



2026:DHC:5673



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 13th May, 2026
Pronounced on: 16th July, 2026

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RC.REV. 386/2025, CM APPL. 75811-12/2025, 24085/2026

NAZIMA ALVI & ORS.

.....Petitioners

Through: Mr. Ashray Chopra and Mr. Rakesh
Talukdar, Advocates.

versus

SHRI MAHENDAR PAL SACHDEVA & ORS.Respondents

Through: Mr. Lalit Gupta, Mr. Gaurav Chahar,
Mr. Pradeep Verma, Ms. Akrati
Goswami, Mr. Anmol Ghai and Ms.
Ishita Nautiyal, Advocates for R-3.

CORAM:**HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present petition under Section 25-B (8) of the Delhi Rent Control Act, 1958¹, seeks the following prayers: -

“(i) Call for the records of case being RC ARC No.5103 of 2016 titled Nazima Alvi v. Mahender Pal Sachdeva (deceased through LR’s);

(ii) Set aside the order / judgment dated 03.07.2025 passed by the Ld. ARC, South-East Saket in RC ARC No.5103 of 2016 titled Nazima Alvi v. Mahender Pal Sachdeva (deceased through LR’s);

(iii) Pass such other and further orders as are just and proper in the facts and circumstances of the case;

¹ DRC Act



(iv) Pending disposal of the petition, stay the operation of the order / judgment dated 03.07.2025 passed by the Ld. ARC, South-East Saket in RC ARC No.5103 of 2016 titled Nazima Alvi v. Mahender Pal Sachdeva (deceased through LR's);

(v) Award costs to the Petitioners;

Pass any such further orders as this Hon'ble Court deems fit.”

2. The present petition has been preferred on behalf of the Petitioners, assailing the judgment dated 03.07.2025² passed by the learned ACJ-cum-CCJ-cum-ARC, South-East District, Saket Courts, New Delhi³, in RC ARC No. 5103/2016⁴, whereby the eviction petition filed under Section 14(1)(e) of the DRC Act on behalf of the Petitioners against the Respondents was dismissed by the learned ARC. The eviction petition was filed *qua* property bearing Khasra No. 556-B, Ground Floor consisting of one hall, Dargah Nizamuddin West, Delhi-110013⁵.

3. It was the case of the Petitioners in the eviction petition that the subject premises was purchased by late Dr. Alamgir Alvi, *i.e.*, husband of Petitioner No. 1, and father of Petitioners No. 2 and 3, from its erstwhile owner for a lawful consideration, by virtue of a registered GPA bearing registration No. 4998, Book No. 4, Vol. No. 2045, pages 74-76, registered with the Sub-Registrar, Delhi on 12.10.1993, along with an Agreement to Sell, a Receipt and a Will, all dated 11.10.1993. It was further stated that the subject premises was let out by late Dr. Alamgir Alvi to late Shri Mahendar Pal

² Impugned judgment

³ Learned ARC

⁴ Eviction petition/Eviction proceedings

⁵ Subject premises



Sachdeva, for commercial purposes at a monthly rent of Rs. 2,500/-. It was further stated that the said tenancy was oral and the rent amount was paid by late Shri Mahendar Pal Sachdeva in cash. It was further stated that late Dr. Alamgir Alvi expired on 24.07.2013, leaving behind the Petitioners as his legal heirs, and therefore, the Petitioners have become owners of the subject premises, by virtue of inheritance. It was further stated that the subject premises was *bona fide* required by the Petitioners, for Petitioner No. 2, in order to establish the latter's business/office, as she was facing hardship due to lack of space for her intended business. It was further stated that no other alternate suitable accommodation was available with the Petitioners for the said purpose.

4. Subsequent thereto, a leave to defend application was filed by Respondent No. 1 and the said application was allowed by the learned ARC *vide* order dated 30.06.2015, and thereafter, Respondent No. 1 had filed the written statement. In the said written statement, it was stated that there existed no relationship of landlord and tenant between the parties, as the Petitioners are not the owners of the subject premises and the Respondents were the real owners of the subject premises as the same was their ancestral property. It was further stated by the Respondents that the eviction petition was filed on the basis of forged and fabricated sale documents executed by late Shri G.R. Siddiqui in favour of late Dr. Alamgir Alvi, and the said documents were already rejected by the learned Trial Court *vide* order dated 24.05.2014 passed in a suit filed by late Dr. Alamgir Alvi against one Mohd. Shahid. It was further stated that the said order dated 24.05.2014 was challenged in this Court, and the same was also dismissed in default *vide* order dated



29.04.2014. It was further stated that the documents relied upon by the Petitioners to demonstrate ownership, were forged and fabricated and the same were being used *mala fide*.

5. Thereafter, evidence was led by both the parties and the impugned judgment came to be passed by the learned ARC, thereby dismissing the eviction petition.

6. It is pertinent to note that Respondent No. 1, *i.e.*, late Shri Mahendar Pal Sachdeva expired on 23.09.2015, and thereafter, his legal heirs, *i.e.*, Smt. Ratkanya Patansethanont, Shri Rattan Deep Singh and Smt. Motia Rani were impleaded in the eviction petition. Subsequently, Smt. Motia Rani had expired and her legal heirs, *i.e.*, Smt. Jasbir Kaur and Smt. Harjeet Kaur were impleaded.

SUBMISSION ON BEHALF OF THE PETITIONERS

7. At the outset, learned counsel for the Petitioners submitted that the learned ARC had failed to consider the documents filed before the learned ARC to demonstrate the latter's ownership over the subject premises, as well as landlord-tenant relationship between the parties, and the said documents were duly exhibited as well. It was further submitted that in addition to the said documents, the Petitioners had also exhibited the site plan of the subject premises and the post graduate diploma certificate of Petitioner No. 2, in order to establish the *bona fide* requirement. It was further submitted that the learned ARC while rendering the impugned judgment had failed to adjudicate



upon the plea of *bona fide* requirement, as stated by the Petitioners in the eviction petition, and had rather went on to determine the ownership of the subject premises, which could not have been done in proceedings under the DRC Act.

