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

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Judgment Reserved on: 15.05.2026

Judgment Delivered on: 08.07.2026

+ **CS(OS) 344/2020 and I.A. 10463/2020, I.A. 12458/2022, I.A. 12459/2022, I.A. 21097/2022, I.A. 3087/2023, CRL.M.A. 5747/2023, I.A. 8557/2023, I.A. 24514/2023 & I.A. 3061/2026**

RAKESH SACHDEVA

.....Plaintiff

Through: Mr. Biraja Mahapatra and Mr. Abhay Singh, Advocates.

versus

RAJESH SACHDEVA

.....Defendant

Through: Mr. T.K. Ganju, Sr. Advocate with Mr. Vivek Singh, Ms. Kirti Mewar, Ms. Kriti Sharma and Mr. Kartik Shoukeen, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J

I.A. 580/2023 (under XII Rule 6 read with Order VII Rule 11 read with Section 151 CPC by the defendant)

1. The facts in brief as borne out from the record are that the captioned suit was filed by the plaintiff on 06.11.2020 claiming ownership of the entire property comprising of basement, ground floor, first and second floors at B/1/2, Pramod Mahajan Marg, Saket, New Delhi [hereinafter referred to as 'the building'] on the plea of adverse possession.

2. Subsequently, the plaintiff moved an amendment application under Order VI Rule 17 CPC and thereby explicitly abandoned the plea of



ownership by hostile and adverse possession, and in the amended plaint, the plaintiff prayed only for recovery of possession of the 'ground floor' of building [hereinafter referred to as 'suit property'] under Section 6 of the Specific Relief Act, 1963 [in short, 'Act'], not on the basis of his title, but only on the ground that he was allegedly dispossessed illegally on 26.10.2020.

3. The amended plaint which has been placed on record seems to have been signed and verified in February, 2021. The defendant filed his written statement to the amended plaint taking, *inter alia*, a preliminary objection that the suit is barred by limitation as there is sufficient material on record to suggest that the defendant is in continuous uninterrupted possession of the suit property for a long period, not less than six months from the alleged dispossession.

4. Later on, the defendant filed the present application under order VII Rule 11 read order XII Rule 6 CPC seeking rejection of plaint in terms of the admission of the plaintiff and further praying for passing a judgment thereby dismissing the suit of the plaintiff.

5. It is alleged in the application that the defendant is the recorded owner of the suit property. It is further stated that the defendant/applicant has filed a suit for recovery of possession and *mesne* profit being CS-DJ No.9302/2016, titled as *Rajesh Sachdeva v. Rakesh Sachdeva*, against the plaintiff herein with respect to the recovery of possession of first floor, second floor and basement of the building and the remaining portion of the said property, except ground floor, front and back open yard and terrace, which were always in possession of the defendant/applicant.

6. It is stated that in the aforesaid civil suit i.e. CS-DJ No.9302/2016, the



defendant/applicant moved an application under Order VII Rule 14 CPC for bringing the registered lease deed dated 20.08.2015 *qua* the ground floor (i.e. the suit property) on judicial record for the purpose of proving the prevailing rate of rent based on which the defendant/applicant could claim *mesne* profit in the said suit. The relevant para 3 of the application, reads thus:

“3. That in order to prove damages, the plaintiff places reliance upon the lease deed dated 20.08.2015 executed by the plaintiff himself in favour of one Ms. Shobha Rani Gupta, Advocate in respect of the ground floor of the property in question. The said lease deed has been duly registered in the office of Sub-Registrar vide registration No. 4758 in Book No.I, Volume No. 1144, pages 158 to 169.”

