2026 INSC 436

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(Arising out of Special Leave Petition (C) No. 22100 of 2025)

RELIANCE EMINENT TRADING AND COMMERCIAL PRIVATE LIMITED ...APPELLANT(S)

VERSUS

DELHI DEVELOPMENT AUTHORITY ...RESPONDENT(S)

J U D G M E N T

J.K. MAHESHWARI, J.

1. Leave granted.

2. In between the twin sayings of 'justice delayed is justice denied' and 'justice hurried is justice buried', lies a golden mean which this Court must adopt to resolve the present case. It is in this balanced perspective that the provisions of Order XIII-A of the Code of Civil Procedure, 1908 (hereinafter "**CPC**") fall to be interpreted and applied.

3. The present appeal arises out of the impugned order dated 09.06.2025 passed by the Hon'ble High Court of Delhi (hereinafter "**High Court**") in I.A. No. 6914 of 2022 in CS (COMM) No. 582 of 2021, whereby the application filed by the appellant seeking summary judgment under Rule 4 of Order XIII-A of the CPC came to be dismissed.

4. The brief facts necessary for adjudication are that a public notice was issued on 21.03.2007, by the Respondent – Delhi Development Authority (hereinafter "**DDA**") announcing a public auction for various freehold commercial plots, including Plot No. 13 at the Non-hierarchical Commercial Complex, Jasola, New Delhi (hereinafter "**Subject Plot**"), whose land-use was earmarked as "Multi-level Parking/Commercial (No Multiplex)."

5. The appellant herein, being interested in acquiring the Subject Plot, submitted its bid in respect thereof on 23.03.2007, offering the amount of Bid/Lease Premium being Rs. 164,91,00,000/- (INR One hundred and sixty-four crores ninety-one lakhs only) in respect of the same. The appellant also deposited 25% (twenty-five percent) of the reserve price of the Subject Plot, i.e. a sum of Rs. 42,25,00,000/- (INR Forty-two crores twenty-five lakhs only) *vide* Demand Draft with the respondent towards earnest

money in respect of its bid, pursuant to the terms and conditions of the auction.

6. The appellant was the highest bidder for the Subject Plot, and the DDA, by its letter dated 07.06.2007, informed the appellant that its bid has been accepted, and called upon to deposit the balance sum of Rs. 122,66,00,045/- (INR One hundred and twenty-two crores sixty-six lakhs and forty-five only), including the documentation charges, within a period of 90 (ninety) days.

7. On 12.07.2007, the appellant paid the balance sum of Rs. 122,66,00,045/- in respect of the Subject Plot, followed by payment of Rs. 9,89,46,025/- (INR Nine crores eighty-nine lakhs forty—six thousand twenty-five only) towards the Stamp Duty and Transfer Duty in respect of execution of the Conveyance Deed on 03.12.2007. In this light, DDA called upon the appellant to take possession of the Subject Plot on or before 15.01.2008.

8. Upon due completion of all necessary pre-requisites by the appellant, including the payment of the entire sale consideration, Stamp Duty and Transfer Duty; DDA executed the Conveyance Deed dated 06.02.2008 in favour of the appellant for the Subject Plot on a free-hold basis. The said Conveyance Deed was duly registered on 07.03.2008 at the office of the Sub-Registrar-VII, Delhi having

Registration No. 4,300 in Additional Book No. 1, Volume No. 2,886 at pages 83 to 86.

9. From the year 2008 onwards, pursuant to the execution of the Conveyance Deed in respect of the Subject Plot in its favour, the appellant, between assessment years of 2008-09 to 2017-18, also made payments of a sum amounting to Rs. 24,00,036/- (INR Twenty-four lakhs thirty-six only) towards property tax in respect of the Subject Plot.

10. In the year 2015, unknown to the appellant herein, one Simla Devi, claiming to be the erstwhile owner of the Subject Plot before acquisition of the land by the DDA on behalf of the State, had filed a Writ Petition being W.P. (C) No. 5688 of 2015 before the High Court, seeking a declaration that the acquisition of land (hereinafter "**Subject Land**") had lapsed on account of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter "**Fair Compensation Act, 2013**").

11. The High Court, *vide* judgement dated 15.11.2016 in W.P. (C) No. 5688 of 2015, held as under: –

> *"**2.** Though the respondents claimed that possession of the said land was taken on 05.03.1997, the petitioner disputes this and maintains that physical possession has not been*

taken. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not be paid.

3. *Without going into the controversy of physical possession, this much is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid…*

4. *As a result, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject land are deemed to have lapsed. It is so declared.*

5. *The writ petition is allowed to the aforesaid extent. There shall be no order as to costs."*

12. On 27.11.2016, the appellant claimed that some unknown people, led by one Sachin Bidhuri, trespassed into the Subject Plot, broke the boundary wall and damaged the pillars under construction; and forcibly took illegal possession of the property claiming to be the rightful owner of the Subject Land of which the Subject Plot was a part.

13. Pursuant to the same, the appellant filed a police complaint dated 13.12.2016 under Diary No. 54-B with Police Station Sarita Vihar, Delhi, complaining of the aforementioned offences of unlawful criminal trespass and causing loss of property, etc. On 02.01.2017, the appellant also wrote to the DDA intimating them about the nuisance created by Mr. Sachin Bidhuri and others, as well filing of the police complaint, and sought necessary intervention.

14. On 03.04.2017, the DDA filed a Special Leave Petition being SLP (C) No. 8526 of 2017 before this Court, challenging the order dated 15.11.2016 passed by the High Court.

15. It ought to be noted that the appellant claims that even at this stage, it was not intimated by DDA of the aforesaid order of High Court or the proceedings filed before this Court, and was, as such, not aware of the same.