8. Learned counsel for the Petitioners had further submitted that late Dr. Alamgir Alvi had purchased the subject premises in the year 1993 from late Shri G.R. Siddiqui and had become the owner of the subject premises by virtue of a registered GPA dated 12.10.1993, a Will dated 11.10.1993 and an agreement to sell dated 11.10.1993. Learned counsel for the Petitioners had submitted that late Shri G.R. Siddiqui had become owner of the subject premises by way of adverse possession.

9. Learned counsel for the Petitioners had submitted that the Respondents have disputed the ownership of the Petitioners over the subject premises by stating that the same was their ancestral property and had disputed the documents exhibited by the Petitioners in the eviction proceedings. It was further submitted by the learned counsel of the Petitioners that the Respondents failed to exhibit even one document to prove their claim of ownership over the subject premises, and the Respondents have only furnished documents to prove its claim of possession over the subject premises, and thus, the Petitioners have a better title than that of the Respondents.

10. Learned counsel for the Petitioners had further contended that the learned ARC, while rendering the impugned judgment, had failed to return



any finding on the issue of the *bona fide* requirement, as pleaded by the Petitioners. It was submitted that although the eviction petition had been filed under Section 14(1)(e) of the DRC Act on the ground of *bona fide* requirement, the learned ARC had instead considered the issue relating to payment of rent, which was irrelevant for adjudication of the eviction petition.

11. Learned counsel for the Petitioners further drew attention of this Court to the following portion of the impugned judgment to contend that the documents, as exhibited by the Petitioners in the eviction proceedings, were sufficient to establish a better title over the subject premises than that of the Respondents: -

“Petitioners’ Evidence

7. In support of their case, petitioner no.2 Ms. Urooj Alvi got herself examined as PW-1. She tendered her evidence by way of affidavit Ex.PW-1/A and reiterated and reaffirmed the averments stated in the present petition on oath. Also, she relied upon certain documents which are as following :-

- (i) GPA dated 11.10.1993, executed by Late GR Siddiqui in favour of Dr. Alamgir Alvi, Ex.PW1/1 (OSR)
- (ii) Agreement to Sell dated 11.10.1993, Ex.PW-1/2 (OSR)
- (iii) Will dated 28.01.1994, Ex.PW-1/3 (OSR)
- (iv) Receipt dated 18.10.1989, Ex.PW-1/4 (OSR)
- (v) Receipt dated 02.11.1990, Ex.PW-1/5 (OSR)
- (vi) Receipt dated 15.07.1992, Ex.PW-1/6 (OSR)
- (vii) Receipt dated 11.10.1993, Ex.PW-1/7 (OSR)
- (viii) Receipt dated 23.10.1989, Ex.PW-1/8 (OSR)
- (ix) Receipt dated 13.10.1989, Ex.PW-1/9 (OSR)
- (x) Site plan, Ex.PW-1/10
- (xi) Post Graduate Diploma in Business Management, Ex.PW-1/11 (OSR)
- (xii) Certified copy of order sheets in EV No. 19/2015, Ex.PW-1/12 (Colly)
- (xiii) Certified copy of order sheets in EV No. 18/2015, Ex.PW-1/13 (Colly)



- (xiv) Copy of eviction petition in EV No. 19/2015, Mark A.
- (xv) Copy of eviction petition in EV No. 18/2015, Mark B.
- (xvi) Certified copy of judgement and decree dated 01.06.2019 in CS no. 148/2016, Ex.PW-1/14.
- (xvii) Certified copy of judgement and decree dated 01.06.2019 in CS no. 50366/2016, Ex.PW-1/15.”

12. Learned counsel for the Petitioners had further submitted that the latter have earlier succeeded in two eviction petitions filed in respect of the first floor and basement of the subject property, being Eviction Petitions No. 18 and 19 of 2015. It was further submitted that the eviction orders passed therein were duly exhibited in the eviction proceedings, to demonstrate the Petitioners’ status as landlords of the said portions of the property; however, the learned ARC failed to consider the said fact while passing the impugned judgment.

13. Learned counsel for the Petitioners had further submitted that the present Respondents had subsequently instituted two civil suits, *i.e.*, CS No. 52185 of 2016 and CS No. 50366 of 2016, seeking declaration that the eviction orders passed in Eviction Petitions No. 18 and 19 of 2015, as noted hereinbefore, were null and void, while also seeking to restrain the Petitioners from relying upon the documents forming the basis of their claim of ownership over the subject property. It was submitted that the Respondents even in the said suits, had asserted that the subject property was their ancestral property; however, the said plea was rejected by the learned Civil Court and both the suits came to be dismissed.



14. Learned counsel for the Petitioners further submitted that the aforesaid grounds were taken by the latter before the learned ARC; however, no findings were returned in the impugned judgment *qua* the said grounds.

15. Learned counsel for the Petitioners further drew attention of this Court to the following portion of the impugned judgment: -

“17. In view of the above-stated authorities, the petitioner is not required to establish his ownership over the demised premises in absolute terms however, at the same time, it shall be established by him that his title is better than that of the respondent and that he has some right, title or interest over the premises in question.

17.1 The version of the petitioners is that the suit property had been purchased by their predecessor-in-interest Alamgir Alvi from one G.R. Siddiqui vide a registered GPA ON 12.10.1993. Further, an Agreement to Sell, Receipt and Will- all dated 11.10.1993, had also been executed in favour of Alamgir Alvi. It is further their case that after demise of Alamgir Alvi, the suit property has devolved upon the petitioners, being his wife and children, by virtue of inheritance. PW-1 deposed in her cross examination dated 26.09.2023 that *"My father bought this whole suit property from GR Siddiqui and we are the owner of the whole khasra and we are living in the same khasra."* On the other hand, the case of the respondent has been that he is rather the owner of the suit property, which is his ancestral property and that he has been in possession of the same much prior to the time when the same had allegedly been purchased by Alamgir Alvi.

