



2026:DHC:8851



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

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Reserved on: 27th July, 2026

Pronounced on: 07th October, 2026

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CNR No. DLHC011056112016

+ **RSA No.87/2016**

VIJAY PAL

S/o Late Sh. Munsi Ram

R/o Village & P.O. Alipur Garhi,

Delhi-110036

.....Appellant

Through: Mr. R.K. Saini, Advocate.

versus

1. **BHARAT SINGH (SINCE DECEASED)**
THR HIS LRS

- (i) Smt. Kamla Devi
W/o Late Sh. Bharat Singh
- (ii) Sh. Raj Kishan
S/o Late Sh. Bharat Singh
- (iii) Sh. Chand Kishan
S/o Late Sh. Bharat Singh
- (iv) Sh. Daya Kishan
S/o Late Sh. Bharat Singh
- (v) Sh. Pawan Kumar
S/o Late Sh. Bharat Singh

All Residents of:-

Village & P.O. Alipur Garhi,

Delhi-110036

.....Respondent No.1

Signature Not Verified

Signed By: ANIL
KUMAR BHATT
Signing Date: 07.10.2026
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2. **GAON SABHA ALIPUR**
Thru: B.D.O.,
B.D.O. Office Alipur,
Delhi-110036
...Respondent No. 2
3. **SH. PRAHLAD**
...Proforma Party/
Respondent No. 3
4. **SH. BALBIR SINGH**
....Proforma Party/
Respondent No. 4
5. **SH. MUKESH**
All sons of Late Sh. Munsu Ram
...Proforma Party/
Respondent No.5

Through: Mr. V.P. Rana, Mr , Aviral Jain, Mr.
Aryaman Singh, Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*), has been filed on behalf of the Appellant/Plaintiffs against the Judgment dated 05.03.2016, whereby the learned Additional District Judge-02, Delhi, **has upheld the dismissal of the Suit for Declaration and Permanent Injunction by the learned Civil Judge, New Delhi, vide Judgment dated 07.12.2012.**

2. The Plaintiffs/Appellants had filed **Civil Suit No. 330/2012** for **Declaration** that they were the owners and in possession of a plot admeasuring 176 sq. yards, bearing Khasra No. 894 (Old) and 115 (New),



situated in Village & P.O. Alipur Garhi, Delhi, (*hereinafter referred to as suit property*) and for **Permanent Injunction** that the Defendant be restrained from interfering with the peaceful possession of the Plaintiffs.

3. The **brief facts** are that the Plaintiffs, namely Prahlad, Vijay Pal, Balbir Singh and Mukesh, claimed themselves to be the owners in peaceful, continuous and uninterrupted possession of the suit property. It was explained that the plot was situated in the original Abadi area, also known as Lal Dora of this Village, formed in 1908, and had been in their possession, since the time of their forefathers.

4. It was stated that in the Abadi Area of 1908, no specific allotment of right, title or interest was made to any person, and the possession of the residents of the Village was accepted by the authorities.

5. The Defendant was claimed to be a vagabond person, who was in the habit of indulging himself in creating false and fabricated Suits in respect of the **properties of others**. The Defendant allegedly with a *mala fide* intention, visited the suit premises on 28.04.2003 and unauthorisedly and illegally tried to tether his cattle. When the Plaintiff No.1, Sh. Prahlad, objected, he started a quarrel with him and the dispute was avoided with the intervention of some respectable persons of the area. However, while leaving the site, the Defendant threatened the Plaintiffs of forcible dispossession.

6. Again, on 30.04.2003, the Defendant along with 2-3 *goonda* persons, visited the Suit Property and again, tried to forcibly dispossess the Plaintiffs. However, again due to strong resistance of the Plaintiffs and intervention of the respected neighbours, the Defendant could not succeed in his illegal acts.



7. The Plaintiffs claimed that they were in continuous and uninterrupted possession of the suit property. Thus, Plaintiffs filed a *Suit for Declaration* that they were the owners and in continuous actual possession of the Suit Property, as well as for *Permanent Injunction* to restrain the Defendant from forcibly dispossessing the Plaintiffs from the Suit Property.