16. The above SLP (C) No. 8526 of 2017 was converted to Civil Appeal No. 6345 of 2017 and was dismissed by this Court *vide* judgment dated 04.05.2017, wherein it was held as under: –

> "***5.*** *In the peculiar facts and circumstances of this case, the appellant is given a period of six months to exercise its liberty granted under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for initiation of the acquisition proceedings afresh.*
>
> ***6. We make it clear that in case no fresh acquisition proceedings are initiated within the said period of six months from today by issuing a Notification under Section 11 of the Act, the appellant, if in possession, shall return the physical possession of the land to the owner.***"

17. The appellant, claiming ignorance of the above proceedings, made representation dated 25.04.2017 to DDA to address its grievance. It is also claimed that a further representation dated 16.06.2017 was made.

18. At this juncture, it may be noted that the period of six months, as stipulated in the order dated 04.05.2017 passed by this Court for initiation of fresh acquisition proceedings, expired on 04.11.2017, however, admittedly, no action was initiated by DDA.

19. On 05.12.2017, the appellant claims that when its representative visited the office of DDA to follow up on its earlier representations, he was purportedly handed over a letter dated 20.11.2017, whereby the appellant was intimated the following: –

> *"Kindly refer to this officer letter of even number dated 04.10.2017 and its subsequent reminder dated 20.10.2017 drawing your attention to the order dated 04.052017 passed by the Hon'ble Supreme Court of India in SLP No. 8526/2017 with reference to the above mentioned property/plot giving direction therein for initiation of fresh acquisition proceedings under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act; 2013 within a period of six months from the date of issue of order. The case has been processed and examined by the Land, Management Deptt., DDA has advised to seek commitment from allottee to bear additional financial lability, on account of payment, of compensation under LARR Act, 2013.*
>
> *You are once again requested to submit an undertaking within seven days from the date of issue of this letter on non-judicial stamp paper duly attested by Magistrate 1st Class with confirmation that you will bear additional financial liabilities on account of reacquisition proceedings of land to enable DDA to initiate process of the reacquisition immediately failing which you will be liable to face legal consequences arising out of the directions of Hon'ble Supreme Court dated 04.05.2017."*

20. The appellant claims that in furtherance to the aforesaid letter and the visit by its representative, it was informed for the very first time of the legal proceedings that had ensued in respect of the Subject Plot; including the order dated 04.05.2017 passed by this Court in Civil Appeal No. 6345 of 2017. In light of the same, on 28.12.2017, the appellant wrote to DDA highlighting that it had never received the aforementioned letters dated 04.10.2017 and 20.10.2017, and the letter dated 20.11.2017 was received by it only on 05.12.2017, being much after lapse of the time period of six months granted by this Court for initiating fresh acquisition proceedings. In its letter, the appellant further emphasized as follows: –

> *"**8.** …You will appreciate that we have in the year 2007 paid the entire consideration for the said Plot and complied with the auction terms. It was failure on your part by not paying the compensation to the original land owner resulting in lapsing of the said acquisition of the said Plot under the said auction program no. XIV.*
> ***9.** The order of the Hon'ble Supreme Court was passed on 04.05.2017, and since then a period of six (6) months have already elapsed, however, to our knowledge, no fresh acquisition proceedings has been initiated by you.*
> ***10.** In the circumstances, we request to refund the full consideration of Rs.164.91 crore paid by us towards purchase of the subject Plot along with Rs.9,98,46,000/- paid towards purchase of the subject Plot along with Rs.9,89,46,000/- paid towards the stamp duty and `Rs.22,12,927/- paid towards property tax together with interest at the rate of 15% PA from the date of the said payments till realisation."*

21. Admittedly, from the date of the aforesaid communication, the officials of the appellant consistently followed-up with the DDA for refund of the above amounts. Further, the appellant also sent multiple reminders for the refund *vide* letters dated 10.12.2018 and 07.08.2019.

22. Thereafter, the DDA filed a Review Petition before this Court being R.P. No. 29817 of 2017 in the above mentioned Civil Appeal No. 6345 of 2017. By order dated 17.10.2019, this Court dismissed the review petition in the following terms: –

> *"There is delay of 807 days in filing the Review Petition for which no satisfactory explanation has been given. Even otherwise, we do not find any merit in the Review Petition. The Review Petition is dismissed on the ground of delay as well as merits."*

23. In continuation to its earlier letters, the appellant further issued a letter dated 18.07.2020 reiterating its demand for refund of all amounts paid to DDA along with interest. A reminder dated 19.10.2020 was also issued.

24. Ultimately, on 02.11.2020, the appellant filed a civil suit being CS (Comm.) No. 582 of 2021 before the High Court for recovery of the amount paid as sale consideration, Stamp Duty, Property Tax, etc. for the Subject Plot. The aforesaid suit was filed after due notice under Section 53B of the Delhi Development Act, 1957 as well as

mandatory mediation as prescribed under Section 12A of the Commercial Courts Act, 2015. The suit so filed sought recovery of an amount of Rs. 459,73,61,098/- with *pendente lite* interest which included the following:

(i) Sale consideration of Rs. 164,91,00,000/-

(ii) Stamp & transfer duty of Rs. 9,89,46,025/-

(iii) Property Tax paid from FY 2008-09 to FY 2017-18 of Rs 24,00,036/-

(iv) Interest @ 12% p.a. till date of filing suit i.e. 31.12.2020 being Rs 284,93,15,053/- and *pendente lite* interest @12% p.a.

25. In the meanwhile, the DDA filed Curative Petition (C) No. 70 of 2021 before this Court, which came to be dismissed *vide* order dated 19.05.2022. Thus, it is clear that this Court's order in Civil Appeal No. 6345 of 2017 has attained finality.

26. During such time period, on 18.01.2022, DDA filed its Written Statement in the suit for recovery before the High Court. The respondent primarily contended therein that the appellant had not returned the possession of the Subject Land in order to claim refund. It was further contended that the claim is time barred and that the suit also suffers from non-joinder of Simla Devi i.e., the

original owner. On 07.03.2023, the appellant filed Replication to the Written Statement of DDA in the civil suit.