18. The right of G.R. Siddiqui and consequent right and title of Alamgir Alvi over the suit property had been discussed in detail and a finding had been given by the Learned predecessor of this court vide order dated 24.05.2013 in case titled "Dr. Alam Gir Alvi Vs. Mohd. Shahid, bearing CS No. 245/13 (Ex.-DW-1/6)". The factual position with respect to the property in question as discussed in the said order is that one G.R. Siddiqui had instituted a suit for permanent injunction in the year 1970, against Delhi Development Authority (DDA) so as to restrain DDA from forcibly dispossessing him and his family from a "house" known as "S.B. House" in Nizamuddin area, New Delhi. It was



held in the said case vide judgment dated 11.08.1978 that G.R. Siddiqui had been in possession of the property in question for the last two decades, that the suit premises belonged to Union of India and it was directed that G.R. Siddiqui shall not be dispossessed from the suit premises without complying with the requirements of law.

18.1 On basis of the aforesaid judgement and decree, G.R. Siddiqui made transfer of property comprised in Khasra no. 556, Shama Burj, Nizamuddin, measuring 5 bigha and 18 biswa (of which the suit property is a part and the total area of the same had been admitted, as stated above, by PW-1 in her cross examination dated 26.09.2023) to Dr. Alam Gir Alvi (who is the predecessor- in-interest of the petitioners) by way of a registered GPA, Agreement to Sell, Will dated 28.01.1994 and six receipts and for a total consideration of Rs. 4,95,000/-. The very same afore- mentioned documents have been relied upon by the petitioners in the present matter to prove ownership of Dr. Alam Gir Alvi over the suit property and the same are **Ex. PW-1/1 to Ex.PW-1/9**.

18.2 The aforementioned order dated 24.05.2013 further states that said Mr. Siddiqui transferred the aforesaid land (i.e., the suit property) on basis of his claim that he was owner by way of adverse possession, which has been mentioned in the GPA (Ex.PW-1/1) also. Further, on basis of the aforementioned documents executed by G.R. Siddiqui, Dr. Alam Gir Alvi claimed himself to be the owner in the suit. It was further observed that the judgment dated 11.08.1978 never confirmed the status of G.R. Siddiqui as owner of aforementioned 5 bigha and 18 biswa by virtue of "adverse possession" nor did it give a finding that he was in possession of the entire said land. The said judgment was only in respect of a "house" known as "S.B. House" and the same was never in respect of entire land of 5 bigha and 18 biswa. Further, vide the said judgment, it had merely been directed that G.R. Siddiqui be not dispossessed from the "house" without due process of law and it did not dwell into the aspect of adverse possession.

18.3 Order dated 24.05.2013 further reads that **"Mr. G.R. Siddiqui has suo moto, proclaimed himself to be the owner by adverse possession of the government land. Such a course of action is absolutely unheard of. Furthermore, it is my view that he was never able to perfect his title to the land covering an area of nearly 6 bigha by way of adverse possession."** It has been further stated that **"I find**



that Mr. G.R. Siddiqui was at best only a trespasser in the property. He was not owner thereof. His claim of adverse possession does not at all pass the muster. Under the law a person cannot transfer a better title than he himself has.”

18.4 In this manner, vide order dated 24.05.2013, it was held that the plaintiff does not have ownership over the land/property comprising Khasra no. 556, Shama Burj, Nizamuddin, measuring 5 bigha and 18 biswa (of which the suit property is a part) and the said order attained finality as the proceedings with respect to challenging the same before the Hon'ble High Court of Delhi, had been dismissed in view of dismissal in default of the suit in question. This state of affairs has not been disputed on behalf of the petitioners.”

Learned counsel for the Petitioners submitted that perusal of the aforesaid observations would demonstrate that the judgment dated 11.08.1978 itself recorded that late Shri G.R. Siddiqui had remained in possession of the subject premises for nearly two decades. It was further contended that, in view of the aforesaid findings, the plea raised by the Respondents that they were in possession of the subject premises since 1975 and that the same was their ancestral property, was wholly unfounded and the same was wrongly accepted by the learned ARC.

16. Learned counsel for the Petitioners drew attention of this Court to the following portion of the impugned judgment: -

“21. With respect to relation of landlord and tenant between the parties, the case of the petitioners has been that the tenancy was oral and that the respondent used to pay rent in cash to Alam Gir Alvi. Further, the respondent had been inducted as tenant at suit property by Alam Gir Alvi during his lifetime.

21.1 It is significant to appreciate that the burden to prove the said relationship has been upon the petitioners. Sans doubt, there is no material on record whatsoever, that could establish or even hint at the



fact that there ever had been any such relationship between the parties or their predecessors-in-interest. To begin with, the tenancy was oral and no date for even namesake has been stated as to when the respondent had been so inducted in the suit property. Further, there are no rent receipts and as averred, the rent used to be paid in cash. The predecessor-in-interest of the petitioners expired on 24.07.2013 and the entire petition is silent on the point as to till what date, year or period the rent was being paid by the respondent to Alam Gir Alvi and as to if any rent amount was ever paid to them after demise of Alam Gir Alvi.

21.2 The case of the petitioners is not even clear on the point as to by whom the respondent had been inducted as tenant at the suit property in view of a prominent contradiction that has come on record. The original version of the petitioners as stated in the present petition had been that the respondent had been inducted as tenant at suit property by Alam Gir Alvi during his lifetime whereas PW-1 deposed in her cross examination dated 03.10.2023, in reply to Question no. 26 that "The suit property was given on rent by Lt. Sh. GR Siddiqui to Sh. Gurucharan Sachdeva (Father of the defendant) and when my father purchased this property from Lt. Sh. Gr Siddiqui the tenancy came to us in 1989." Thus, the petitioners are not even clear and consistent with respect to the point as to if the suit property had been given on rent to respondent or his father and as to if the respondent/his father had been inducted as tenant by Alam Gir Alvi or G R Siddiqui? Furthermore, how could the tenancy said to have passed onto the purchaser Alam Gir Alvi in the year 1989 when the petitioners' own case is that the suit property had been purchased by Alam Gir Alvi in the year 1993?

