



2026:DHC:5971



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 27th April, 2026
Pronounced on: 27th July, 2026

+ RFA 335/2025, CM APPL. 21234/2025, CM APPL. 76345/2025
and CM APPL. 27787/2026

TRILOKI NATH

S/o Sh. Murari

R/o H. No. 267, Gali No. 4

Bagh Kare Kishan Garh North

Delhi-110007

.....Appellant

Through: Mr. Ankit Virmani and Mr. Vaibhav
Bhadana, Advocates with Appellant
in person

versus

SARITA

W/o Sh. Fateh Chand,

R/o H.No. 216, DDA MIG Flats

Metro Apartments, Jahagirpuri

Delhi - 110033

.....Respondent

Through: Mr. F. K. Jha, Mr. Gaurav Jha and
Ms. Shalini Jha, Advocates

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 Order XLI of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) has been filed on behalf of the *Defendant/Appellant*, Sh. Triloki Nath against the



Judgment and Decree dated **28.01.2025** whereby the Suit for Possession, Recovery of Rent, *Mesne Profits* and Permanent Injunction filed by the *Plaintiff/Respondent*, *Smt. Sarita* has been decreed in her favour by the learned District Judge.

2. The Plaintiff had filed a Civil Suit bearing CS DJ No. 59/2023 for Possession, Recovery of Rent, Mesne Profits and Permanent Injunction against the Defendant.

3. The **brief facts** as narrated in the ***Plaint*** are that, the *father of Defendant*, *Sh. Murari* was a tenant of **erstwhile owner *Sh. Laxmi Narain***, *Sh. Kishan Lal*, *Sh. Jiya Lal*, *Sh. Mahender Kumar* and *Sh. Devanand*, all sons of *Sh. Bishamber Dayal*, in property bearing No. 267, admeasuring 18.81 sq. meters, comprising of ground floor, first floor and second floor with roof rights situated at Gali No. 4, Bagh Kare Khan near Padam Nagar, Delhi (*hereinafter referred to the "Suit Property"*) and was paying rent at the rate of Rs. 5,000/- per month.

4. It was claimed that, due to his sickness, *Sh. Murari* stopped paying rent to *Sh. Laxmi Narain* and his brothers, from March, 2017. It was asserted that despite repeated demands for payment of rent, *Sh. Murari* failed to pay rent and sought time for payment on one pretext or the other.

5. It was further claimed that, since *Sh. Laxmi Narain* and his brothers were in need of funds, they sold the suit property to the Plaintiff, *vide* a registered Sale Deed dated **01.02.2022**, for a total sale consideration of Rs.8,00,000/-. The suit property was duly mutated in the name of the Plaintiff, *vide* Registration No. 237.

6. The Plaintiff asserted that, by virtue of the aforesaid Sale Deed, she became the absolute owner of the Suit Property and consequently stepped



into the shoes of the erstwhile landlords, *qua* the tenancy of the Defendant. It was further asserted that, despite having been duly informed of the transfer of ownership, the Defendant failed to pay rent to the Plaintiff. The Defendant was liable to pay rent at the enhanced rate of Rs.12,000/- per month, with effect from 01.02.2022, exclusive of water and electricity charges.

7. It was further asserted that the Plaintiff subsequently came to know that the Defendant had instituted a Civil Suit bearing **CS DJ No. 810/2021** titled *Triloki Nath v. Rani & Ors.* In the said Suit, the Defendant had admitted that *Smt. Rani* was his neighbor, residing at the backside of his house and had further claimed himself to be the owner of property bearing No. 267, Gali No. 4, Back Side, Bagh Kade Khan, Kishan Ganj, Delhi. The Plaintiff had thereafter, moved an Application, under Order I Rule 10 of the CPC, seeking her impleadment in the said Suit, which is still pending consideration.

8. It was asserted that, despite repeated requests made by the Plaintiff, the Defendant has failed to pay the rent payable in respect of the suit property. The Plaintiff, consequently, served a Legal Notice dated **12.10.2022** to the Defendant. The Defendant, in response thereto, sent a Reply dated **31.10.2022**, wherein he refused to clear the arrears of rent.

9. It was further asserted that the Defendant had also sub-let the ground floor of the suit property to one *Sh. Laxman*, at a monthly rent of Rs.4,000/-. Furthermore, the Defendant had also called certain musclemen and property dealers with an intention to create third party right in the suit property.



10. Consequently, the Plaintiff sent *another Legal Notice dated 28.12.2022* to *Sh. Laxman*, the sub-tenant, demanding payment of rent to the Plaintiff for the requisite period.