27. Finally, on 27.04.2022, the appellant an application being I.A. No. 6914 of 2022 in CS (Comm) No.582 of 2021, seeking summary judgment under Rule 4 of Order XIII-A of the CPC.

28. The Single Judge of the High Court, *vide* impugned order dated 09.06.2025 dismissed the application for summary judgment. For ready reference, certain observations of the High Court are reproduced below: –

> *"**52.** The Court is therefore, of the considered opinion that without offering possession of 'plot' back to the DDA, or at least establishing that the rightful owner is already in possession of the 'plot', the plaintiff cannot claim refund of consideration amount paid by it.*
>
> ***53.** Ergo, the defence put forth. by the defendant cannot be said to be baseless and illusory. The summary procedure as prescribed in Order XIII-A CPC is to be resorted to by the Courts for passing of judgment in commercial disputes, where it could be disposed of without recording of oral evidence, which is ·not possible in. the present case. Recording of oral evidence appears to be imperative as regards the issue of possession, which this Court finds to be contentious and triable.*
>
> ***54.** Thus, the suit cannot be determined in a summary manner. The plaintiff in the present application has failed to meet the twin tests that – (a) the defendant has no real prospect of successfully defending the claim and; (b) there is no such compelling reason why the claim should not be disposed of before recording of oral evidence.*
>
> ***55.** As this Court has opined that recording of oral evidence is necessary and summary judgment cannot be passed, all other*

issues are left open for the parties to be raised at the appropriate stage.

56. *In the overall conspectus of facts noted above, the present application deserves to be dismissed. Ordered accordingly."*

29. Aggrieved by the aforesaid judgement of the High Court, the present appeal has been preferred before this Court.

30. In the meanwhile, the DDA allegedly filed an application being CM Appl. No. 50807 of 2023, alleging that the original owner Simla Devi had played fraud on the Court since there was a dispute on her identity. Perusal of the record indicates that the aforesaid application was dismissed *vide* a detailed judgment dated 03.07.2024 by the Division Bench of the High Court. It was held that after verifying the detailed submissions of both sides, no case was made out by the DDA.

31. This aforesaid judgement of the Division Bench of the High Court was challenged before this Court in SLP (C) Dairy No. 53900 of 2025. This Court, *vide* order dated 15.10.2025, while dismissing the Special Leave Petition, granted time to DDA to re-acquire the land within one year in terms of the directions passed in ***DDA v. Tejpal***, (2024) 7 SCC 433. While doing so, this Court recorded as below:

*"**2.** We have heard learned Senior Counsel for the petitioner as well as learned Senior Counsel for the private respondent, who*

is on caveat, and carefully perused the material placed on record.

3. *In our considered view, no case to interfere with the impugned judgement dated 03.07.2024, passed by the High Court of Delhi, is made out.*

4. *All the contentions sought to be raised before us are essentially disputed question of facts, which were unsuccessfully raised before the High Court. Knowing the scope of our consideration under Article 136 of the Constitution, we cannot entertain and determine such questions.*

xxx xxx xxx

8. *It is clarified that the extension of one year, as granted to the Authorities for completion of acquisition in paragraph 88.1 reproduced above, will commence from the date of this order."*

32. We have heard learned senior counsels, Mr. Shyam Divan for the appellant and Mr. Kailash Vasdev for the respondent herein.

33. Having heard the learned counsel for the parties and perusing the records, the issue at hand is *"whether the Appellant herein is entitled for a summary judgment under Order XIII-A of the CPC, in the present facts and circumstances?"*

Winds of change

34. Before we address the issue at hand, there is a need to address certain values inherent to the Indian judicial system. There is no doubt that our justice delivery system is premised on being fair, independent, and just. However, it is often criticized for delay. Ordinary citizens complain about the cost and delay associated with civil disputes. There are many instances in India which have the

bearings of the infamous fictional case of Jarndyce v. Jarndyce, as recounted by Charles Dickens in his novel 'Bleak House.'

35. The effectiveness of private arbitration, once seen as a solace cannot be the panacea for all disputes. There is a need, as well as growing support, for developing new extensive pre-trial processes. A conventional trial no longer reflects modern reality and requires re-calibration. In this light, to ensure balance, there is a requirement of simplified and proportionate tools for efficacious adjudication. This implores our system to adopt and embrace a shift in the culture of efficiency in dispute resolution.

36. An effective justice system must enable a judge to adjudicate the issue by ascertaining the necessary facts and applying the appropriate legal principle in a fair and effective manner. However, such adjudicatory processes cannot be meaningful unless they are accessible. Accessibility, in this context, must be assessed in terms of affordability, timeliness, and proportionality. The principle of proportionality requires that procedural mechanisms be tailored to the nature, complexity and stakes of the litigation; while ensuring optimal use of judicial time and resources. In this context, a summary judgement assumes significance as an important procedural tool. It advances access to justice by providing a swift

and cost-effective alternative to a full-fledged trial, especially in cases where prolonged adjudication would serve no real purpose.

37. In such a background, the scheme of Order XIII-A of the CPC required to be analysed. Order XIII-A of the CPC was brought by way of the Commercial Courts Act, 2015. The relevant portion of statement or objections and reason of the Commercial Courts Act 2015 is as under: -

> *"to have a streamlined procedure which is to be adopted for the conduct of cases in the Commercial Courts and in the Commercial Divisions by amending the Code of Civil Procedure 1908,* ***so as to improve the efficiency and reduce delays in disposal of commercial cases. The proposed case management system and provisions for summary judgment will enable disposal of commercial disputes in a time bound manner****."*
>
> ***(emphasis supplied)***

38. The need for fast-track procedures in adjudication of commercial suits was first expressed in the 188th Report of the Law Commission on the 'Proposals for constitution of Hi-tech Fast-Track Commercial Divisions in High Courts.' Thereafter, the aforesaid subject matter was extensively considered in 253rd Report of the Law Commission and examined the rules in jurisdictions such as the United Kingdom and Singapore to formulate a draft bill which contained provisions concerning summary procedure. This Report emphasised that a new procedure for summary judgement be

brought into effect for the purpose of streamlining trial proceedings with the intent to improve efficiency and reduce delay in disposal of commercial cases. Accordingly, Act 14 of 2016 was passed, bringing into force the 'Commercial Courts Act, 2015.' Order XIII-A was introduced under the schedule to be added in the Civil Procedure Code of 1908.