21.3 At this point, version of respondent must also be appreciated and analyzed. As per the respondent, the suit property is his ancestral property and that he is possession of the same since the year 1975. It has been further contended that he had been running his automobile showroom from the premises in question since 1982. To establish that respondent had been in possession of the suit property during the aforesaid period, several documents like- Original income tax assessment order for the year 1991 Ex.DW-1/15, Original tax receipt with respect to tax paid by Sachdeva motors Ex.DW-1/16, copy of electricity bill for the month of May 1991 Ex. DW-1/17, Original telephone bill dated 17.08.1989 Ex.DW-1/18, Original order dated



28.05.1990 of factory licensing department and MCD receipt Ex.DW-1/19 and likewise, Ex. DW-1/20 to Ex.DW-1/25, have been brought on record on behalf of the respondent. In this manner, the respondent by virtue of the aforesaid documents, established that he has been in possession of the suit property much prior to the time when the same had allegedly been purchased by the predecessor-in-interest of the petitioners while, there is no explanation on record on behalf of the petitioners as to how the respondent had so been in possession. In light of this discussion, it could not be ignored that no date has been stated in the present petition as to when the tenancy in question had started.”

Learned counsel for the Petitioners had further submitted that the learned ARC had failed to appreciate that the eviction petition was filed on the ground of *bona fide* requirement and not on the issue of payment/non-payment of rent. It was further submitted that the tenancy in respect of the subject premises had commenced during the ownership of late Shri G.R. Siddiqui, and upon purchase of the subject premises by late Dr. Alamgir Alvi, the latter became the landlord in respect thereof.

17. Attention of this Court was further drawn to the cross examination of RW-1, Mr. Anwar Husain Malik, dated 08.08.2024, and particularly on the following portion: -

“Even though the wife and son of Sh. M.P. Sachdeva are living in Bangkok I have not secured any Power of Attorney from them as they don't come to India. It is correct to suggest that the wife and son of late Sh. M.P. Sachdeva are Class-I heirs. (Vol:- they have stated that they do not have anything to do with the suit property). The legal heirs of Sh. M.P. Sachdeva i.e. wife and son did not tell me personally that they are not interested in this property. I did not seek Power of Attorney from the legal heirs of late Sh. M.P. Sachdeva as he executed a Will in favour of his own mother namely Smt. Motia Rani. I have seen the said Will.”

Learned counsel for the Petitioners submitted that the said witness had



not obtained any power of attorney from the legal heirs of late Shri Mahendar Pal Sachdeva, and had sought to justify his authority solely on the basis of an alleged Will executed in favour of late Smt. Motia Rani. It was further contended that the said witness was not competent to depose on behalf of the legal heirs of late Shri Mahendar Pal Sachdeva, and consequently, his testimony could not have been relied upon by the learned ARC.

18. Attention of this Court was further drawn to the cross examination of RW-1, Mr. Anwar Husain Malik, dated 30.08.2024, to contend that the documents relied upon by the Respondents in the eviction proceedings did not establish their ownership over the subject premises. It was further contended that the said witness had no personal knowledge with respect to the ownership of the subject premises and his testimony was based on information allegedly furnished to him by late Shri Mahendar Pal Sachdeva and late Shri Gurbachan Sachdeva. The relevant portion of the said cross examination is reproduced as under: -

“RW-1: Statement of Mr. Anwar Husain (re-called for further cross-examination after 08.08.2024).

On S.A.

XXXX by Sh. Ashwin Vaish, Ld. counsel for petitioner.

I have the original Will which Mr. M.P. Sachdeva executed in favour of his mother.

Court observation: the witness is not clearly able to state. Despite helping the witness from microphone his voice is not audible he has been asked again and again to loudly state his answers.

I met Motiya Rani in the year 2008.

Question: Did Motiya Rani hand over any original documents to you?

Answer: At that time I did not have any concern (lena dena) with Motiya Rani. The name of the father of M.P. Sachdeva is Gurbachan Sachdeva. Question: Did MP Sachdeva or Gurbachan Sachdeva give



any original documents to you?

Answer:- Yes.

Question: Did Gurbachan Sachdeva give any original documents to you that shows that he was the owner of the suit property?

Answer:- He gave me Will, bills of electricity, water, House Tax, Factory licence, passport, income tax reports and sale tax reports.

The above said documents were read over to me by my son.

Question: After reading the aforesaid documents did you find out from whom Sh. Gurbachan Sachdeva purchased the suit property?

Answer:- It was their family property.

I was never told either by MP Sachdeva or Gurbachan Sachdeva that they are not the owners of the suit property or that they were the tenants of the Wakf. It is wrong to suggest that MP Sachdeva was the tenant of the plaintiff who are the owners of the property. It is wrong to suggest that I am deposing falsely on the basis of facts not within my personal knowledge.”