(emphasis supplied)

7. In reply to the said application, filed by the plaintiff herein on 15.04.2017, particularly in para 1 of the preliminary objections, it was specifically pleaded as follows:

“1. That the answering defendant is in possession of the ground floor of the property since 31.10.87 as it was handed over by Shri Bhagwan Din as explained in WS. Defendant permitted his parents to occupy and use the ground floor of the said property out of love and affection. Mother of the defendant expired on 18.01.2015. Defendant never asked his father to vacate the ground floor due to his old age. **On seeing this document the defendant is shocked to note that plaintiff had illegally & unlawfully leased the said floor. Defendant reserves his right to seek possession back in accordance with law and shall soon begin/initiate the process.”**

(emphasis supplied)

8. It is the case of the defendant/applicant that by way of reply filed by the plaintiff herein, who is the defendant in the said suit, a categorical admission has been made admitting that the possession of the suit property



i.e. ground floor of the building was not with the plaintiff at least on or before 15.04.2017, and accordingly, the plaintiff sought to reserve his right to seek possession back in accordance with law.

9. It is stated in the present application that certified copy of the application dated 20.10.2016 filed by the defendant/applicant under Order VII Rule 14 CPC in the aforesaid suit i.e. CS-DJ No.9302/2016, as well as, the reply thereto dated 15.04.2017 filed by the plaintiff herein, have been placed on record along with the written statement.

10. Mr. T.K Ganju, learned Senior Counsel appearing on behalf of the defendant/applicant submits that the present suit, filed in November 2020, is barred by limitation. He further submits that a suit under Section 6 of the Act must be filed within six months of dispossession, whereas the plaintiff's own admission in the reply dated 15.04.2017 before the Ld. ADJ establishes that he was not in possession of the ground at least as on said date.

11. He contends that the defendant is the sole, absolute, and lawful owner of the building including the suit property by virtue of sale deed dated 06.12.1990 and conveyance deed dated 01.02.2001, and that the Defendant had permitted the plaintiff, who is his brother, a permissive use of the building, which does not include the ground floor, for his residence, on purely a license basis without any consideration, in view of the close relationship between the parties.

12. He further contends that subsequently, the relationship between the parties got strained, *inter alia*, on account of the ill-treatment of parents of the parties by the plaintiff. The father of the parties published public notices in daily newspapers, thereby disowned and severed all relations with the plaintiff and even made his wish that plaintiff/Rakesh Sachdeva should not



lit his pyre.

13. He submits that on account of above, defendant had terminated the license of the Plaintiff *vide* notice dated 15.06.2009 and subsequently, filed a suit, being CS DJ No. 9302/2016, for Decree of possession, Permanent injunction and *mesne* profits against the plaintiff in respect of the Basement, First and Second Floors of the Building. The ground floor of the building, at all times, was in the exclusive occupation, possession and under the lock and key of the Defendant.

14. He argues that the plaintiff deliberately concealed material facts, and the proceedings of aforesaid suit [CS DJ No. 9302/2016], including the pleadings of the application under order VII Rule 14 CPC, which demonstrate that the plaintiff was never in possession of the ground floor.

15. Mr. Ganju places strong reliance on a reply dated 15.04.2017 filed by the plaintiff to the application under Order VII Rule 14 in CS DJ No. 9302/2016, to contend that the plaintiff has categorically admitted that he was not in possession of the ground floor at least as on 15.04.2017 and sought to reserve his right to seek possession back in accordance with the law.

16. He submits that the date of 26.10.2020 as the date of alleged dispossession, that has been pleaded in the present suit, is a false and concocted averment, deliberately inserted in the plaint to bring the suit within limitation, whereas the admission suggests otherwise.

17. Mr. Ganju places reliance on the judgment of the Hon'ble Supreme Court in *Ramisetty Venkatanna vs. Nasyam Jamal Saheb (2024) 18 SCC 426* to contend that clever drafting creating an illusion of a cause of action should be nipped in the bud. He also relies upon the decision of Hon'ble



Supreme Court in *Nagindas Ramdas vs. Dalpatram Ichharam (1974) 1 SCC 242* to assert that judicial admission or admissions in the pleadings, are fully binding; and in *Keshav Chander Thakur vs. Krishan Chander 2014 SCC OnLine Del 3092* to contend that the Court can pass a decree on judicial admissions.