8. The Defendant, *Mr. Bharat Singh*, in his **Written Statement**, took the *preliminary objection* that the Plaintiffs had no *locus standi* to file the present Suit, as they had absolutely no concern with the suit property.

9. **On merits**, it was claimed that the Defendant was in possession of the suit property admeasuring 115 sq. yards, comprised in Khasra No. 894 (Old)/115 (New), which belonged to his ancestors and his possession, dates back to that of his forefathers.

10. He explained that he was a Carpenter by profession and was living in the Village, since the time of his forefathers. He denied that he was a vagabond or was in a habit of filing false and fabricated Suits in respect of the properties of others.

11. **Defendant No. 2**, (*Gaon Sabha which was impleaded subsequently*), in its **Written Statement**, wherein it took the *preliminary objection* that the Suit of the Plaintiffs was in the nature of ***a suit for possession, filed for grabbing the land belonging to the Gaon Sabha***. The entire vacant land within the Lal Dora of the Village vested in the Gaon Sabha, which had a right to remove the encroachment. The proceedings under Section 86-A of the Delhi Land Reforms Act were already pending against Defendant No. 1. *Furthermore, the jurisdiction of the Civil Court was barred under Section 185 of the Delhi Land Reforms Act.*



12. The Union of India had not been impleaded as a party and the Suit was bad for misjoinder and non-joinder of necessary parties.
13. **On merits**, all the contents of the Complaint were denied.
14. The Plaintiffs filed separate **Replication** to the Written Statement of the Defendant Nos. 1 and 2 respectively and reaffirmed the assertions made in the Complaint.
15. The **Issues** on the pleadings, were framed, which are as under:-
- (i) *Whether the suit is without cause of action? OPD*
 - (ii) *Whether the Plaintiffs are entitled to relief of declaration? OPP*
 - (iii) *Whether the Plaintiffs are entitled to permanent injunction as prayed? OPP*
 - (iv) *Relief.*
16. The **PW-1 Mr. Vijay Pal, the Plaintiff**, tendered his Affidavit of evidence, Ex.PW-1/X. He also tendered the documents, namely, Ex.PW-1/1 to Ex.PW-1/5, in support of his case.
17. **PW-2, Mr. Rajesh Maan** and **PW-3, Mr. Pramod Kumar**, in their respective Affidavits of evidence, corroborated the testimony of the Plaintiffs. PW-3 also deposed *that an Agreement to Sell and GPA had been executed in his favour by the plaintiff No.1, though the documents were subsequently cancelled.*
18. The **DW-1, Defendant No. 1, Mr. Bharat Singh**, examined himself in support of his defence.
19. **DW-2, Mr. Ajit Singh**, *was subsequently dropped before he could be cross-examined.*



20. DW-3, Mr. Deshraj Maan, and DW-4, Mr. Hukam Chand, corroborated the testimony of the Defendant, Mr. Bharat Singh.

21. The Suit filed by the Plaintiffs was initially dismissed *vide* Judgment dated 31.01.2009, by the learned Civil Judge. **However, the said Judgment was set aside in Appeal vide Judgment dated 04.12.2010, and the case was remanded with a direction to summon the author of Ex. PW-1/1.**

22. The Court thereafter, examined CW-1, Mr. Hari Om Shokeen, Halka Patwari, District South-West, Kapashera, Delhi, who proved Ex. PW-1/1. He explained that the words “*Sah Deh*” meant that the person who had obtained the copy of the *Karyawahi* register, Ex. PW-1/1, and was a resident of the said Village.

23. The Plaintiffs thereafter, examined **HC Deshpal**, who produced the record of Register No. 19 in respect of DD No. 18A dated 20.12.2003 and proved the entry, Ex. PW-2/1.

24. The **learned Civil Judge** held that the Plaintiffs had failed to establish their ownership or possession over the suit property. The revenue record, Ex. PW-1/1, recorded the Gaon Sabha as owner, while the Plaintiffs had not produced any document of title or Lal Dora Certificate. The oral evidence regarding possession was considered insufficient, particularly as it was contradicted by the evidence led by the Defendant.