39. Discussing the pro-active approach brought by way of the Commercial Courts Act, this Court in ***Ambalal Sarabhai Enterprises Ltd. v. K. S. Infraspace LLP and Another***, ***(2020) 15 SCC 585***, observed as follows: –

> "*As per Justice R. Banumathi (concurring)*
>
> ***34.*** *The Schedule to the Commercial Courts Act amends various provisions of the Code of Civil Procedure and thereby makes significant departure from the Code. After Order 13 of the Code, Order 13-A "Summary Judgment" has been inserted. Order 13-A contains the scope and classes of suits to which Order 13-A applies, grounds for summary judgment, procedure to be followed, evidence for hearing of summary judgment, orders that may be made by Court in such proceedings for summary judgment, etc. After Order 15 of the Code, Order 15-A-"Case Management Hearing" has been inserted. Order 15-A provides for first case management hearing (Rule 1); recording of oral evidence on a day-to-day basis (Rule 4); powers of the court in a case management hearing (Rule 6); adjournment of case management hearing (Rule 7); consequences of non-compliance with orders (Rule 8). By way of amendment, several rules have been incorporated to make the matters of commercial disputes on fast track. In Order 20 of the Code "Judgment", Rule 1 has been substituted that within ninety days of the conclusion of arguments, the Commercial Court/Commercial Division/Commercial Appellate Division to pronounce the judgment and copies*

thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.

35. *Various provisions of the Act, namely, case management hearing and other provisions makes the court to adopt a pro-active approach in resolving the commercial dispute. A new approach for carrying out case management and strict guidelines for completion of the process has been introduced so that the adjudicatory process is not delayed. I have referred to the various provisions of the Act and the Schedule bringing in amendments brought to the Civil Procedure Code to deal with the commercial disputes, only to highlight that the trial of the commercial dispute suits is put on fast track for disposal of the suits expeditiously. Various provisions of the Act referred to above and the amendments inserted to the Civil Procedure Code by the Schedule is to ensure speedy resolution of the commercial disputes in a time bound manner. The intent of the legislature seems to be to have a procedure which expedites the disposal of commercial disputes and thus creates a positive environment for investment and development and make India an attractive place to do business."*

40. The evolution of summary judgments was aimed to resolve a persistent challenge of common law litigation that often results in considerable delays and large expenses. There is no gainsaying that summary judgments did not exists in common law earlier, it evolved through numerous statutory interventions under the English law as a response to social and economic pressures. The evolution of summary judgment was dependent on factual clarity and evidence; it was granted only to plaintiffs in cases seeking factual certainty. In this regard, the emergence of summary judgment under Indian procedural law represents a significant 'change of winds', steering

the country's litigation chapters to meet the contemporary demands of factual certainty and judicial efficiency. Although fast-track procedure existed under the CPC by way of Order XXXVII, it was only applicable for limited purpose.

41. Order XIII-A of the CPC consists of eight rules, detailing the procedure and substance for rendering a summary judgment. Rule 1 states that the summary judgement procedure can be adopted for deciding the entire suit/counter claim, or a part of a claim or even a particular question on which a claim (whether in whole or in part) depends. It was further clarified that the summary procedure was also applicable to suits filed under Order XXXVII of CPC.

42. Rule 2 of Order XIII-A of the CPC observes that application for summary judgement is time bound and can be made any time after the summons has been served on the defendant and before the issues are framed.

43. Rule 3 of Order XIII-A of the CPC is the heart of the aforesaid order and reads as under: –

> *"**3. Grounds for summary judgment.**— The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that–*
> *(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and*

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence."

In such light, this Rule 3, as applicable to commercial disputes, empowers the Court to grant a summary judgement against the defendant where the Court considers that the defendant has no real prospect of successfully defending the claim and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. The aforesaid provision is identical to Rule 24.3 of the Civil Procedure Rules, 1998 as applicable in the United Kingdom. The same reads as under: –

> ***"24.2. The court may give summary judgement against a claimant or defendant on the whole of a claim or on an issue if–***
>
> *(a) It considers that the party has no real prospect of succeeding on the claim, defence or issue; and*
>
> *(b) There is no other compelling reason why the case or issue should be disposed of at a trial."*

44. Rule 4 of Order XIII-A of the CPC prescribes the procedural aspects concerning the format of pleadings and other requirements necessary for the Court to consider an application under the said Order in the following manner: –

> ***"4. Procedure.—***
>
> *(1) An application for summary judgement to a Court shall in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-clauses (a) to (f) mentioned hereunder:–*

(a) *the application must contain a statement that it is an application for summary judgement made under this Order;*

(b) *the application must precisely disclose all material facts and identify the point of law, if any;*

(c) *in the event the applicant seeks to rely upon any documentary evidence, the applicant must,–*

(i) *include such documentary evidence in its application, and*

(ii) *identify the relevant content of such documentary evidence on which the applicant relies;*

(d) *the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;*

(e) *the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.*

(2) *Where a hearing for summary judgement is fixed, the respondent must be given at least thirty days' notice of:–*

(a) *the date fixed for the hearing; and*

(b) *the claim that is proposed to be decided by the Court at such hearing.*

(3) *The respondent may, within thirty days of the receipt of notice of application of summary judgement or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in clauses (a) to (f) mentioned hereunder in addition to any other matter that the respondent may deem relevant:–*

(a) *the reply must precisely–*

(i) *disclose all material facts;*

(ii) *identify the point of law, if any; and*

(iii) *state the reasons why the relief sought by the applicant should not be granted;*