11. The Plaintiff had thus, filed the **Suit seeking Possession, Recovery of Rent, Mesne Profits and Permanent Injunction, against the Defendant.**

12. The Suit was contested by the **Defendant**, who in his **Written Statement**, took the *preliminary objection* that the Suit was based on *concealment of true facts and misrepresentation* and was liable to be rejected in terms of Order VII Rule 11 of the CPC. Further, the Suit was not valued *properly and the requisite Court Fees* has not been paid. The Plaintiff has no *locus standi* to file the present Suit and it *is also barred by limitation*.

13. **On merits**, the Defendant denied that his father, *Sh. Murari* was ever a tenant of *Sh. Laxmi Narain, Kishan Lal, Sh. Jiya Lal, Sh. Mahender Kumar and Sh. Devanand*, sons of *Sh. Bishamber Dayal*, or that he was paying monthly rent of Rs. 5,000/- till February, 2017.

14. The Defendant denied the claim of the Plaintiff that *Sh. Laxmi Narain* and his brothers had sold the suit property to her, *vide* a registered Sale Deed dated 01.02.2022. It was further denied that the Plaintiff had ever informed the Defendant about the transfer of ownership in the suit property or had demanded payment of the arrears of rent, from him.

15. It was asserted that the Defendant's father, *Sh. Murari*, had expired on **03.05.1998** and, therefore, the averment of the Plaintiff that he had fallen ill in March, 2017, was wholly incorrect. It was further denied that any Rent



Agreement had ever been executed either with the erstwhile owners or the Plaintiff, in respect of the Suit Property.

16. The *Defendant* asserted that there was no relationship of landlord and tenant between the Plaintiff and the Defendant. It was claimed that the Defendant has been the absolute owner of the suit property since the year 1980, the same having been purchased by his father, *Sh. Murari* from *Sh. Bishamber Dayal*, on the basis of General Power of Attorney, Agreement to Sell, Receipt, etc. It was, therefore, contended that the question of payment of rent to the Plaintiff, did not arise. It was further asserted that the Plaintiff had failed to place on record any document to establish the relationship of landlord and tenant between the parties.

17. The Defendant, however, admitted having filed a Civil Suit bearing **CS DJ No. 810/2021**, wherein, he had clearly stated that he was the owner of the suit property. The Defendant further admitted having received a Legal Notice dated 12.10.2022, to which he had given a Reply dated 31.10.2022, wherein he clearly stated that Plaintiff has no legal right, title, interest in the suit property.

18. The Defendant further denied having sub-let the ground floor of the suit property to *Sh. Laxman* or that he was getting a monthly rent of Rs.4,000/- from him. ***It was thus, prayed that the present Suit is without any merit and is liable to be dismissed.***

19. The **Plaintiff** in her **Replication** reaffirmed the assertions as made in the *Plaint* and denied the averments as made by the Defendant in his Written Statement.

20. The learned District Judge *vide* Order **01.08.2023** framed the following issues, which are as under:



“1. Whether plaintiff is owner/ landlord of the property in question? OPP.

2. Whether plaintiff is entitled to a decree of possession, as prayed for? OPP.

3. Whether plaintiff is entitled to a recovery of Rs.1,44,000/-, as prayed for? OPP.

4. Whether the plaintiff is entitled to a decree of permanent injunction as prayed for? OPP.

5. Relief.”

21. The Plaintiff in support of her case examined, **PW-1**, Ms. Manju, Senior Assistant, Office of Sub-Registrar, who produced the registered Sale Deed dated 01.02.2022 as **Ex.PW1/1**.

22. **PW-2**, Sh. Pankaj Prasad, JSA, Property Tax Department, who produced the copy of Mutation dated 01.02.2022 in the name of the Plaintiff as **Ex.PW2/1**.

23. **PW-3** Smt. Sarita, plaintiff reiterated the assertions as made in the plaint.

24. **PW-4**, Sh. Fateh Chand, who was the attesting witness, proved the Sale Deed dated 01.02.2022. He also deposed about the Civil Suit bearing **CS DJ 810/2021** filed by the Defendant. He further corroborated with the testimony of the Plaintiff that the ground floor of the suit property had been sub-let to Sh. Laxman.

25. The Defendant, Sh. Triloki Nath examined himself as **DW-1**, who deposed on similar lines as the defence taken by him in the Written Statement.