19. In support of the aforesaid, learned counsel for the Petitioners had relied upon the following judgments: -

- i. Bhoolchand and Anr. v. Kay Pee Cee Investments and Anr⁶;
- ii. Hari Shankar and Ors. v. Rao Girdhari Lal Chowdhary⁷;
- iii. Shanti Sharma and Ors. v. Ved Prabha and Ors.⁸;
- iv. Ram Chander v. Ram Pyari⁹;
- v. Sheela and Ors. v. Firm Prahlad Rai Prem Prakash¹⁰;
- vi. Manisha Mahendra Gala and Ors. v. Shalini Bhagwan Avatramani and others¹¹;
- vii. Janki Vashdeo Bhojwani and Anr. v. Indusind Bank Ltd. and Ors.¹²;
- viii. South Eastern Coalfields Ltd. v. State of MP and Ors.¹³

⁶ (1991) 1 SCC 343

⁷ AIR 1963 SC 698

⁸ 1987 (4) SCC 193

⁹ 109 (2004) DLT 388

¹⁰ 2002 (3) SCC 375

¹¹ (2024) 6 SCC 130

¹² 2005 (2) SCC 217



SUBMISSIONS ON BEHALF OF THE RESPONDENTS

20. *Per contra*, learned counsel appearing on behalf of the Respondents submitted that the Petitioners have failed to establish their ownership over the subject premises, as well as the existence of landlord-tenant relationship between the parties. It was further submitted that the Petitioners were claiming ownership over the subject premises solely on the basis of a GPA, Agreement to Sell and a Will, allegedly executed by late Shri G.R. Siddiqui in favour of late Dr. Alamgir Alvi.

21. Learned counsel for the Respondents further argued that late Shri G.R. Siddiqui himself had no ownership rights over the subject premises, and the latter merely claimed rights over the subject premises by virtue of adverse possession. It was further submitted that the judgment dated 11.08.1978 passed in Suit No. 591 of 1976 merely protected the possession of late Shri G.R. Siddiqui over the property titled as “SB House”, and the same did not declare him to be the owner of the said property. It was further submitted that the said judgment categorically stated that the Union of India is the owner of the said “SB House”. Relevant portion of the said judgment is reproduced as under: -

“18. Issues No.6

The ones of proving this issue was also on the defendant and it was submitted on behalf of the Delhi Wakf Board that the land being a tomb and grave-yard, comes under the ownership of the Delhi Wakf Board. However, no evidence has been placed on the record which could suggest that the land was owned by Union of India. The Plaintiff

¹³ 2003 (8) SCC 648



has not challenged the ownership of the land in dispute. The Defendant has placed reliance on Ex.DW2/1 which is Fard Jambandi and the Government has been shown as the owner of this land. As the plaintiff has not disputed the ownership of the land, and the Union of India has been mentioned as the owner in Fard Jamabandi. It is held that the disputed land is owned by the Union of India. This issue is thus decided accordingly.

19. Relief.

In view of my above finding, I hold that the plaintiff has been able to prove his case and is entitled to the relief as claimed. A decree for injunction restraining the defendant from dis- possessing the plaintiff from the suit premises is passed. This order, shall not however, debar the defendant from dispossessing the plaintiff from the suit premises after complying with the statutory requirement of the law. Under the circumstances of the case, there is no order as to cost. Decree sheet be prepared and file be consigned to record room.”

22. In view of the aforesaid submissions, learned counsel for the Respondents had further submitted that the maxim *nemo dat quod non habet*, i.e., one cannot transfer a better title than what one possesses, is applicable to the facts of the present case, inasmuch as late Shri G.R. Siddiqui had no ownership rights over the subject premises, and hence, no title with respect to the subject property can flow from late Shri G.R. Siddiqui to late Dr. Alamgir Alvi.

23. It was further submitted by the learned counsel for the Respondents that the aforesaid legal position was reaffirmed by the learned Trial Court in order dated 24.05.2013 passed in CS No. 245 of 2013 titled as “Dr. Alam Gir Alvi vs. Mohd. Shahid”. It was submitted that the said suit was filed by late Dr. Alamgir Alvi *qua* the subject premises, and in the said suit late Dr. Alamgir Alvi had been held as a trespasser. Relevant portion of the order dated 24.05.2013 is reproduced as under: -



“Therefore, in view of the aforesaid discussion, I find that Mr. G.R. Siddique was at best only a trespasser in the property. He was not the owner thereof. His claim to adverse possession does not at all pass the muster. Under the law a person cannot transfer a better title than he himself has. This principal follows the legal maxim “Nemo dat quod non habet”. A trespasser cannot pass on any title to his successor-in-interest. This would be despite the fact that the trespass had executed some documents in favour of his successor-in-interest. On this aspect, I find that the plaintiff’s case is *prima facie* devoid of merit.”

24. Learned counsel appearing on behalf of the Respondents further submitted that it is the case of the Petitioners that an oral tenancy was created in favour of late Shri Mahendar Pal Sachdeva by late Dr. Alamgir Alvi, *i.e.*, husband of Petitioner No.1, post purchase of the subject premises on 11.10.1993, at a monthly rent of INR 2,500/-, payable in cash; however, the Petitioners failed to place on record any document like rent agreement/rent receipts etc. to substantiate the said plea. It was further submitted that the Petitioners have failed to mention the specific date of commencement of the alleged tenancy, or for that matter, the date up to which the rent was allegedly paid to them by the Respondents.

25. Learned counsel for the Respondents further submitted that there was contradiction in the stand of the Petitioners in the eviction petition and the cross-examination dated 03.10.2023 of PW-1, *i.e.*, Petitioner No. 2 in the eviction proceedings. It was submitted that the Petitioners have alleged that the subject premises was given on rent by the husband of Petitioner No. 1, *i.e.*, late Dr. Alamgir Alvi to late Shri Mahendar Pal Sachdeva; however, during the cross examination of Petitioner No. 1 dated 03.10.2023, the latter had stated that the subject premises was given on rent by late Shri G.R.



Siddiqui to late Shri Gurucharan Sachdeva, *i.e.*, father of late Shri Mahendar Pal Sachdeva, and when late Dr. Alamgir Alvi purchased the subject premises from late Shri G.R. Siddiqui, the tenancy devolved upon the Petitioners in 1989. The relevant portion of the eviction petition and the cross examination dated 03.10.2023 is reproduced as under: -

“Eviction Petition

“(iii) That the suit property was initially purchased by the husband of Petitioner No.1 and father of Petitioner No.2 & 3 vide Regd. G.P.A. having registration No: 4998, Book No.4 · Vol. No:2045 pages 74-76 Regd. With the Sub Registrar, Delhi on 12.10.1993, Agreement to Sell, Receipt, Will, all dated 11.10.1993 from its erstwhile owner for lawful consideration, who parted with possession in favour of the husband of Petitioner No.1.