(b) *in the event the respondent seeks to reply upon any documentary evidence in its reply, the respondent must–*

(i) *include such documentary evidence in its reply; and*

(ii) *identify the relevant content of such documentary evidence on which the respondent relies;*

(c) *the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;*
(d) *the reply must concisely state the issues that should be framed for trial;*
(e) *the reply must identify what further evidence shall be brought on record at trial that could not be brought on record at the stage of summary judgement; and*
(f) *the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgement."*

45. Rule 5 relates to the evidentiary aspect of adjudicating applications under Order XIII-A of the CPC. This has been inducted to ensure that summary judgments are rendered in terms of Rule 3 by adducing any additional evidence in the following manner: –

*"**5. Evidence for hearing of summary judgement.–***
(1) *Notwithstanding anything in this Order, if the respondent in an application for summary judgement wishes to rely on additional documentary evidence during the hearing, the respondent must:–*
(a) *file such documentary evidence; and*
(b) *service copies of such documentary evidence on every other party to the application at least fifteen days prior to the date of hearing.*
(2) *Notwithstanding anything in this Order, if the applicant for summary judgement wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must:–*
(a) *file such documentary evidence in reply; and*
(b) *serve a copy of such documentary evidence on the respondent at least five days prior to the date of hearing.*
(3) *Notwithstanding anything to the contrary, sub-rules (1) and (2) shall not require documentary evidence to be:–*
(a) *filed if such documentary evidence has already been filed; or*

(b) *served on a party on whom it has already been served."*

46. Rule 6 provides the different types of discretion available with the Court while considering an application under Order XIII-A of the CPC and the same includes: –

> *"**6. Orders that may be made by Court.–***
> *(1) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:–*
> *(a) judgement on the claim;*
> *(b) conditional order in accordance with Rule 7 mentioned hereunder;*
> *(c) dismissing the application;*
> *(d) dismissing part of the claim and a judgement on part of the claim that is not dismissed;*
> *(e) striking out the pleadings (whether in whole or in part); or*
> *(f) further directions to proceed for case management under XV-A.*
> *(2) Where the Court makes any of the orders as set forth in sub-rule (1)(a) to (f), the Court shall record its reasons for making such order."*

47. Rule 7 and Rule 8 of Order XIII-A of the CPC provide specific provisions on conditional orders and costs, respectively.

48. At the outset, the scheme of Order XIII-A of the CPC portrays an adversarial adjudication. It cannot be inquisitorial, meaning that a summary judgment under this Order cannot be upon the inquisition of the Court. It is mandatory to serve the defendant, as elucidated in Rule 2 of this Order.

49. At this point, it will not be out of context to note that the consequences of 'rejection of plaint'/'return of plaint' and 'summary judgment' are different. *Res judicata* operates only on the latter. Accordingly, the test of adjudication must also be different between Order VII Rule 11 and Order XIII-A of the CPC. Consequently, the scope of enquiry for a Court under Order XIII-A of CPC is larger than that Order VII Rule 11.

50. Coming back to the Order necessary for adjudication of the present case, Rule 3 of Order XIII-A of the CPC provides that the Court, while adjudicating an application for summary judgement, has to bear in mind two things –

(i) the Court considers –

(a) whether the plaintiff has any real prospect of succeeding on the claim or issue; or

(b) whether the defendant has any real prospect of successfully defending the claim or issue; and

(ii) there is no other reason why the case or issue should be allowed to go to trial.

51. This brings us to the expression 'real prospect of success', as used in Rule 3 of Order XIII-A of the CPC. This phrase is, by its very nature, self-explanatory and admits of no further interpretation. It

postulates that the likelihood of success must be real and substantial, as opposed to being merely fanciful or speculative. In other words, the standard envisages a degree of certainty higher than that of a claim which is merely arguable. Accordingly, where the Court finds that a claim or defence is so weak that it *prima-facie* discloses no reasonable prospect of success, it is neither necessary nor desirable to subject the parties to the rigours of a full-fledged trial. The provision, thus, empowers the Court to arrest such proceedings at the threshold, thereby preventing undue expenditure use of judicial time and resources. At the same time, the provision reflects the broader obligation of the Court to ensure expeditious delivery of justice. In this regard, reference can be made to the decision of the England and Wales Court of Appeal in ***Swain v. Hillman, [2001] 1 All ER 91***, which set the standard for summary judgement under Part 24 of the Civil Procedure Rules, 1998 of the United Kingdom. In this case, it was held that the power of summary judgement is to be exercised where it is just and expedient to do so, enabling parties to know their legal position without being compelled to endure a trial.

52. The question then arises regarding the scope of enquiry under Order XIII-A of the CPC. At one end of spectrum, it is to follow the

test laid out in ***Wenlock v. Moloney, [1965] 1 WLR 1238***, wherein the English Court of Appeal adopted rigid standard to state that: –

> "…***this summary jurisdiction of the court was never intended to be exercised by a minute and protracted examination of the documents and facts of the case, in order to see whether the plaintiff really has a cause of action.*** To do that is to usurp the position of the trial judge, and to produce a trial of the case is chambers, on affidavits only, without discovery and without oral evidence tested by cross-examination in the ordinary way. This seems to me to be an abuse of the inherent power of the court and not a proper exercise of that power."

53. A less stringent standard was adopted in ***William and Humbert Ltd. v. W & H Trade Marks (Jersey) Ltd.***, ***[1986] AC 368***, wherein the U.S. Court of Appeals for the District of Columbia Circuit observed that a Court should, as a general rule, decline to proceed with the argument unless it not only harbours doubts about the soundness of the pleadings but, in addition, is satisfied that striking out will obviate the necessity for a trial or will substantially reduce the burden of preparing for the trial or the burden of the trial itself.