25. The evidence regarding the documents allegedly executed in favour of PW-3, was held to be beyond the pleadings and, in any event, insufficient to establish ownership or possession. The DD Entry, Ex. PW-2/1, regarding certain articles found at the site, did not establish that the articles belonged to the Plaintiffs or had been recovered from the suit property. The Report of the Local Commissioner relied upon by the Defendant, could not be read in



evidence as the Local Commissioner had not been examined, while the electricity and water bills also did not establish the Defendant's possession as they bore no property number; his own evidence regarding Property No. 2110 was found inconsistent with his claim of possession.

26. On the appreciation of overall evidence, the **learned Civil Judge held** that neither party had established possession over the suit property. The Plaintiffs were required to succeed on the strength of their own case and could not rely upon the Defendant's failure to prove his title or possession. *Having failed to establish ownership or possession, the Plaintiffs were held not entitled to Declaration or Permanent Injunction*

27. **Consequently, the Suit of the Plaintiffs was dismissed vide Judgment dated 07.12.2012.**

28. The Plaintiffs had preferred **Regular Civil Appeal No. 77/2013**, against the dismissal of their Suit.

29. *The learned Additional District Judge, re-appreciated the entire evidence and concurred with the findings of the learned Civil Judge.*

30. In respect of the Report of the Local Commissioner, it was observed that the Local Commissioner did not come to a conclusion as to whether the Appellant or the Respondents were in possession of the suit property; the goods lying there were reportedly unclaimed and waste garbage (*kura*) had been put there by the public of Village Alipur, Delhi. It was held that the Plaintiffs had not been able to show any documentary proof of the ownership or possession. The Report of the Local Commissioner also did not support the claim of the Plaintiffs.

31. **Consequently, the dismissal of the Suit by the learned Civil Judge was upheld, vide Judgment dated 05.03.2016.**



32. Aggrieved, the Appellant has preferred the **present Regular Second Appeal** under Section 100 CPC, challenging the Judgment dated 05.03.2016 passed by the learned Additional District Judge.

33. The **grounds of challenge** are that no thoughtful consideration had been given by the learned ADJ to the grounds raised in the Appeal, by the Appellants. The Judgments and citations relied upon by the Appellants, filed along with the written arguments, had not been considered except the Judgment in Gaon Sabha Budhela & Anr. v. Dharam Singh, 25 (1984) DLT 394 (Delhi High Court). A serious error of law and fact was committed in deciding the Issues by observing that there were no documents produced by the Plaintiffs in support thereof.

34. Suit No. 03/2011, titled as *Raj Kishan v. Gaon Sabha Alipur*, decided by the learned Additional Senior Civil Judge, Rohini Courts, Delhi, *vide* Judgment dated 03.06.2015, had been filed by the Respondents against Gaon Sabha with respect to the same suit property. The learned ADJ did not consider the fact that, in the Report of the Local Commissioner, it was mentioned that *the land had a boundary wall, which was constructed by the father of the Appellants, namely, Late Sh. Munsiri Ram, a fact which clearly reflected the possession of the Appellants.*

35. It has also not been appreciated that the suit property is part of the old Lal Dora Abadi of Village Alipur, carved out in the year 1908-09. For the Lal Dora *abadi* of a Village, only one Khasra number was given in the revenue records and no ownership was recorded in the name of any particular person. The Plaintiffs had the possessory/occupation rights in the suit property. A serious error of law and fact was committed, in observing that the Gaon Sabha was the owner of the suit property, Even though it had



been explained that there was no separate title document executed in respect of the lands occupied by the villagers, in the Khasra.

36. The documents relied upon by the Respondents were alleged to be forged and fabricated and, admittedly, in an investigation conducted by the Crime Branch, the said documents had been found to be forged and fabricated, and no title could pass in favour of Respondent No. 2 or Respondent No. 1, on the basis of such documents.

37. It is further asserted that the suit property, which is used as a 'Gher' by the Appellant, had bistar, charpai and other articles belonging to the Appellant, which had been illegally and unauthorisedly taken away by the Police, on 20.12.2003. It has been erroneously held that no person would place his articles and leave them in an abandoned condition and that the DD Entry did not establish that the goods lying in the suit property, belonged to the Appellant. It is submitted that the Appellant had got the articles released from the Police Station.