(iv) That subsequently the suit property was let out to the Respondent for commercial purposes by the husband of Petitioner No. 1 during his life time and last paid rent was Rs. 2500/- per month.”

Cross Examination dated 03.10.2023

“QUES 26. Do you remember when was the property in question/suit property allegedly given on rent to the defendant and what was the rent?

The suit property was given on rent by Lt. Sh.GR Siddiqui to Sh. Gurucharan Sachdeva (Father of the defendant) and when my father purchased this property from Lt. Sh. Gr Siddiqui the tenancy came to us in 1989. The rent of the above mentioned property was around Rs. 1000-2000/-”

It was further submitted that as per the Petitioners’ own version, the subject premises was purchased by late Dr. Alamgir Alvi in the year 1993, and it is highly inconceivable that the tenancy came to late Dr. Alamgir Alvi in the year 1989, *i.e.*, four years prior to purchase of the same, and hence, the



very foundation of the alleged landlord-tenant relationship is not proved.

26. Learned counsel for the Respondents had submitted that the subject premises is the ancestral property of late Shri Mahendar Pal Sachdeva and he had been in settled and continuous possession thereof, since the year 1975, *i.e.*, much prior to the date from which the Petitioners are claiming their title. In support of the said contention, learned counsel for the Respondents drew attention of this Court to the following documents: -

- i. Assessment order of late Shri Mahendar Pal Sachdeva, passed by the Income Tax department for the assessment year 1990-1991, wherein his address is reflected as “556, Nizamuddin West, New Delhi”, *i.e.*, **Exhibit DW-1/15**;
- ii. MTNL Telephone Bill of Sachdeva Motor, *i.e.*, the business venture run by the Respondents, for the period 16.05.1989 to 15.07.1989, which again noted the address as “556, Nizamuddin Basti, Lodi Hostel Fly Over, New Delhi-110013”, *i.e.*, **Exhibit DW-1/18**;
- iii. D.E.S.U. Bill for the month of November, 1993, *i.e.*, **Exhibit DW-1/17**.

27. Learned counsel for the Respondents further drew attention of this Court to the following documents: -

- i. Will dated 07.01.2019 pertaining to property No. K-556, area measuring 1000 sq. yds. (basement and ground floor), Nizamuddin Basti (West), New Delhi, executed by late Smt. Motia Rani, *i.e.*, wife of late Shri Gurucharan Singh Sachdeva, in favour of Smt. Jasbir Kaur and Smt. Harjeet Kaur (contesting Respondents), *i.e.*, daughters of late



Shri Gurcharan Singh Sachdeva;

- ii. Registered GPA dated 01.07.2020 executed by Smt. Jasbir Kaur and Smt. Harjeet Kaur, *i.e.*, daughters of late Shri Gurcharan Singh Sachdeva in favour of Mr. Anwar Hussain Malik with respect to property No. K-556, area measuring 1000 sq. yds. (basement and ground floor), Nizamuddin Basti (West), New Delhi.

In view of the said documents, it was submitted by the learned counsel for the Respondents that the legal heirs of late Shri Gurucharan Singh Sachdeva have continuously asserted ownership over the subject premises.

28. Learned counsel for the Respondents had further submitted that the Petitioners, in collusion with the Respondents in Eviction Petitions 18 of 2015 and 19 of 2015, have obtained the eviction orders dated 13.05.2015. The said eviction petitions were filed *qua* first floor and basement of property No. 556-B, Nizamuddin West, Delhi. It was argued by the learned counsel for the Respondents that the property No. 556-B, Nizamuddin West, Delhi, only consisted of a basement and a ground floor, and there existed no first floor and the Petitioners have fraudulently obtained the said eviction order with respect to the first floor of property No. 556-B, Nizamuddin West, Delhi and no execution petition was filed by the Petitioners with respect to the said eviction orders. It was further submitted that the order dated 17.09.2025 passed by the learned Monitoring Committee constituted by the Hon'ble Supreme Court substantiated the same and it stated that property No. 556-B, Nizamuddin West, Delhi only consisted of a basement and a ground floor. The said order is reproduced as under: -



“Case No. 720/2021

Sub: Regarding permanent de-scaling of premises bearing No. K-556, LGF and UGF, Nizamuddin Basti, New Delhi-110014.

17.09.2025

Present: SPA for applicant alongwith Advocate.
Advocates alongwith Intervener.
Shri P.K. Jindal, AD(Bldg.)/Central Zone (MCD)

On 08.01.2025, on the request of the applicant, matter was adjourned sine-die with the liberty to revive the same on resolution of dispute between the parties pending before the Civil Court. The matter has been revived on the application of the applicant wherein applicant placed on record judgment dated 03.07.2025 passed by the ACJ-cum-CCJ-cum-ARC (South-East) in EP ND.RC/ARC/20/2015(5103/2016) titled "Nazima Alvi & Others V/S Mahender Pal Sachdeva (deceased through LRS)" and Notice issued to the Intervener, MCD and DDA.

Advocate for Intervener requested for time to file reply to the application of the applicant. The same is denied. However, on query to the Intervener regarding the stay of the order/judgment dated 03.07.2025, they failed to answer and place on record any document in this regard. Intervener submitted that legal remedy in this regard has already been availed but have not obtained any orders from any Court so far.

2. Perusal of record shows that applicant filed the instant case of permanent desealing of the impugned premises an 06.10.2021 which was sealed at the instance of the Monitoring Committee on 31.08.2007 for misuse.