54. In ***Three Rivers District Council v. Governor and company of the Bank of England***, ***[2001] UKHL 16***, the House of Lords was considering a suit for damages against the Bank of England for misfeasance in public office arising from collapse of Bank of Credit

and Commerce International SA. While considering the application of the defendant for summary judgement, it was held that: –

> *"**95.** I would approach that further question in this way. The method by which issues of fact are tried in our courts is well settled. After the normal processes of discovery and interrogatories have been completed, the parties are allowed to lead their evidence so that the trial judge can determine where the truth lies in the light of that evidence. To that rule there are some well-recognised exceptions. For example, it may be clear as a matter of law at the outset that even if a party were to succeed in proving all the facts that he offers to prove he will not be entitled to the remedy that he seeks. In that event a trial of the facts would be a waste of time and money, and it is proper that the action should be taken out of court as soon as possible. In other cases it may be possible to say with confidence before trial that the factual basis for the claim is fanciful because it is entirely without substance. It may be clear beyond question that the statement of facts is contradicted by all the documents or other material on which it is based. The simpler the case the easier it is likely to be take that view and resort to what is properly called summary judgment.* ***But more complex cases are unlikely to be capable of being resolved in that way without conducting a mini-trial on the documents without discovery and without oral evidence.*** *As Lord Woolf said in Swain v Hillman, at p 95, that is not the object of the rule. It is designed to deal with cases that are not fit for trial at all."*

55. Closer to the home, various High Courts have rendered their opinions primarily on a cautionary note in adjudicating summary judgments, which have been held to be applicable in exceptional cases. Reference in this regard can be made to ***Bright Enterprises Pvt. Ltd. v. MJ Bizcraft LLP & Anr., 2017 SCC Online Del 6394*** and ***Su-kam Power Systems Ltd. v. Mr. Kunwer Sachdev & Anr., 2019 SCC Online Del 10764***.

56. If a case before the Court gives rise to a neat point of law or construction, and if the Court is satisfied that it has all evidences necessary for the proper determination of the question and that the parties have had an adequate opportunity to address their arguments; it should grasp the nettle and decide the same. While it is simply not enough for the defendant to argue that something may come up in trial, at the same time the defendant has to show from the documents available on record, or portray that such evidence likely exists and can be expected to be made available during the trial.

57. There is no gainsaying that the Court ought not to conduct a mini-trial in this regard, rather take the statements and facts on the face, until any contemporaneous document indicates otherwise. In doing so, the Court ought to not only take into account the evidence actually available on the record, but also the evidence that can be reasonably be expected to be available in the process of trial.

58. It may not be out of context to note that the use of summary judgment will not be against the interest of justice if it will lead to a fair and just result, and serve the goals of timeliness, affordability and proportionality in light of the litigation as a whole.

59. Therefore, while considering an application for summary judgment under Order XIII-A of the CPC, the following non-exhaustive guidelines have to be complied –

(i) That the procedural mandate under Order XIII-A, CPC be strictly complied.

(ii) The Court should consider,

(a) Whether Plaintiff has no real prospect of succeeding on the claim or issue; or

(b) Whether the defendant has no real prospect of successfully defending the claim or issue; and

(iii) The Court should also consider whether there is no other reason why the case or issue(s) should be allowed to go to trial.

(iv) While ascertaining above, the Court does not have to take everything on the face value, but it must also not conduct a mini trial at the same time.

(v) That the Court has to differentiate between a cause of action/defence respectively, which is real as opposed to fanciful prospect.

(vi) That the Court ought to grasp the nettle, when dealing with the summary judgment applications to decide short points of law and interpretations.

(vii) The Court must take into account not only the evidence before it but also the evidence that can reasonably be expected to be led/available at the trial.

(viii) That the Court's usage of power under Order XIII-A, CPC is exceptional as it cuts short the process of trial and ought to be exercised where oral evidence and full trial is not required.

(ix) In order to ascertain the need for full trial over summary judgment, the Court has to see whether, in the interest of justice, it is more suited to conduct trial to –

(a) Weigh the evidence,

(b) Evaluate the credibility of a deponents,

(c) Draw reasonable inferences from the evidence.

Grasping the nettle

60. The case of the appellant herein is simple. It is undisputed that it purchased the Subject Plot through public auction by paying

valuable consideration way back in the year 2007. Further, it is an admitted position that the acquisition of the Subject Land was challenged before the High Court by the original owner i.e., one Simla Devi in W.P. (C) No. 5688 of 2015. It is a matter of record that the High Court by order dated 15.11.2018, declared that the aforesaid acquisition had lapsed. There is also no dispute that the when this order was challenged before this Court in Civil Appeal No. 6345 of 2017, the appeal came to be dismissed *vide* order dated 04.05.2017 while giving DDA a last opportunity to re-acquire the Subject Plot within six months. There is no dispute that even these six months as provided by this Court expired on 04.11.2017, without re-acquisition of the Subject Land. Moreover, it is a matter of record that the Review Petition filed by DDA before this Court was dismissed by order dated 17.10.2019, followed by dismissal of a Curative Petition *vide* order dated 19.05.2022. Further, the lapse is again confirmed in the order dated 15.10.2025 passed by this Court in SLP (C) Dairy No. 53900 of 2025, with a further option given to DDA to re-acquire the Subject Land within one year.

61. In light of the above admitted and conclusive facts, the appellant herein instituted a suit for recovery of amount paid as consideration with interest, before the High Court being C.S.

