* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Reserved on: 14th August, 2026***
Pronounced on: 10th September, 2026
Uploaded on: 10th September, 2026

 # CNR No. DLHC010023772023

\+ **<u>REVIEW PET.365/2026 in RFA No.73/2023</u>**

RAJ KUMARI GARG
W/o Late sh. Bal Kishan Garg
R/o Flat No.1106, Tower-KM-14,
Kosmos, Jaypee Greens Wish Town,
Sector-134, Noida, UP.

.....Appellant

Through: Mr. G.S. Raghav, Advocate.

versus

STATE BANK OF INDIA
Through its Branch Manager
A-264, Defence Colony Market,
New Delhi-110024.

....Respondent

Through: None

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

<u>J U D G M E N T</u>

<u>NEENA BANSAL KRISHNA, J.</u>

1. A Review Petition under Section 114 read with Order XLVII Rule 1 CPC has been filed on behalf of the Appellant Smt. Raj Kumari Garg, for *review of the Judgment dated 09.07.2026 passed in RFA No. 73/2023.*

2. It is submitted in the Application that the present Review Application has been filed by the Appellant/Decree Holder through her son, Sh. Deepak Garg, who is her duly appointed Attorney vide GPA dated 12.02.2024 executed by Smt. Raj Kumari Garg.

3. The ***grounds of Review*** are that in paragraph 81, the mesne profits have not been granted from the date of the institution of the Suit i.e. 11.08.2008 till the month of April, 2012 (44 months), especially when the interest has been awarded @ 6% per annum w.e.f. the institution of the Suit.

4. It is stated that the Lease Deed dated 10.03.2003 in favour of the Respondent Bank expired on 31.12.2004 by afflux of time under Section 111(a) of the T.P. Act and it became dead on 01.01.2005 for all purposes whatsoever and there was no registered instrument of lease thereafter, in favour of the Respondent Bank.

5. However, this Court placed reliance on two unregistered letters dated 06.01.2005 Ex. PW-1/D1 and 26.12.2007 Ex. D1 expressing an intention to extend the Lease, which are prior to the Notice dated 09.05.2008, terminating the Lease w.e.f. 01.06.2008. This Court has placed reliance on these documents read with the unregistered Undertaking dated 02.02.2007, to conclude that because of these aforesaid unregistered three documents, the occupation of the suit property by the Respondent Bank continued as authorised till the month of May, 2012. It is submitted that this conclusion is unjust and contrary to law.

6. The unregistered Undertaking dated 02.02.2007 Ex. D8 of the Appellant promising to extend the lease, does not provide the time duration of such extension of Lease and it is for an indefinite period. The unregistered Undertaking can extend the Lease at the most for a period of one year, and an unregistered Undertaking promising to extend the lease for an indefinite period, is not valid or legally enforceable.

7. The unregistered documents for extension of the Lease and the Undertaking and the letter referred to above, would only be used for a collateral purpose under Section 49 of the Registration Act, but could not create a tenancy of an immovable property for a period of more than one year. The unregistered extension cannot shield the tenant from eviction, because it lacks the legal standing to establish a fixed term of more than one year. The Appellant's subsequent Notice dated 09.05.2008 terminating the tenancy of the Respondent is stated to be an instrument that successfully determined the unauthorized character of possession of the suit property in the hands of the Respondent.

8. As per Section 107 of the T.P. Act, a lease of immovable property for a term exceeding one year requires a registered instrument; therefore, in the absence of a registered Lease Deed, the Respondent Bank was contended to be a 't*enant by sufferance'*, especially after expiry of the period of one year on 01.02.2008. Moreover, since there was a month-to-month tenancy in favour of the Respondent Bank, that too was admittedly terminated vide Notice dated 09.05.2008 w.e.f. 01.06.2008. There was little difference between the Respondent Bank and a trespasser. The present Suit for Possession and Mesne Profits was instituted on 11.08.2008. Reliance is placed on *R.V. Bhupal Prasad vs. State of A.P*. (1995) 5 SCC 698.

9. The learned Trial Court had observed that the Undertaking could not injunct the Plaintiff from issuing Notice under Section 108 of the T.P. Act for terminating the Lease and it was for that situation only that the equitable mortgage was created vide document Ex.D7.

10. Admittedly, the Plaintiff repaid the loan in May, 2012. The aforesaid important finding of the learned Trial Court has not been set aside by this Court; it is still intact, valid and binding upon the parties.

11. It is further contended that *vide* unregistered Undertaking dated 02.02.2007 Ex.D8, the Appellant did not concede to and bind herself to extend the tenancy of the Respondent Bank till May, 2012 i.e. for a period of more than five years by taking loan of Rs.25,00,000/- under the Rent Scheme. Because the Undertaking executed by the Appellant is an unregistered document, under Section 49 of the Registration Act, it cannot affect the property or be used to prove the principal terms of the Lease. If a tenant continues to occupy a property based on an unregistered deed or undertaking, according to the Appellant, the law will completely ignore such a long-term clause or document. The contrary conclusion drawn by this Court is an alleged error on the face of the record, which needs to be corrected.