18. Mr Ganju further submits that the wife of the plaintiff namely, Smt. Sadhna Sachdeva has filed a Suit No. 407/2017 before the Ld. SCJ, Saket Courts, wherein at para 5 she categorically stated that the ground floor is in the exclusive possession of the defendant/applicant herein, who has kept a tenant and is realising rent. To buttress his contention he has also brought to the attention of this Court the said para 5 of the suit filed by the plaintiff's wife. He further submits that the plaintiff herein in the written statement filed by him in the said suit did not deny the said assertion. He thus, contends that the assertion made by wife shall be deemed to have been admitted in view of the doctrine of non-traverse as enshrined in Order VIII Rule 5 CPC. To fortify his submission, Mr. Ganju places reliance on *Lohia Properties (P) Ltd., Tinsukia, Dibrugarh, Assam v. Atmaram Kumar, (1993) 4 SCC 6*.

19. Mr. Ganju also places reliance on the decision of the Division Bench of this Court in *Babita Pal & Ors. v. Jagdish Bansal, 2012 SCC OnLine Del 6043*, to contend that while deciding an application filed under Order VII Rule 11 CPC, apart from the plaint and the documents filed with the plaint, the Court can also see the documents which ought to have been filed with the plaint but have deliberately been withheld by the plaintiff.

20. Elaborating further, he submits that the pleadings of the application under Order VII Rule 14 CPC filed by the defendant/applicant in CS-DJ



No.9302/2016, as well as, the pleadings of the Suit No.407/2017 before the learned SCJ, Saket Courts, New Delhi filed by the plaintiff's wife, were material for the purpose of deciding the issue of limitation in the present case and the same have deliberately been withheld by the plaintiff, therefore, this Court could look into the said documents while deciding the present application.

21. *Per contra*, Mr. Biraja Mahaptra, learned counsel appearing on behalf of the plaintiff vehemently opposes the application and submits that the suit was filed well within the limitation period.

22. He submits that the plaintiff has specifically pleaded in the plaint that the cause of action arose on 26.10.2020, when the defendant forcibly removed the belongings of the father and seized possession of the ground floor.

23. He contends that for the purpose of deciding the application under Order VII Rule 11 CPC, only the contents of the plaint have to be seen which shows that the cause of action is within the period of six months, thus, the suit is not barred by limitation.

24. He submits that the limitation is a mixed question of law and fact, therefore, it is a triable issue necessarily requiring leading of evidence and the same cannot be decided summarily under Order VII Rule 11 CPC or under Order XII Rule 6 CPC. In support of his contention, he places reliance on the decision of the Hon'ble Supreme Court in *Maria Margarida Sequeira Fernandes and Ors. v. Erasmo Jack De Sequeira (Dead) Through LRs. (2012) 5 SCC 370*.

25. He submits that the reply of the plaintiff to the application of the defendant/applicant under Order VII Rule 14 CPC filed in CS-DJ



No.9302/2016, if read as a whole, would reveal that there is no clear and unequivocal admission.

26. He places reliance on the decision in *Balraj Taneja and Anr v. Sunil Madan and Anr. (1999) 8 SCC 396*, as well as, the decision in *Nisha Chandola v. Manoj Sharma (2026) SCC OnLine Del 1206*, to contend that admission has to be clear and unequivocal for the court to pass a judgment on admission.

27. I have heard Mr. T.K. Ganju, learned Senior Counsel for the defendant/applicant, as well as, Mr. Biraj Mahapatra, learned counsel for the plaintiff/non-applicant.

28. A short question which arises for consideration of this Court in the present application is that whether at this interlocutory stage, the plaintiff could be non-suited only on the ground of limitation.