(Comm) No. 582 of 2021. In this context, an application being I.A. No. 6914 of 2022 was filed by the appellant seeking summary judgment under Rule 4 of Order XIII-A of CPC. In the said application, the appellant pleaded that conveyance of the Subject Plot in its favour was wholly dependent upon the validity of the acquisition of the underlying land by the respondent DDA. It is an admitted position that such acquisition stood rendered *void-ab-initio* due to failure of DDA to pay compensation to the original landowners, resulting in lapse under Section 24(2) of the Fair Compensation Act, 2013. In this regard, reliance was placed on the judgement of the High Court dated 15.11.2016, as affirmed by this Court in its judgement dated 04.05.2017, as well as the subsequent review and curative proceedings. It was further contended that the DDA failed to initiate fresh acquisition proceedings withing the stipulated time period. In view of the aforesaid, despite payment of the entire sale consideration, stamp duty, property tax and other charges, the appellant was left with no subsisting right on the Subject Plot. Thus, the suit and consequent application were filed claiming that the amounts paid were liable to be refunded with interest, for reasons solely attributable to the respondent. It was also averred that despite repeated representations by the appellant,

no response was elicited from the respondent. It was only informed belatedly *vide* a letter dated 20.11.2017 of the aforesaid developments along with furnishing an undertaking to bear all additional responsibility for re-acquisition, which was well beyond the time period granted by the Courts.

62. It is, thus, clear from the pleadings and documents in the application and the plaint, that the appellant is able to discharge his burden in showing a real prospect of success. Now we must examine the respondent's position to see whether the defence exhibits any actual prospect of success to mandate a trial.

63. The first defence of the DDA is that the appellant continued the possession and lost the same due to some miscreants. According to the respondent herein, in order for the appellant to maintain a claim for refund, the appellant is first bound to handover the peaceful possession of the subject land to the DDA. Therefore, the aspect of possession is an issue to be adjudicated in trial.

64. Although this argument of the respondent appears to be enticing, however the same has to be rejected for having no basis in law. The history of litigation clearly indicates that the question of lapse of acquisition has been conclusively put to rest by this Court in view of dismissal of the Curative Petition. The fact that

acquisition has lapsed means that the situation as it existed before initiation of the land acquisition process has been brought back. There is nothing left for the respondent DDA to seek in the land. Legally, the implication of lapse of acquisition is that the title flows back to the erstwhile owner. But, the DDA has no interest to retain the same. Moreover, the order dated 04.05.2017 passed by this Court in Civil Appeal No. 6345 of 2017 was categorical that if the re-acquisition is not carried out in six months, then the possession be returned to the original owners i.e., Simla Devi and others.

65. The defence of the DDA herein is fanciful as they seek to claim the possession from the appellant herein, whereas it is now for the erstwhile owners to seek appropriate remedies. In addition, it is necessary to observe that once, on a petition filed by the erstwhile owner, lapsing of the acquisition was directed with liberty of re-acquisition, the auction proceedings have lost their efficacy. In consequence, the Conveyance Deed of the Subject Plot, for which the deposit of consideration was made, is required to be refunded in order to revert the clock to the position as it existed on the date of the auction. Further, in view of the orders passed by this Court, it can well be perceived that in case the DDA decides to re-acquire the land, they may have an occasion to auction the same, otherwise,

the title of the subject land will be lost by them. Hence, DDA does not have any right to retain the bid amount which was deposited well within time by the appellant.

66. In light of the above, the High Court completely erred in reading the issue of refund as contingent to handing over of the possession. There is nothing in law or fact to show that possession is *sine qua non* for refund. The DDA is not able to dislodge the fact that the acquisition lapsed by orders of this Court. A necessary corollary is that refund has to be initiated for the auction purchaser. Further, there is no valid reason portrayed by the respondent to refuse refund or retain the amount any longer.

67. The High Court seems to have misdirected itself in finding a triable issue on fact without adjudicating the relevancy of the aforesaid issue to the case at hand. Even assuming that factum of physical possession is contentious, the High Court failed to examine as to how such fact affects the issue of refund.

68. The analysis of the High Court in equating possession to a level ownership is completely misguided. Such understanding renders categorical findings of this Court in the earlier round otiose. Further, such examination provides the DDA a ruse to re-open the litigation settled earlier by this Court. If such re-opening is allowed,

then there is no certainty of the judgments of this Court, more so when the Curative Petition has already been dismissed against the respondent herein.

69. Is this context, the letter dated 20.11.2017 sent by DDA to the appellant herein is instructive, wherein the respondent has itself admitted that by order dated 04.10.2017 of this Court, the earlier acquisition lapsed and fresh direction for acquisition was provided by the Court.

70. In addition, the order in Civil Appeal No. 6345 of 2017 was an *in rem* adjudication. Any aspect dealt therein operates as a *res judicata* on the party to re-agitate the aforesaid issue. The adjudication was on the status of land acquisition over the Subject Land, which has been categorically held to have been lapsed. In this regard, the respondent cannot be allowed to re-agitate the issue indirectly in a suit on issues which have been well-settled by way of orders of this Court.

71. Viewed from the standpoint of restitution, the respondent has sought to raise a defence of alleged 'counter-restitution impossibility.' Notwithstanding the manner in which the defence has been articulated, it is liable to be rejected. There exists no corresponding benefit with the appellant that can be restored to the

respondent. Inasmuch as the acquisition itself has lapsed; no right, title or benefit in respect of the Subject Land subsists with the appellant, which can be the subject matter of counter-restitution. The plea of restitution, insofar as it seeks to predicate a return of possession, is thus wholly illusory and misconceived. Any independent claim, including that of the original owner in respect of possession, is extraneous to the present proceedings and may be pursued in accordance with law in appropriate proceedings. On this ground as well, the defence set up by the respondent is liable to fail.

72. The aforementioned issue of possession is also confirmed in the proceedings before this Court *vide* order dated 15.10.2025 in SLP (C) Dairy No. 53900 of 2025, wherein the DDA was directed to initiate re-acquisition within one year. This order, in essence, confirms that the earlier acquisition had lapsed, meaning that the respondent is left with no choice but to refund the amount to the appellant. The possibility of fresh acquisition cannot impede the appellant herein from claiming their legitimate refund. The consequence of respondents' defence is that the parties would be involuntarily bound by transactions to which they do not consent. This Court cannot accept such bad faith arguments as it amounts to abuse of process in coercing party to accept new transaction. It

is in this regard that liberty is preserved for the DDA to initiate acquisition again and/or conduct fresh auction for the same, if they deem it appropriate.

