



2026:DHC:8616



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

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Reserved on: 17th July, 2026

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CNR No. DLHC010556122024

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**RFA 566/2024, CM APPL. 50213/2024, CM APPL. 50215/2024,
CM APPL. 65220/2024, CM APPL. 9147/2025**

M/s METAL CANS COMPANY

Through its Partner Shri Ajay Kumar,
Having its office at C-100 (Khasra No.1024)
Road No. 6, Mahipalpur,
New Delhi.

.....Appellant

Through: Ms. Geeta Luthra, Sr. Advocate with
Mr. Vipul Gupta, Mr. Pranjal Pandey,
Mr. Anuj Singh, Ms. Janvi Desai,
Mr. Rishabh Dahiya, Ms. Prashansika
Thakur, Ms. Spriha Jha, Advocates.

Versus

1. BHUVAN MOHAN

S/o Shri Ishwari Prasad
Chandiwala Estate, Maa Anandmal Ashram Marg,
Kalkaji, New Delhi-110019.Respondent No.1

2. M/S SUKESHI INTERNATIONAL

Through its Partner, Ms Sujata Gupta
D-317, Sector-47, Nodia,
Uttar Pradesh.Respondent No.2

Through: Mr. Suhail Dutt, Senior Advocate
with Mr. Sankalp Goswami,
Mr. Sagar Suri, Mr. Kabir S. Ghosh,
Advocates for R-1
Mr. Sarthak Ghonkrokta, Advocate
for R-2



CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

1. The present **First Regular Appeal** under **Section 96** read with **Order XLIII Rule 1** read with **Section 151 of the Code of Civil Procedure, 1973** (*hereinafter referred to as 'CPC'*), has been filed on behalf of the Appellant assailing the Judgment and Decree dated 18.05.2024, whereby the **Suit of the Plaintiff bearing CS(OS) No. 55542/2016, for Possession**, has been decreed under **Order 12 Rule 6 CPC**.

2. The **facts, in brief**, are that the Plaintiff is the owner of property measuring 2,200 sq. yds., bearing Khasra No. 1024, now renumbered as C-100, Road No. 6, Mahipalpur, New Delhi-110037 (*hereinafter referred to as the "suit property"*). He claimed to have let out a portion admeasuring about 800 sq. yds., comprising a tin shed and a *pucca room*, to **Defendant No. 2, M/s Sukeshi International**, for running a factory, *on rent of ₹3,250 per month with effect from 01.05.1993, exclusive of water and electricity charges*. The Plaintiff also alleged that unauthorised construction had been raised on the premises in violation of the Municipal byelaws, without obtaining his consent.

3. In the year 2011, the **Defendant No. 1, M/s Metal Cans Company**, expressed its intent to become a direct tenant under the Plaintiff with the consent of M/s Sudha Devi, partner of the Defendant No. 2, which was agreed by both the Defendants. Thereafter, the Defendant No. 1 started paying rent **@Rs.1,00,000/- per annum**, to the Plaintiff by cheque, for the



entire premises. Defendant No. 1 *admitted and acknowledged* the Plaintiff as its landlord. Mr. B.R. Kapurai, the Chief Executive of the Defendant No. 1, gave cheque No. 759764 in the year 2011 in the sum of Rs.1,00,000/- along with the covering letter. Another cheque dated 10.05.2013 for Rs.1,00,000/- was given for the next year. *The rent was increased to Rs.1,25,000/- and was paid vide cheque dated 08.04.2014, for the period till 31.03.2014.*

4. The Plaintiff further stated that he did not intend to keep the Defendant No. 1 as a tenant and thereby, served a Notice under Section 106 of the Transfer of Property Act (*hereinafter referred to as 'TPA'*) dated 27.06.2014, terminating the tenancy w.e.f. **31.12.2014**. The Defendant No. 1 failed to vacate the suit property despite Notice.

5. *Hence, the Suit was filed for **Recovery of Rs.93,750/- for Arrears of Rent; Rs.10,00,000/- as Damages** for user and occupation charges; **Mandatory Injunction** to remove the unauthorised construction and **Permanent Injunction** to restrain the Defendants from creating third party rights in the suit property.*

6. The **Defendant No. 1, M/s Metal Cans Company/Appellant, in its Written Statement** submitted that the suit property had been given by Ms. Sujata Gupta, partner of M/s Sukeshi International at the rent of Rs.3,250/- per month, in the year 1983, which was increased to Rs.3,500/- per month and that he has been paying the rent. A preliminary objection was taken that since the rent was Rs.3,500/- as paid by it to M/s Sukeshi International till July, 2012. The Suit was barred under Section 50 of the Delhi Rent Control Act, 1958 (*for short 'DRC Act'*).