29. As noted above, the suit has been filed by the plaintiff under Section 6 of the Act seeking possession of the suit property. To appreciate the limited controversy, relevant would it be to extract Section 6 of the Act, which reads as follows:

“6. Suit by person dispossessed of immovable property.—

- (1) *If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.*
- (2) **No suit under this section shall be brought—**
 - (a) **after the expiry of six months from the date of dispossession; or**
 - (b) *against the Government.*
- (3) *No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any*



such order or decree be allowed.

- (4) *Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.”*

(emphasis supplied)

30. A perusal of the above quoted provision makes it clear that in order to establish the claim under Section 6 of the Act, following three things are required to be established:

- (i) The plaintiff was in possession of the suit property.
- (ii) The plaintiff has been dispossessed without his consent otherwise than in due course of law.
- (iii) The suit for recovery of possession has been filed within the period of six months from the date of the alleged dispossession.

31. The object of Section 6 of the Act is speedy disposal of cases so that the legally ousted person is put back to possession giving liberty to other party to sue for possession on the basis of title. However, in a suit for possession under Section 6 of the Act, the question of title is irrelevant, and the suit is maintainable only by virtue of previous possession.

32. Evidently, sub-section 2(a) of Section 6 bars instituting of a suit after six months from the date of dispossession. Reference in this regard may also be had to the decision in *Tirumala Tirupati Devasthanams v. K.M. Krishnaiah, (1998) 3 SCC 331*, where the plaintiff had alleged that he had been dispossessed from the suit property and the suit for possession had been filed beyond six months of dispossession, it was held to be not maintainable, the same being barred by limitation. It is against this backdrop of settled legal position that the facts of the present case have to be tested.

33. The present suit was initially filed by the plaintiff on 06.11.2020



claiming possession of the suit property on the plea of ownership by hostile and adverse possession. The plaint was subsequently amended, and the suit was converted to one for recovery of possession under Section 6 of the Act, not on the basis of the title, but only on the premise that the plaintiff was allegedly dispossessed illegally on 26.10.2020. Such amendment was allowed *vide* order dated 10.02.2021 and the amended plaint came to be filed on or about 05.02.2021.

34. In the amended plaint, the plaintiff has pleaded alleged dispossession on 26.10.2020, however, a perusal of para 3 of the application filed by the defendant/applicant under Order VII Rule 14 CPC in a suit for recovery of possession and *mesne* profit filed by him i.e. CS-DJ No.9302/2016, shows that it was specifically alleged therein, that the defendant/applicant herein executed a lease deed dated 20.08.2015 in favour of one of Ms. Shobha Rani Gupta, Advocate in respect of the suit property i.e. ground floor of the building.

35. In reply to the said application filed by the plaintiff herein on 15.04.2017, the following stand was taken in respect of the ground floor i.e. the suit property: “..... *On seeing this document the defendant is shocked to note that plaintiff had illegally & unlawfully leased the **said floor**. Defendant reserves his right to seek possession back in accordance with law and shall soon begin/initiate the process*”. Clearly, the plaintiff referencing to the lease deed dated 20.08.2015 executed by the defendant/applicant herein *qua* the ground floor (i.e. the suit property) in favour of one Ms. Shobha Rani Gupta, made a categorical admission in the pleadings about the fact that he is no more in possession of the suit property and will take steps to recover the possession thereof by taking legal recourse at the earliest.



36. This reply was filed by the plaintiff on 15.04.2017, suggesting in unequivocal terms that the plaintiff was not in possession of the suit property at least on, or even before, 15.04.2017.

37. The said admission made by the plaintiff herein, is clear, categorical and unambiguous. The law is well settled that admissions in pleadings or judicial admissions, admissible under Section 58 of the Evidence Act stand on a higher footing than evidentiary admissions. Reference in this regard may be had to the decision in *Nagindas Ramdas* (supra) wherein it was observed as under:

"27.xxxxxx Admissions in pleadings or judicial admissions, admissible under Section 58 of the Evidence Act, made by the Parties or their agents at/ or before the hearing of the case, stand on a higher footing than evidentiary admissions. The former class of admissions are fully binding on the party that makes them and constitute a waiver of proof. They by themselves can be made the foundation of the rights of the parties. On the other hand, evidentiary admissions which are receivable at the trial as evidence, are by themselves, not conclusive. They can be shown to be wrong. "

(emphasis supplied)

38. Indubitably, the plaint was originally filed on 06.11.2020, which is after more than three years of above referred admission in the reply dated 15.04.2017. Based on such admission, the suit is clearly beyond the period of six months as provided in Section 6 of the Act and is thus, barred by limitation.