On issuance of Notice, MCD filed Status Report dated 16.12.2021 under the signature of DC(Central Zone). As per Status Report, area of the plot is 610.50 sqm. The building plan is not available on record. The property consists of basement and ground floor. The subject property is having number of shops/shutters and the same was sealed by the erstwhile MCD during the year 2007 under the directions of the Monitoring Committee. As per record, neither any regularization nor completion plan is available with the Department. The property abuts on non-notified Road. Encroachment/projection on Govt. land could not be identified as applicant has not supplied any ownership documents, therefore, the status of ownership/use could not be ascertained. A penalty of Rs.20,03,150/- has been calculated by the Department.

3. Notice was also issued to DDA and DDA also filed Status Report dated 21.05.2024 and 29.04.2024. As per Status Report dated



21.05.2024 of DDA, encroachment falls in Khasra No.556 Min. of Revenue Estate Aliganj which is Govt. land which was placed at the disposal of erstwhile DIT(DDA since 1957) with effect from 1 April, 1937 through the "Nazul Agreement" of March, 1937. After the Enactment of Delhi-Development Act, 1957, it was placed at the disposal of Delhi Development Authority. As per revenue record i.e. Jamabandi for the year 1972-73, the ownership of the land i.e. Khasra No.556 Aliganj, Is with Government and under the jurisdiction of DDA. Hence, it is requested that the property under reference may not be allowed to be de-sealed.

As per Status Report dated 29.07.2024 filed by DDA, the matter of unauthorized encroachment and occupation on the Govt. land of Khasra Nos.554 and 556, Revenue Estate Aliganj near Basta Hazarat Nizammuddin, Delhi discussed in a Meeting held on 08.07.2024 under the Chairmanship of Vice Chairman(DDA), accordingly to identify the extent of construction and encroachment on the land of Khasra No.554 and 556, DDA has already requested Survey of India for the Drone Survey at the earliest and matter is being taken up with the Ministry (MOHUA) for urgent opinion. However, despite directions of the Monitoring Committee, no follow-up Report has been filed till date.

4. Vide application dated 11.07.2025, applicant submitted that the impugned premises is lying sealed for over a decade and the same is in dilapidated condition that needs urgent repair to make it habitable and to protect it from the miscreants.

5. The Hon'ble Court in para 21.3 of the judgment dated 03.07.2025 in EP No.RC/ARC/20/2015(5103/2016) titled "Nazima Alvi & Others V/s Mahender Pal Sachdeva (deceased through LRS) categorically observed that Respondent by virtue of documents established that he has been in possession of suit property much prior to the time when the same has allegedly been purchased by the predecessor in interest of the petitioner while there is no explanation on behalf of the petitioner as to how the respondent had so been in possession and concluded in para 22 as under:

"....In view of the above discussion, this Court is of considered opinion that the petitioners have miserably failed to prove that they are owners of tenanted premises and that there exist relationship of landlord and tenant between them and the respondent. When ownership and landlord-tenant relationship could not be proved by the petitioners, no discussion is required with respect to bona fide requirement and rest of the elements of section 14(1)(e) DRC. Accordingly, the present petition, being



without merit, stands dismissed."

6. From the foregoing, it is amply clear that the interveners miserably failed to prove their ownership/relationship before the trial Court as mentioned above, whereas applicants established their possession since 1975. As such, application of the interveners dated 11.07.2025 is hereby dismissed.

Further, application of the applicant before the Monitoring Committee is regarding desealing of impugned premises sealed at the instance of the Monitoring Committee for misuse. Therefore, without going into the aspect of ownership of the impugned premises, the Instant application is being decided on the basis of possession. Any dispute inter se between the applicants and interveners are subject matter of civil court, wherein DDA is also a necessary party.

In view of above, impugned premises bearing No.K-556, LGF and UGF, Nizamuddin Basti, New Delhi-110014 shall be permanently desealed subject to payment of penalty amounting to Rs.20,03,150/- and on filing of affidavit before DC/Central Zone (MCD) to the effect that impugned premises shall be used for residential purposes only after carrying out necessary repairs to make it habitable. No unauthorized construction/encroachment shall be carried out, in future. The directions of the Hon'ble Supreme Court of India in the matter of WPC No.4677/1985 (MC Mehta V/S UOI & Ors.) passed from time to time shall be complied with and non-compliance of the same would subject to offence of perjury and contempt. Any subsequent violation, in future, of above-mentioned conditions and undertaking shall be sufficient to reseal the subject property without any prior Notice.

DDA is at liberty to take action in terms of their Status Report dated 29.07.2024 in respect of the Govt. land under jurisdiction of DDA in time-bound manner to its logical end and submit ATR.

The application is disposed of in above terms. File be consigned to Record Room.

Copy of the order be sent to Vice Chairman (DDA) and DC/Central Zone (MCD), applicants & Interveners for information. Report be submitted accordingly."

REJOINDER SUBMISSIONS

29. Learned counsel for the Petitioners, while refuting the submissions of the Respondents, had submitted that the Respondents are not the owners of the subject premises.



30. Learned counsel for the Petitioners further submitted that RW-1, Shri Anwar Hussain Malik, was only authorised to depose on behalf of legal heirs of late Smt. Motia Rani, *i.e.*, Smt. Jasbir Kaur and Smt. Harjeet Kaur and he had no authority to depose on behalf of the remaining Respondents, and therefore, his testimony could not have been relied upon by the learned ARC.

ANALYSIS AND CONCLUSION

31. The eviction petition filed at the instance of the Petitioners has been dismissed by the learned ARC primarily on the ground that they had failed to prove that they were the owners of the subject premises, and as also that there existed no relationship of landlord and tenant between the parties.

ISSUE OF OWNERSHIP

32. So far as the issue of ownership of the subject premises is concerned, it is noted that the Petitioners claim ownership of the subject premises through a registered GPA dated 12.10.1993, an agreement to sell, receipt and Will dated 11.10.1993 executed by late Shri G.R. Siddiqui in favour of their predecessor-in-interest, *i.e.*, late Dr. Alamgir Alvi. It is the case of the Petitioners that after demise of late Dr. Alamgir Alvi, the subject premises devolved upon them, being his wife and children, by virtue of inheritance. In these circumstances, the chain of title needs to be examined.