7. The defendant No.1 asserted that it is in possession of the factory shed, since last 32 years. In fact, the Defendant No. 1 had paid a sum of



Rs.2,65,000/- in the year 1983, to the Defendant No. 2, which was a huge amount then. The arrangement of tenancy was made in perpetuity and the Defendant No. 2 could not seek eviction of the Defendant No. 1, from the suit property. The Plaintiff is also estopped from claiming that the suit property had earlier been let out to M/s Sukeshi International/Defendant No. 2.

8. However, the Defendants admitted making a payment of Rs.3,25,000/- to the Plaintiff, but it was denied that there was any Oral Agreement between the Plaintiff and the Defendant No. 1 of any sort. The Defendant No. 1 thus, sought the dismissal of the Suit of the Plaintiff.

9. The **Defendant No. 2, M/s Sukeshi International**, (which was added subsequently as Defendant No. 2 vide Order dated 15.12.2016,) in its **Written Statement** corroborated the assertions in the Plaint. It was stated that since the Defendant No. 1 wanted to become a direct tenant under the Plaintiff, an Oral Agreement between the Plaintiff and the Defendant No. 1, was entered into whereafter, the amount/rent was being paid directly to the Plaintiff, which was accepted by the Plaintiff, on yearly basis.

10. The **Plaintiff in the Replication to the two Written Statements**, reiterated the assertions as made in the Plaint and it was explained that the Defendant No. 2 had ceased to have any concern with the suit premises as the Defendant No. 1 had been accepted as a tenant.

11. The **Issues framed vide Order Dated. 12.09.2022**, are as under:-

i) Whether the suit is barred in terms of section 50 of Delhi Rent Control Act? OPD

ii) Whether the plaintiff is entitled to a decree of possession of suit property i.e. plot of land with tin shed situated at



Khasra No. 1024, renumbered as C-100, Road No.6, Mahipal Pur, New Delhi-110037. OPP

iii) Whether the plaintiff is entitled to a decree for the arrears of rent for a sum of Rs. 93,750/-? OPP

iv) Whether the plaintiff is entitled to a decree for damages to the tune of Rs. 10,00,000/- w.e.f. 01.01.2015 to 31.05.2015 and further damages till the vacation of the suit property? OPP

v) Whether the plaintiff is entitled to a decree of mandatory injunction directing the defendant to remove unauthorized construction over the suit property? OPP

vi) Whether the plaintiff is entitled to a decree of permanent injunction restraining the defendant from subletting or parting with the suit property? OPP

vii) Relief.

12. During the trial, the Plaintiff filed Applications under **Order XII Rule 6 and Order XXXIX Rule 10 CPC**. The Defendants also filed an Application under Order VII Rule 11 CPC, which was subsequently withdrawn. By a common **Judgment dated 18.05.2024**, the Plaintiff's Applications under Orders XII Rule 6 and XXXIX Rule 10 CPC, were decided.

13. While **allowing the Application under Order XII Rule 6 CPC**, the **Trial Court** held that the Plaintiff's ownership of the suit property, had not been effectively disputed. It noted that Defendant No. 1 admitted its status as a tenant, though it claimed to be a tenant of Defendant No. 2. The Defendant No. 2, however, corroborated the Plaintiff's case; it was held that



a landlord–tenant relationship existed between the Plaintiff and Defendant No. 1.

14. It further observed that, even if the last paid rent was ₹3,500 per month, rent had not been paid since 2012 and interest at 15% per annum was payable under Section 26 of the DRC Act. Relying on Raghubir Singh v. Sheela Wanti, AIR 2009 NOC 1851 (Del.), *it treated the interest liability as part of the rent and calculated the monthly amount at ₹4,025*. Consequently, it was held that the suit was not barred under Section 50 of the DRC Act. The Ld. Trial Court also found that the notice under Section 106 of the TPA, had been duly served and **decreed the suit for possession**.

15. The Application under Order XXXIX Rule 10 CPC, was also allowed. The Plaintiff was held entitled **to use and occupation charges at ₹3,00,000 per month** from the date of filing of the suit until Defendant No. 1 delivered vacant possession.

16. Aggrieved by the **judgment and decree dated 18.05.2024**, allowing the Application under Order XII Rule 6 CPC, Defendant No. 1 has **preferred the present appeal**.