39. Mr. Biraja Mahaptra, learned counsel for the plaintiff/non-applicant has argued that for the purpose of deciding the application under Order VII Rule 11 CPC, only the contents of the plaint have to be seen, which in the present case clearly shows that the dispossession of the plaintiff occurred on



26.10.2020, therefore, the pleaded cause of action is within the period of six months of the filing of present suit filed on 06.11.2021.

40. This Court does not, however, find favour with the submission of Mr. Mahapatra. A Division Bench of this Court in ***Babita Pal*** (supra) has held that for rejection of plaint under Order VII Rule 11 CPC not only the plaint but the documents which ought to have been filed with the plaint but were deliberately withheld by the plaintiff can also be seen. The relevant extract from the said decision reads thus:

“14.....It is well settled that for rejection of a plaint under Order VII Rule 11 CPC, all that can be seen is the plaint, the documents filed with the plaint and the documents which ought to have been filed with the plaint but which have deliberately been withheld by the plaintiff. The defence that the appellants may set up in their written statement cannot be the basis of an application under Order VII Rule 11 CPC.”

(emphasis supplied)

41. An application filed by the defendant/applicant under Order VII Rule 14 CPC in CS-DJ No.9302/2016, as well as, a reply thereto filed by the plaintiff herein, are material documents for the purpose of deciding the question of limitation and the same ought to have been filed by the plaintiff with the plaint but it seems that the plaintiff deliberately withheld them and projected an illusionary cause of action alleging that the plaintiff was dispossessed on 26.10.2020, to bring the suit within the period of limitation.

42. Intriguingly, it is not the case of the plaintiff that after his dispossession from the suit property i.e. ground floor, he had issued a notice to the defendant/applicant or filed any complaint with the police. By merely pleading an illusionary cause of action, the plaintiff cannot be permitted to circumvent the provisions of the limitation Act, when from the admission in



the reply to the application under Order VII Rule 14 CPC in CS-DJ No.9302/2016 it is *ex facie* borne out that the suit is not within limitation. Thus, it is not a case where the limitation could be said to be a disputed question of fact.

43. Incidentally, the plaintiff in reply to the present application has not even denied the fact that reply to the application under Order VII Rule 14 CPC in CS-DJ No.9302/2016 was filed by him on 15.04.2017 wherein it is stated that he shall soon be taking steps to recover back possession of the suit property i.e. the 'ground floor' of the 'building'. Further, the plaintiff has neither explained nor controverted in any manner the said admission made in the reply to the application under Order VII Rule 14 CPC. He has also not denied the existence of registered lease deed dated 20.08.2015 with the tenant, that was specifically pleaded by the defendant/applicant in his application under Order VII Rule 14 CPC.

44. Therefore, given the fact the application filed by the defendant/applicant under Order VII Rule 14 CPC and the reply thereto filed by the plaintiff, are not in dispute, it is a fit case for the Court even to exercise powers under Order XII Rule 6 CPC on the basis of clear admission made by the plaintiff as regard his dispossession from the suit property at least on, or even before, 15.04.2017, and hold that the suit is barred by limitation, even assuming *arguendo* that the aforesaid application and reply thereto cannot be looked into for the purpose of rejection of plaint under Order VII Rule 11 CPC. Notably, the present application has been filed by the defendant/applicant by invoking both the provisions i.e. Order VII Rule 11 CPC read with Order XII Rule 6 CPC.