73. In light of the aforesaid analysis, since the issue of possession is completely alien to the present adjudication, therefore, the second defence of non-joinder of the original owners is not pertinent to the present set of litigation.

74. The third defence specifically taken by the respondent in the written statement is the issue of limitation. At the cost of repetition, it can be noticed that the lapse of land acquisition was upheld by this Court on 04.05.2017. The further six months' period for the acquisition ended on 04.11.2017. Thereafter, the appellant sent various representations dated 28.12.2017, 10.12.2018 and 07.08.2019, which were not replied to by the respondent authorities. Moreover, the Review Petition was dismissed by this Court on 17.10.2019, followed by dismissal of the Curative Petition on 19.05.2022.

75. The respondent has argued that the question of limitation is a mixed question of law and facts, therefore the same cannot be adjudicated as a summary judgment under Order XIII-A of the CPC. In our view, such objection taken by the respondent is *ex facie* to

be rejected. The respondent does not dispute the existence of this Court's order dated 04.05.2017 in Civil Appeal No. 6345 of 2017. The right to seek refund in terms of the order starts to accrue from 04.11.2017, when the time limit of six months, as provided by this Court, expired. The argument of DDA that the limitation started to accrue from 2016 is fanciful and nothing turns on the same. The High Court fell short in this regard to decipher the fanciful defence over the arguable and real ones.

76. There can be no dispute that limitation is ordinarily a mixed question of law and fact, particularly where foundational facts are in contest. In the present case, however, the issue of limitation rests on admitted and undisputed material, particularly the order of this Court dated 04.05.2017 and the expiry of the six-month period stipulated therein. In such circumstances, no further factual inquiry is warranted. This Court must, therefore, address the issue decisively at this stage. To permit the matter to proceed to a full trial, despite the clarity of the material on record, would be contrary to the principle of proportionality and would needlessly prolong litigation that is otherwise ripe for determination by way of summary judgment.

77. Even under Rule 24.2 of Civil Procedural Rules of the United Kingdom, the English Courts have adjudicated the issue of limitation where there is no requirement of oral evidence and extensive trial. In ***Graham Frank Davy v 01000654 Ltd., [2018] EWHC 353 (QB)***, it was held as follows: –

> *"**13.** In applying the relevant principles to the summary judgment limb of the Application I therefore bear in mind the warning against conducting a mini-trial and also any reasonable prospect there might be of further evidence, beyond that filed on the Application, later coming before the court. Those two propositions affirmed by the Easy Air decision feed into the further point that, even in cases where the summary judgment application does not appear to signal the existence of any obvious conflict of fact or an issue for trial of any great complexity, the court should be wary of granting summary judgment where reasonable grounds exist for believing that a fuller investigation at a trial (or, as appropriate, a trial of a preliminary issue) might well produce a different outcome between the parties.* ***However, against this guidance which might loosely be described as amounting to giving the respondent the benefit of any reasonable grounds for doubt, the same principles also sound a note of caution against undue timidity in engaging with the application and the evidence filed on it. Caution which is justified by the need for the respondent to engage with the "realistic" rather than the "fanciful" and for the court to test whatever factual assertions he is making against such contemporaneous documents as are before it****."*
>
> ***(emphasis supplied)***

78. In light of these facts, the suit for refund filed by the appellant on 02.11.2020 cannot be said to be barred by limitation. Moreover, even after filing the suit, the DDA continued to litigate the Review

Petition, followed by the Curative Petition before this Court. Therefore, the defence of the suit being time-barred is completely misplaced and fictitious. Thus, it is clear that there is nothing in this issue that requires facts to be ascertained by oral evidence or requires full trial.

Conclusion

79. Coming to the relief to be granted, the appellant has sought refund under two heads, i.e., the consideration paid and property tax paid along with 12% interest. During the oral arguments before this Court, learned Senior Counsel Mr. Shyam Divan appearing for the appellant gave up the prayer concerning stamp duty/transfer duty i.e., Rs. 9,89,46,025/- and property tax i.e., Rs. 23,12,927/-. Accordingly, the amount of initial consideration paid by the appellant which amounts to Rs. 164,91,00,000/- needs to be decreed as refund.

80. Consequentially, it is necessary that this Court set aside the registered Conveyance Deed dated 06.02.2008 to do complete justice, by exercising power under Article 142 of the Constitution of India, as mutual restitution would be necessary to bring an end to this dispute once and for all. Accordingly, the registered Conveyance deed dated 06.02.2008, duly registered at the office of

Sub-Registrar-VII Delhi having Registration No. 4300 in Additional Book No. 1 Volume 2886 at Pg. 83 to 86 dated 07.03.2006, executed by the respondent in favour of appellant herein is set aside.

81. Although the amount of refund is claimed with 12% interest from the date of payment of consideration till the final payment by respondent, however, we deem it appropriate to reduce the interest to 7.5% in the interest of justice and accordingly, award 7.5% interest on the aforesaid amount from 12.07.2007 being the date of complete payment of consideration by the appellant herein, till the date of actual payment.

82. It was brought to our notice that by order dated 14.10.2024 before the High Court in I.A. No. 36226/2024, the respondent has deposited a Fixed Deposit Receipt of Rs. 186,00,00,000/- (INR One hundred eighty-six crores) before the High Court. The appellant herein is at liberty to withdraw the said amount forthwith. The balance amount in terms of this order be paid to appellant herein within eight weeks. If the balance payment is not paid in the stipulated time, the amount be computed at the prevailing prime lending rate of the Reserve Bank of India.

83. Keeping in view the aforesaid findings and mandate of law, the present appeal is allowed, however there shall be no order as to

costs. Accordingly, the suit is decreed in the above terms. The Registry of this Court is directed to draw up the decree in the above terms.

.....J.
[J.K. Maheshwari]

.....J.
[Atul S. Chandurkar]

New Delhi;
29th April, 2026