38. It is claimed that a serious error of fact and law has been committed, by the two Courts. *Therefore, the impugned Judgment dated 05.03.2016 be set aside and the Suit of the Plaintiffs be decreed.*

39. Learned counsel for Respondent No. 1 argued that the suit property belonged to the Gaon Sabha and that the Appellant was neither the owner nor in possession thereof. The Appeal was, therefore, liable to be dismissed.

40. Learned counsel for the Appellant argued that the suit property formed part of the old Lal Dora Abadi Deh and that no separate title documents were available, in respect thereof. It was argued that possession was the basis of the claim of ownership and that the Plaintiffs had established their possession over the suit property, which was being used for



tethering cattle. The impugned Judgment was, therefore, liable to be set aside.

Submissions heard and the record perused.

41. The Plaintiffs had sought a Declaration of ownership and of being in possession of the suit property, which is a plot of land admeasuring **176 sq. yards**. Admittedly, the Plaintiffs had no document of ownership. Their principal contention was that, since the suit property was situated in the old Lal Dora Abadi Deh, there were no documents of ownership and possession was the basis of their claimed title in respect of the plot.

42. The two substantial question of law were framed on 29.03.2016, which are as under:-

- i. *Whether the title document with respect to the land falling in Lal Dora area is necessary for proving ownership or the same could be proved by possession only.*
- ii. *If continuous possession is the basis for claiming ownership of the land, what would be the mode of proving possession in case the land is used for tethering cattle and no construction exists over the said plot?*

43. Insofar as the **first substantial question of law** is concerned, the Plaintiffs/Appellants admitted that they had no document to prove their ownership and asserted that, being situated in the old Lal Dora Abadi Deh, the possession was the basis of their claim.

44. *The evidence on record further shows that an Agreement to Sell and GPA had been executed in favour of PW-3, which were subsequently cancelled.* However, the learned Civil Judge observed that there was no averment in the Plaint regarding such transaction and, therefore, the said



evidence was rightly held by learned Civil Judge, as beyond the pleadings. Moreover, the execution of any such document in favour of another person, did not establish the ownership or possession of the Plaintiffs. Pertinently, the revenue record, Ex. PW-1/1, *recorded the owner as Gaon Sabha, Abadi.*

45. The ***second substantial question of law*** concerns the mode of proving possession where the suit property is a plot of land used for tethering cattle and no construction exists thereon. The Plaintiffs, in order to establish their possession, relied upon their oral testimony of PW-2 and PW-3.

46. However, mere oral assertions, in the facts of the present case, could not be held sufficient to establish their possession over the suit property.

47. The substantial questions of law having been framed, the evidence has to be examined in that context. Even assuming that a formal title document is not available in respect of property situated in Lal Dora Abadi Deh, the Plaintiffs were still required ***to establish the possession on the basis of which they claimed ownership.*** The evidence on record, including the oral testimony and the Report of the Local Commissioner, does not establish such continuous possession. ***The Plaintiffs, therefore, have failed to prove the very foundation of their claim.*** The Appellants having failed to establish either their ownership or the continuous possession, as claimed by them.

48. The learned Civil Judge had in the first instance, comprehensively considered the evidence led by the Defendant, who failed to establish his possession over the suit property. The learned Civil Judge, on appreciation of the evidence led by both sides, came to the conclusion that ***neither side had been able to establish possession over the suit property.***

49. The **first Appellate Court** concurred with these findings and further relied upon the Report of the Local Commissioner, which recorded that



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neither the Appellants nor Respondent No. 1/his LRs were in possession of the suit property; rather, the property was lying unclaimed and waste garbage (kura) had been put there, by the public of Village Alipur. The Appellants could not show any proof of ownership or possession, even before the Local Commissioner.

50. *The finding that the Plaintiffs had failed to establish possession, which is a concurrent finding of fact.* In a Second Appeal under Section 100 CPC, such concurrent findings of facts, do not warrant interference, **unless some substantial question of law, arises therefrom.**

51. The substantial questions of law are, accordingly, answered **against the Appellants.**

52. The Judgment dated 05.03.2016 **is accordingly, upheld** and the Appeal is **dismissed**. Pending Applications, are also disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

OCTOBER 07, 2026/RS