45. At this juncture, it would be advantageous to refer to the decision of



the Division Bench in *Keshav Chander Thakur* (supra) wherein the Court while deciding application under Order VII Rule 11 CPC, though did not entertain a plea under the said provision, but still exercised the powers under Order XII Rule 6 CPC to *suo moto* pass a judgment based on pleadings and admitted documents on record. The relevant extract from the said decision reads thus:

“38. We concur with the view of the learned Single Judge. However, we may like to note that the learned Single Judge has exercised powers under Order VII Rule 11 CPC while rejecting the plaint. The scope of exercise of powers under Order VII Rule 11 CPC is limited by the contours of the provision. While exercising those powers what has to be seen is only the averments in the plaint and the documents filed alongwith the plaint. The defence as taken in the written statement is not to be gone into for the said purpose. To that extent, the judgment of the learned Single Judge may suffer from an infirmity. However, in our view given the nature of pleadings and admitted documents on record and the extensive arguments advanced by the parties on the issues discussed herein, this was a fit case for the Court to exercise powers under Order XII Rule 6 CPC where the Court has powers to suo moto pass a judgment. There is no requirement in Order XII Rule 6 CPC for filing of a formal application. The Court can on its own motion without any application by a party proceed to pass a decree on admissions as stated in Order XII Rule 6 CPC. Order XII Rule 6(i) CPC reads as follows : -

“6. Judgment on admissions.- (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may thing fit, having regard to such admissions.”

In our view based on the pleadings and documents placed on record by the parties there are clear admissions of fact which warrant passing of the order of dismissal of the plaint.”



(emphasis supplied)

46. However, before parting, the decisions relied upon by the plaintiff may also be adverted to. The reliance placed by the learned counsel for the plaintiff on *Maria Margarida Sequeira Fernandes* (supra) is misplaced. The said decision primarily deals with the maintainability of a caretaker's suit for injunction against the true owner, and importance of pleadings and documents in a suit for possession, and the duty of courts to critically examine pleadings and documents at the threshold. Far from assisting the plaintiff's case, the ratio in the said decision actually supports the defendant's position, inasmuch as the Hon'ble Supreme Court therein emphatically held that courts must carefully and critically examine the pleadings and documents, and that if the pleadings do not give sufficient details, they will not raise an issue, and the court can reject the claim or pass a decree on admission.

47. Likewise, the reliance placed by the learned counsel for the plaintiff on *Balraj Taneja* (supra) is also misplaced. In this case the suit was for specific performance in which the High Court had decreed the suit under Order VIII Rule 10 CPC solely because the written statement had not been filed, without any examination of the plaint, and the observation of the Hon'ble Supreme Court's cautioning against acting blindly upon deemed admission was in that wholly distinct setting where there was no independent judicial admission by the plaintiff. In contrast, in the present case, the defendant/applicant is not invoking the doctrine of non-traverse but there is a positive and unequivocal admission made by the plaintiff in the proceedings before another court, which the plaintiff has not denied or explained even in his reply to the present application.



48. Lastly, even decision in *Nisha Chandola* (supra) does not assist the plaintiff's case. The said decision was a case where the plaintiff sought judgment on admission under Order XII Rule 6 CPC on the basis of a handwriting expert's opinion and the alleged inconsistencies in the defendant's written statement, and the Court dismissed the application precisely because the averments therein did not refer to any clear and unambiguous admission on the part of the defendant. That decision, therefore, stands on a different footing, whereas in the present case the defendant invokes the plaintiff's own admission in the pleadings of the application in another suit.

49. In view of the undisputed documents in the form of application filed by the defendant/applicant under Order VII Rule 14 CPC and the reply thereto filed by the plaintiff, as well as a clear admission of the plaintiff, the application is allowed, the plaint is rejected and suit is dismissed under Order VII Rule 11 CPC read with Order XII Rule 6 CPC.

50. The application is disposed of.

VIKAS MAHAJAN, J

JULY 08, 2026/aj