17. The **grounds of challenge**, are that The Trial Court has overlooked material admissions made by the Plaintiff in his examination-in-chief and cross-examination, which, according to the Appellant, contradicted his pleadings. The Plaintiff admitted that the Lease executed with Defendant No. 2 in April 1983, had not been revoked or cancelled; that he had not issued an attornment letter to Defendant No. 1, and that no witness was present when the alleged oral tenancy was created. The Appellant also relied on the Plaintiff's alleged lack of knowledge about the property and



contended that the unregistered ***Agreement to Sell*** relied upon by him, did not confer title.

18. The Plaintiff's case regarding the tenancy, was challenged as inconsistent. While the plaint alleges a direct tenancy between the Plaintiff and Defendant No. 1, the Application under Order XII Rule 6 CPC is said to proceed on the basis of a tenancy through Defendant No. 2. The Appellant further contended that, in his replication to Defendant No. 1's Written Statement, the Plaintiff denied that Defendant No. 2 had any connection with the suit property.

19. The finding that the rent exceeded ₹3,500 per month, thereby ousting the jurisdiction of the Rent Controller under Section 50 of the Delhi Rent Control Act, was also questioned. The Plaintiff allegedly arrived at rent of ₹4,025 by adding 15% interest to the last admitted rent of ₹3,500. Further, the Appellant contended that Raghuvir Singh (*supra*), on which reliance has been placed by the Ld. trial Court, is based on misreading of the judgement since the interest that may be recoverable as rent, is limited to Section 14(1)(a) of the Delhi Rent Control Act, 1958 and the interest cannot be added to the agreed rent, to calculate the rate of rent in order to cross the statutory threshold of Section 50 of the DRC Act.

20. The Appellant further asserted that the Plaintiff had failed to establish that the rent exceeded ₹3,500 per month, since the plaint records the last rent paid to M/s Sukeshi International as ₹3,500.

21. The Appellant also disputes the application of Section 27 DRC Act in proceedings under the Transfer of Property Act, particularly when the landlord-tenant relationship itself was disputed. It is further contended that



he was denied an opportunity to lead evidence, to establish that no liability was owed to the Plaintiff.

22. It was further asserted that no notice under Section 8 of the Act seeking enhancement of rent, was served and *that Defendant No. 2 accepted the rent dispatched by the Appellant on 24.04.2024.*

23. The Appellant further alleged that the Trial Court did not consider his specific denials concerning ownership, the landlord–tenant relationship, service of notice, the Plaintiff’s locus, and non-payment.

24. Finally, the Appellant challenges *the award of ₹3,00,000 per month when the Plaintiff had sought ₹2,00,000 per month.* He also alleges that the suit was undervalued because possession was valued at only ₹1,25,000 despite the claimed monthly rent.

25. **The Appellant accordingly, seeks setting aside of the impugned judgment.**

Submissions heard and the record perused.

26. For a decree of possession under Order XII Rule 6 CPC, the Plaintiff was required to establish the **three basic facts**; **firstly** the landlord–tenant relationship between the parties, **secondly**, that the rent exceeded ₹3,500 per month, and **thirdly**, that the tenancy has been validly terminated by giving a Notice under Section 106 of TPA.

27. In the present case, the Plaintiff asserted that he was the owner of the suit property and had inducted Defendant No. 2, M/s Sukeshi International, as a tenant in 1983 at a rent of ₹3,250 per month, payable from 01.05.1993, as admitted by Defendant No. 2 in its Written Statement.



28. However, the Appellant set up a defence that he is in occupation of the suit property since 1983 and was a tenant of Defendant No.2 and not of the plaintiff. However, the case of the Plaintiff was also that with the consent of Defendant No.2, Defendant No.1 became the direct tenant of the plaintiff. Thus, the Defendant no.1 may have been in the suit premises as tenant of Defendant No.2 since 1983, but he became a direct tenant under the Plaintiff, in the year 2011 at an annual rent of ₹1,00,000. Defendant No.2 has also corroborated in his Written Statement that the Defendant No.1 became the direct tenant of the Plaintiff.

29. Defendant No. 1 has admitted that he paid the Plaintiff three cheques of ₹1,00,000; ₹1,00,000 and ₹1,25,000, in 2011, 2013 and 2014 respectively. He also did not deny having paid him ₹3,25,000 in all.

30. The Appellant had tried to explain the payment of Rs.3,25,000/- in all, to the Plaintiff by asserting that it had been given towards a personal loan, but there are no particulars of when the loan was taken. The defence of the loan having been returned by the Appellant to Plaintiff, is nothing but moonshine, intended only to wriggle out of the payments made by him, to the Plaintiff.

31. His own admissions established that he became a direct tenant of the Plaintiff, as has been stated by the Plaintiff. This is further corroborated by the Written Statement of the Defendant No. 2, who has endorsed the stand taken by the Plaintiff.