26. *DW-2, Smt. Chandra Kala*, sister of the Defendant and *DW-3, Smt. Geeta*, neighbor of the Defendant, corroborated the testimony of Defendant in regard to the purchase of the Suit Property by the father of the Defendant, *Sh. Murari* from *Sh. Bishamber Dayal* in the year, 1980.

27. *DW-4, Smt. Savitri Devi*, wife of *Sh. Mithan Lal*, who was one of the attesting witnesses on the GPA **Ex.DW1/A (colly)**, identified the signatures of her husband on the said document.

28. The ***learned District Judge*** after appreciating the rival contentions and the evidence led by the parties, observed that *the Plaintiff had proved her ownership in the Suit Property by virtue of the registered Sale Deed dated 01.02.2022 Ex.PW1/1.*

29. It was further observed that the defense taken by the Defendant that, neither he nor his father, *Sh. Murari* were ever tenants in the suit property and that the suit property had been purchased by the father of the Defendant from *Sh. Bishamber Dayal* in the year 1980, was disbelieved. It was held that the documents i.e., Agreement to Sell, GPA, Will and Receipt exhibited as **Ex. DW1/A (colly)** did not create any ownership of the Defendant in the suit property.

30. Consequently, *vide* the impugned Judgment, **the Suit filed by the Plaintiff was decreed** and *mesne profits* at the rate of Rs.5,000/- per month, were awarded to the Plaintiff with effect from 01.02.2022 till the handing over of the possession to the Plaintiff. The Defendant was also restrained from creating third party rights in the Suit Property.

31. *Aggrieved by the Judgment and Decree dated 28.01.2025, the Defendant has filed the present First Regular Appeal under Section 96 read with Order XLI Rule 1 of the CPC.*



32. The **grounds of challenge** are that merely a reference has been made to the preliminary objections taken by the Defendant, but no findings any findings are recorded on them. The findings in regard to the relationship of landlord and tenant between the parties, is patently not substantiated by the evidence.

33. It has not been appreciated that the Defendant had filed a Suit for Permanent Injunction bearing **CS DJ 810/2021** against *Smt. Rani*, relative of the Plaintiff, wherein he had clearly asserted that he was the owner of the suit property.

34. It was submitted that the father of the Defendant, *Sh. Murari*, had purchased the suit property from *Sh. Bishamber Dayal*, in year 1980. In fact, the sons of *Bishamber Dayal* were well aware that the suit property had been sold to the father of the Defendant, despite which they entered into a Sale Deed dated 01.02.2022 **Ex. PW1/1** with the Plaintiff, in respect of the Suit Property.

35. It was further asserted that there was no question of demanding rent from the Defendant by serving a Legal Notice dated 12.10.2022 **Ex. PW3/5**, as there *existed no relationship of landlord-tenant between the parties*. It was submitted that false allegations have been made against the Defendant that he had sub-let the ground floor of the suit property to one, *Sh. Laxman*, at a monthly rent of Rs. 4,000/-.

36. It was submitted that the possession of the Defendant is protected under Section 53A of the Transfer of Property Act, 1882. Reliance is placed on *Giriyappa v. Kamalamma* 2024 SCC OnLine SC 3849, wherein the conditions for invoking protection under 53A of the Transfer of Property Act, 1882, has been explained. It has been held that Section 53A TPA is



principally for the protection of ignorant transferee who takes possession or spend money in investments, relying on the documents which are ineffective as transfer of property, on such contracts cannot be proved for want of registration.

37. It was further submitted that if there was any reservation about the authenticity of the signatures on GPA, Agreement to Sell, Receipt **Ex. DW1/A (colly)**, the documents could have sent to FSL and the opinion sought in regard to the authenticity, which has not been done.

38. It is therefore, submitted that the impugned judgement, be set aside.

Submissions heard and record perused.

39. The Plaintiff had filed a *Suit for Possession, Recovery of Rent, Mesne Profits and Permanent Injunction* against the Defendant, on the ground that she was the owner of the suit property, in which the Defendant was a tenant.

40. In order to prove her ownership, the Plaintiff, **PW-3** had deposed that the erstwhile owners of the suit property was *Sh. Bishamber Dayal*. After the demise of *Sh. Bishamber Dayal*, the suit property devolved upon his five sons, *Sh. Laxmi Narain*, *Sh. Kishan Lal*, *Sh. Jiya Lal*, *Sh. Mahender Kumar* and *Sh. Devanand*.

41. The Plaintiff in her testimony as **PW-1**, further explained that she had purchased the suit property from *Sh. Laxmi Narain* and his brothers, *vide* registered Sale Deed dated 01.02.2022 **Ex. PW1/1**. Thereafter, she got the suit property mutated in her name.