12. The *second ground* taken is that this Court did not consider the law laid down by the Co-ordinate Bench of this Court in *Anil Kumar Khanna & Ors. vs. The Indian Tourism Development decided on 17.07.2015*, wherein it was held that the enhancement of the rate of rent by 15% every year, which is also in accordance with the various judgments of this Court which held that in residential and commercial areas in prime and centrally located locations like Connaught Place, an increase of 15% every year would be in order.

13. The suit property is located in Defence Colony Market, which is stated to be a prime location of New Delhi. The Judgment of *Anil Kumar Khanna*, though relied upon, has not been considered and it is contended that a serious miscarriage of justice has resulted as***, firstly***, the Appellant was legally entitled to use and occupation charges from the date of institution of the Suit on 11.08.2008 till April, 2012 which have been declined. ***Secondly,*** because of non-grant of mesne profits for the period from 11.08.2008 to April, 2012, the legally available increase of mesne profits @ 15% per year or even every three years, as per law, has not been granted.

14. ***Thirdly,*** due to the aforesaid two serious errors on the face of the record, a consequential fourth error automatically occurred, as interest on the principal sum of mesne profit to be adjudged from the date of filing of the Suit till the date of decree, with further interest on such principal sum from the date of decree till the date of payment, would obviously remain very low, resulting in further loss of interest amount on the enhanced principal sum of mesne profit adjudged from the date of filing of the Suit.

15. The learned Trial Court had already determined the prevailing market rate of mesne profits at Rs.163/- per square foot with enhancement at the rate of 15% thereafter. The Appellant had specifically contended that in the event the Respondent's occupation of the suit premises was held to have become unauthorized upon termination of tenancy w.e.f. 01.06.2008 vide Legal Notice dated 09.05.2008, the aforesaid enhancement ought to have been made applicable from 01.06.2008, instead of from May, 2012.

16. The Appellant is, therefore, deprived of her legal entitlement and interest thereon. This omission materially affects the ultimate conclusion which has resulted in immense miscarriage of justice.

17. The ***third ground*** for review taken **is that no interest after vacation of the Suit property on 31.12.2017 has been awarded** on the arrears of unauthorized use and occupation charges adjudged by the Court. Section 34 of the CPC mandates that the Court may award interest on the principal sum adjudged from the date of the Suit to the date of the Decree, with further interest on such principal sum from the date of the Decree till the date of payment.

18. Though the Court has a discretion in awarding interest, it is contended that such discretion should be exercised fairly, judiciously and not for arbitrary or fanciful reasons. There were unpaid arrears of unauthorized use and occupation charges due to the Appellant from the Respondent. Since no interest has been awarded after 31.12.2017, it has resulted in substantial loss to the Appellant.

19. The Appellant had vociferously argued this aspect as Grounds H and I in the Appeal about not being awarded interest after the date of handing over of possession to the Appellant on 31.12.2017, but the same has not been considered by this Court. The unpaid arrears of *Mesne* Profits after 31.12.2017, have resulted in the affirmation of the erroneous Judgment of the learned Trial Court. Reliance is placed on *Lilly Thomas vs. Union of India* (2000) 6 SCC 224.

20. It is, therefore, submitted that the impugned Judgment be reviewed and the errors may be corrected.

Submissions heard and record perused.

21. The first ground taken in the Review Petition is that it has been erroneously held that the tenancy stood extended vide the Letters dated 06.01.2005, the Undertaking dated 02.02.2007 and the Letter dated 26.12.2007, despite these documents not only being unregistered but also being incapable of granting an extension of five years.

22. This contention is completely fallacious because cogent reasons have been given for holding that there was an extension of tenancy by five years. The ground so agitated is, in fact, a challenge to the finding of this Court, which is beyond the scope of a Review Petition.

23. The *second ground* taken is that the law laid down in Anil Kumar Khanna *(supra)* by the Co-ordinate Bench providing an increase of 15% per year has not been followed, depriving the Appellant of the legally entitled use and occupation charges from 11.08.2008 till April, 2012. However, this again touches upon the merits of the Judgment, as it has been explained in the judgment that since there was an extension by five years, the Appellant was not entitled to mesne profits till April, 2012. Again, this ground essentially seeks to re-agitate the merits of the findings in the impugned Judgment and is beyond the scope of the Review Petition.

24. The *third ground* taken is that no interest has been granted since the property was vacated on 31.12.2017. It has been observed that it is within the discretion of the Court under Section 34 CPC to award interest, and the same cannot again be made a subject matter of the Review Petition.

<u>Conclusion:</u>

25. The three grounds on which a Judgment can be reviewed are an error apparent on the face of the record, discovery of new and important facts or evidence, or any other sufficient reason. The grounds taken in the Review Application are beyond the scope of review, as there is no error apparent on the face of the record. In fact, the three grounds are a challenge to the findings and the observations made in the impugned Judgment dated 09.07.2026 of this Court.

26. There is no error apparent on the face of the record warranting review of the impugned Judgment.

27. The Review Petition is, accordingly, ***dismissed.*** Pending Application is also disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 10, 2026
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