32. There was no reason explained by the Defendant No.1 for paying this annual amount to the Plaintiff. Rather, the payment of these amounts, is a necessary incident of the tenancy. ***Such conduct of the defendant no.1***



corroborates the Landlord-tenant relationship between the plaintiff and Defendant No.1, as rightly held by the Ld. Trial Court.

33. The defence had been taken by Defendant No.1 that he had paid Rs.2,65,000/- in the year 1983, to the Defendant No. 2, and his tenancy was in perpetuity. However, the Defendant No.2 itself was a tenant of the plaintiff and could not have created any tenancy in perpetuity, in favour of the Defendant No.1. Further, the Appellant admittedly made payments directly to the Plaintiff in 2011, 2013 and 2014. These payments, read with the stand taken by Defendant No. 2 in its Written Statement, support the Plaintiff's case that the Appellant became his direct tenant. The Appellant's plea of a perpetual tenancy, therefore, does not displace that conclusion.

34. Furthermore, once, the defendants had been inducted as a tenant, they are estopped from challenging the title of the Plaintiff under **Section 116 of the Indian Evidence Act, 1872**. The very fact that admittedly, the rent @1,00,000/- p.a., has been admittedly paid to the Plaintiff, further corroborates that his status in the suit property is that of a tenant. Having accepted his status as a tenant, he cannot question the title of the Plaintiff. *Therefore, the learned ADJ in the impugned Order, has rightly held that the Plaintiff was the owner and the Defendant No. 1 was the tenant and there existed a relationship of landlord and tenant inter se the parties.*

35. **The next question is whether the rent exceeded ₹3,500 per month, thereby attracting the bar under Section 50 of the DRC Act.**

36. First and foremost, when it has been shown that he had been paid Rs.1,00,000/- p.a. as rent to the Plaintiff, it comes to approximately Rs.8,300/- per month, which is beyond Rs.3,500/- per month and therefore, the bar of Section 50 of the DRC Act, is not attracted.



37. Secondly, even if the rate of rent as Rs.3,500/- per month, as claimed by the Defendant No. 1, is admitted to be correct, then too, Section 26 (1) DRC Act provides that every tenant shall pay the rent within the fixed time and in the absence of the contract, by 15th day of the next following month. In case of default in payment of rent, the rent shall be payable with the simple interest @15% p.a.

38. The learned Trial Court relied upon Raghubir Singh v. Sheela Wanti & Anr. (supra), wherein the High Court held:

*“Where the rent is not paid by month to month, the interest over the rent, as levied by the statute, becomes part of the legally recoverable rent and it cannot be said that unless there is an amendment in Section 14 (1) (a) or Section 15, the provisions of Section 26 would not apply. **The rent due would mean that the rent due as per law and where the law specifically provides that if rent is not paid for the month when it is due, it has to be paid with interest of 15% per annum, then the rent due would include the rent plus the interest over it.**”*

39. The learned District Judge, rightly added interest @15% p.a., to the defaulted rent and calculated the rent to be ₹4,025 p.m., then too the rate of rent becomes more than Rs.3,500/- since admittedly, no rent has been paid since 2012. *Thus, the impugned judgment correctly held that even if the Appellant’s case were accepted, the suit would not be barred by Section 50 of the DRC Act.*

40. **The third contention** raised by the Appellant, was that no Notice under Section 106 of the TPA, was ever served upon him.



41. Though, the Plaintiff had asserted that he had served a legal Notice dated 27.06.2014, but even if it is accepted that the Notice was not served upon the Appellant/Defendant, then too, the filing of the Suit for Recovery of Possession, amounts to sufficient notice to the Defendants, about the termination of the tenancy and the intent of the Plaintiff, to seek possession, as is held in the in *Nopany Investments (P) Ltd. v. Santokh Singh (HUF)*, (2008) 2 SCC 728. The same principle was reiterated in *Sevoke Properties Ltd. v. West Bengal State Electricity Distribution Co. Ltd.*, (2019) 6 SCC.

42. Though, the impugned Order dated 18.05.2024, was a common Order deciding the Application under Order XII Rule 6 CPC and the Application under Order XXXIX Rule 10 CPC but the learned counsel for the Appellant had stated on 17.07.2026 that the challenge was confined to the Order in the Application under Order XII Rule 6 CPC and he would take his appropriate remedies in respect of the Order in the Application under Order XXXIX Rule 10 CPC.

Conclusion:

43. Therefore, in view of the foregoing discussion, the impugned Judgment dated 18.05.2024 rightly decreed the suit for possession.

44. There is **no merit** in the Appeal, which is hereby, **dismissed**. The pending Applications are also disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

OCOTBER 01, 2026/RS