42. These facts have also been collaborated by **PW-1**, *Ms. Manju* from the Office of Sub-Registrar who proved the copy of the Sale Deed dated 01.02.2022 **Ex. PW1/1**. Likewise, **PW-2**, *Sh. Pankaj Prasad*, JSA, Property



Tax Department produced records **Ex.PW2/1** *vide* which the property is mutated in the name of the Plaintiff.

43. It is pertinent to note that, the authenticity of the Sale Deed dated 01.02.2022 **Ex. PW1/1** has not been questioned, by the Defendant. The Defendant, **DW-1**, admitted in his testimony that the Sale Deed has been executed in the name of Plaintiff. It is thus, proved that the Plaintiff had acquired ownership in the suit property by virtue of the aforesaid Sale Deed.

44. The Defendant, **however had asserted that they were living as owners, since 1980**. The Defendant as **DW-1**, deposed that he has been living in the suit property since birth, peacefully without any intervention or objection from the son of *Sh. Bishamber Dayal*. He and his father have been in possession of the suit property since 1965, which was subsequently purchased from *Sh. Bishamber Dayal*, in the year 1980 by virtue of GPA, Agreement of Sell, Will, Receipt, all dated 18.04.1980, **Ex.DW1/A (colly)**. He deposed that it was constructed by him and his other family members.

45. Likewise, **DW-2, Smt. Chandra Kala**, sister of the Defendant, in her testimony deposed that her father, *Sh. Murari*, had been in continuous occupation and possession of the suit property, having purchased the same from *Sh. Bishamber Dayal*, in the year 1980.

46. It is pertinent to note that none of these documents had the signatures of the Defendant. He admitted that *Sh. Bishamber Dayal* had not put his signatures on these documents in his presence. He further admitted that he did not produce these documents in the earlier Suit bearing **CS DJ 810/2021**. His only explanation to this was that he did not know whether he was required to produce these documents in the said Suit.



47. Thus, the Defendant when confronted with the big question of proving and identifying the signatures of *Sh. Bishamber Dayal*, was unable to do so, and admitted in his cross-examination that he had never seen *Sh. Bishamber Dayal* sign on any of the papers.

48. The truth has a very uncanny way of manifesting itself. The Defendant in order to wriggle out of this difficulty of proving the signatures of *Sh. Bishamber Dayal*, deposed that he was a tenant in the suit property and *Sh. Bishamber Dayal* was his landlord, who used to issue the rent receipts, in favor of himself and his father, and that he had seen him signing. He deposed that he was in possession of the Receipts. However, no rent receipt whatsoever has been produced by the Defendant. The Defendant could not identify the signatures of Bishamber Dayal on the GPA, etc. to establish the ownership rights.

49. Furthermore, in order to prove the GPA, Agreement to Sell, Receipt **Ex. DW1/A (colly)**, the Defendant examined his sister **DW-2, Smt. Chandra Kala**, who deposed that the aforesaid documents **Ex.DW1/A (colly)**, had been executed in her presence. However, in her cross-examination, *she admitted that these documents do not bear her signature and further admitted that these documents had not been signed in her presence.*

50. The next witness examined by the Defendant was her neighbor **DW-3, Smt. Geeta**, who deposed that she along with her father and some other persons from the society, were present at the time of execution of these documents between the father of the Defendant and *Sh. Bishamber Dayal*, who had signed the Bayana Agreement in their presence. However, in her cross-examination, admitted that *“no such agreement was executed in her presence. I have stated this falsely.”*



51. The other witness examined by the Defendant was his sister, **DW-4**, *Smt. Sarita Devi*, who deposed that the sale documents **Ex. DW1/A (colly)** have been executed in the presence of the competent witnesses. One such witness was *Sh. Mithan Lal*, her husband and that she can identify his signatures on the aforesaid documents. However, in her cross-examination, *she admitted that the Agreement to Sell, Will as well as the Receipts, do not bear the signatures of her husband. She further admitted that the property was not purchased in her presence and that she had only heard about it from her father, Sh. Murari.*

52. Thus, though the Defendant had claimed that his father had purchased the suit property from its erstwhile owner, *Sh. Bishamber Dayal* on the basis of GPA, Agreement to Sell, Receipt etc., **Ex.DW1/A (colly)**, however, he has failed to prove their authenticity and the signatures on these documents, during the course of trial. Moreover, no attesting witness had been examined, in proof of these aforesaid documents.

