proprietary rights in the property in question vide documents dated 07.03.2004, and that he acquired the legal possession in the Suit Property.

55. Smt. Vishan Devi being the sister of the Plaintiff, may have continued to reside in the Suit property, but the Plaintiff acquired proprietary/possessory rights in the Suit Property. It is established that the possession of Smt. Vishan Devi was merely permissive, once the property was purchased by the Plaintiff, on 07.03.2004.

56. The Plaintiff deposed that Smt. Vishan Devi was residing in the Suit Property till her demise, on 10.06.2014. According to his testimony, the



Appellant Smt. Sonu, came to attend the last rights of Smt. Vishan Devi and was permitted by him to occupy the Suit premises, but thereafter she refused to vacate.

57. The Appellant had claimed that she had been residing with Smt. Vishan Devi. The Plaintiff had admitted that the marriage of the Appellant took place on the Suit premises. The Appellant may have been living with Smt. Vishan Devi during her lifetime and may have gotten married from the suit premises, but thereafter, it is only Smt. Vishan Devi who was residing in the Suit Property. The Appellant has not been able to show that she has any legal right to continue in the premises, once it got sold to the Plaintiff.

58. The controversy of the Appellant being the real or the step daughter, is of little consequence, in the light of the proprietary documents executed in favour of the Plaintiff/ Respondent and were duly proved. Likewise, much emphasis has been laid by the Appellant that a Succession Petition in respect of the movable goods of the deceased Smt. Vishan Devi, who was a Government employee, was filed.

59. Though, the appellant, Smt. Sonu was a party initially, but her name was deleted and the Succession Certificate was issued in the name of the Respondent and he along with his brother, withdrew the benefits of Smt. Vishan Devi in the sum of Rs.10,62,315/-.

60. The Appellant thereafter, filed an Application and the Succession Certificate so granted in favour of the Respondent, was set aside and the case was re-opened. Not only this, the Respondent was directed to deposit the released amount, back in the Court.



61. Now this aspect again is of little consequence in the present Suit, which was solely based on the proprietary right of the Plaintiff, to claim the Possession of the Suit property. Whatever may be the status of the Appellant, she is deriving it from Smt. Vishan Devi. Once, it is proved that Smt. Vishan Devi had sold the Suit Property to the Plaintiff, the Appellant cannot claim any superior rights than Smt. Vishan Devi.

62. The learned ADJ has thus, rightly held that on the basis of the GPA, etc. the Plaintiff was able to establish his better title over the Appellant, in respect of Suit property. He may not be an absolute owner in the classical sense of having a Sale Deed in his favour, but he had better proprietary title than the Appellant, who has not been able to establish any right, title, interest in the Suit property. *The learned ADJ, therefore, has rightly decreed the Suit of the Plaintiff for Possession and Injunction from restraining the Appellant from creating any third party rights in the Suit property.*

63. *There is no merit in the present Appeal, which is hereby, dismissed.*

64. The pending Application(s), if any, are also disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 8, 2026

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