53. The defendant failed to prove that he had ever acquired ownership rights in the suit property. The Plaintiff, however, has proved his ownership on the basis of registered Sale Deed dated 01.02.2022 **Ex. PW1/1**. The learned District Judge, has rightly observed that the Defendant was unable to prove the signatures of *Sh. Bishamber Dayal*, on the documents exhibited as **Ex. DW1/A (colly)**.

54. The next question is the status of the defendant in the suit property, once it is established that he is not the owner of the suit property. It is significant to observe, that while the Defendant had denied his tendency in the suit property *in toto*, however, from his cross-examination, it has



emerged that his father, *Sh. Murari*, was indeed a tenant in the suit property and Bishamber Dayal was issuing rent receipts in his name.

55. Pertinently, the Defendant had asserted that there were rent receipts being issued by late *Sh. Bishamber Dayal* in favour of his father as well as himself, though no rent receipts had been produced. However, there is a clear admission regarding the tenancy of the father of the Defendant, *Sh. Murari*.

56. Furthermore, it has been rightly observed by the learned District Judge that the testimony of **DW-1** was contradictory. The rent receipts in favour of the father of the Defendant could only have been executed by *Sh. Bishamber Dayal* and if he had already purchased the suit property during his lifetime, then where was the question of any rent receipt being issued in his favour.

57. Furthermore, **DW-2**, *Smt. Chandra Kala*, sister of the Defendant, in her cross-examination admitted that ***“it is correct that my father and brother remained tenant of Bishamber Dayal, till 1980”***.

58. It is clearly established that the father of the Defendant, *Sh. Murari*, was a tenant under *Sh. Bishamber Dayal* and after the demise of his father, the Defendant became the tenant in the suit property. *There is no proof acquisition of ownership by the Defendant in the suit property through any sale documents, at any point of time.*

59. The learned District Judge on the full appreciation of the evidence, has rightly concluded that the Defendant is a tenant in the suit premises initially, through his father under *Sh. Bishamber Dayal*, whereafter, under the Plaintiff, who had purchased the Suit Property *vide* Sale Deed dated 01.02.2022 **Ex.PW1/1**.



60. The next essential component which remained *to be ascertained is the rate of rent*. The Plaintiff, **PW-3**, in her testimony had deposed that the Defendant was paying a monthly rent of Rs.5,000/-. She further deposed that no rent has been paid by the Defendant since 01.02.2022.

61. The Defendant, in the present case, has not refuted the rate of rent. Moreover, he has neither challenged the testimony of the Plaintiff in regard to non-payment of rent and has also not deposed in this regard in his testimony. Rather, he was claiming ownership since 1980 and thus, there was no question of payment of rent and therefore, there was no rent being paid.

62. The Plaintiff further claimed that after purchase of suit property, she was entitled to enhanced rent at the rate of Rs.12,000/- per month and therefore, claimed arrears of rent as Rs.1,44,000/- for the period between 01.02.2022 and 31.01.2023, i.e. when the Suit was filed.

63. Significantly, as per the Plaintiff, the last paid rent was Rs.5,000/- per month. There is no basis explained by the Plaintiff for claiming enhanced rent of Rs.12,000/- per month. Therefore, arrears of rent to which the Plaintiff is entitled, for the period between 01.02.2022 and 31.01.2023, is Rs.5,000/- per month, which comes to Rs.60,000/-.

64. The Plaintiff also claimed *mesne profits* for unauthorized occupation of the suit property. Since, there was no evidence whatsoever, led by the Plaintiff in regard to the prevailing market rate, the *mesne profits* as granted by the learned District Judge at the rate of Rs.5,000/- per month from 01.02.2022 till the possession of the Suit Property is handed over, is justified.



65. The learned District Judge has rightly granted *mesne profits* and the same do not merit any interference.

66. In view of the aforesaid discussion, all the three requisites for a Suit of possession, i.e., (i) the relationship of landlord-tenant, (ii) the rent being more than Rs.5,000/-, and (iii) the termination of the tenancy *vide* Legal Notice dated 12.10.2022 **Ex.PW3/5**, has been proved by the Plaintiff.

Conclusion:

67. The learned District Judge has rightly granted the decree of possession *vide* the impugned judgment. For the same reasons, *mesne profits* at the rate of Rs.5,000/- per month w.e.f. 01.02.2022 till the possession is handed over to the Plaintiff, has been rightly awarded by the learned District Judge. There is no infirmity in the impugned Judgment and Decree.

68. In view of the aforesaid discussion, there is no merit in the present Appeal, which is hereby **dismissed**. Pending Application(s), if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JULY 27, 2026

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