33. It is a matter of record that late Shri G.R. Siddiqui, from whom the



predecessor-in-interest of the Petitioners had purchased the subject premises, claimed himself to be the owner of the same by way of adverse possession. It is further pertinent to note that late Shri G.R. Siddiqui had filed a suit bearing No. 591/76 titled as “*Sh. G.R. Siddiqui vs. Delhi Development Authority*”, seeking perpetual injunction against Delhi Development Authority and a decree of perpetual injunction restraining DDA and its agent and servants and employees from taking forcible possession of “SB House” Nizamuddin, New Delhi from the former and his family members. In the said suit, on the basis of pleading of the parties, the following issues were framed: -

“5. On the pleadings of the parties, the following issues were framed:

1. Whether the plaintiff is in possession of the property known as S.B. House, D.H. Nizamuddin New Delhi for the last 2 decades, continuously? OPP
2. Whether the plaintiff has himself constructed the disputed property, if so its effect? OPP
3. Whether the plaintiff had vacated the premises and had shifted to an alternative accommodation in JJ Colony, New Delhi?
4. Whether the suit is bad for non-joinder of Union of India?
5. Whether the plaintiff is entitled to continue in possession of the disputed premises?
6. Whether the disputed property is owned by Union of India?
7. Relief.”

34. After examining the witnesses and the documents on record, the learned Trial Court, *vide* judgment dated 11.08.1978 passed in the



aforementioned suit, rendered the following findings: -

“7. Issue No. 1

xxx

xxx

xxx

12. The evidence adduced by the plaintiff is quite convincing and the plaintiff himself has stated that he had occupied the "Burj" in question in 1948 has been residing there with his family since then. This contention of the plaintiff could not be rebutted and no evidence adduced to rebut this contention of the plaintiff. In fact, the defendant has not placed any evidence on the record which could suggest that the "Burj" in question was in actual or constructive possession of the DDA. This issue is decided in favour of the plaintiff and against the defendant.

13. Issue No.2

The plaintiff has only stated in the statement that he had got the premises repaired and has nowhere stated that the premises was initially constructed by him. Other witnesses examined on behalf of the plaintiff have stated that the premises was only got repaired by the plaintiff and no one had stated that the same was constructed by him. There is a difference between the construction of the building and getting the same repaired and the plaintiff has also not placed any evidence on record which could suggest that this premises was constructed by him. In the absence of any evidence, it cannot be held that the plaintiff has constructed this building and the fact that he had only got the same repaired, does not suggest that he had constructed the same. This issue is thus decided against the plaintiff.

xxx

xxx

xxx

16. Issue No. 5

While deciding issues No.1&2, it has been held that the Plaintiff is in possession of the land in dispute for the last more than 20 years and he had never surrendered the possession of this land. Under the law of the land; no person can be forcibly evicted and a due process of law has to be adopted before taking any action for dispossessing even a trespasser, in this regard, the Ld. Counsel has relied upon AIR 1971 Assam page 74. It was held by the Hon'ble High Court that a person who had come to acquire some necessary interest in the land, may not be evicted by force without any authority of law. It was also held by the Hon'ble High Court that the



Government may not evict the person in possession of government land even as trespassers by using force except by authority of law.

17. In the instant case, the plaintiff is in possession of the land in dispute for the last more than 20 years and has come to acquire certain interest in this land and the Government cannot evict him without following the due process of law. The plaintiff has a right to continue in possession in this land till he is evicted in accordance with the law of the land. This issue is thus decided in favour of the plaintiff.

xxx

xxx

xxx

18. Issues No.6

The ones of proving this issue was also on the defendant and it was submitted on behalf of the Delhi Wakf Board that the land being a tomb and grave-yard, comes under the ownership of the Delhi Wakf Board. However, no evidence has been placed on the record which could suggest that the land was owned by Union of India. The Plaintiff has not challenged the ownership of the land in dispute. The Defendant has placed reliance on Ex.DW2/1 which is Fard Jambandi and the Government has been shown as the owner of this land. As the plaintiff has not disputed the ownership of the land, and the Union of India has been mentioned as the owner in Fard Jamabandi. It is held that the disputed land is owned by the Union of India. This issue is thus decided accordingly.

19. Relief.

In view of my above finding, I hold that the plaintiff has been able to prove his case and is entitled to the relief as claimed. A decree for injunction restraining the defendant from dis-possessing the plaintiff from the suit premises is passed. This order, shall not however, debar the defendant from dispossessing the plaintiff from the suit premises after complying with the statutory requirement of the law. Under the circumstances of the case, there is no order as to cost. Decree sheet be prepared and file be consigned to record room.”

(Emphasis Supplied)



35. Interestingly, on the basis of the aforesaid judgment, the predecessor-in-interest of the Petitioners, *i.e.*, late Dr. Alamgir Alvi, further instituted a suit bearing No. C.S. No. 245/2013, wherein an application under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC was filed seeking an *ex-parte ad-interim* injunction restraining the Respondents therein from interfering in peaceful use, occupation, possession and ownership over the entire first floor of the property bearing No. K-556-Z, at near Baori Gate, Dargah Hazrat Nizamuddin, New Delhi, and further restraining the Respondents therein not to raise any illegal construction over the suit property *i.e.*, roof of the ground floor of the property bearing no. K-556-Z, at near Baori Gate, Dargah Hazrat Nizamuddin, New Delhi. The learned ACJ/CCJ/ARC-(SE), while dismissing the said application, *vide* order dated 24.05.2013, gave the following findings: -

“I have heard the arguments at Bar and perused the record.

The plaintiff's assertion of his ownership of the entire 5 bigha 18 biswa of land is on account of general power of attorney documents executed in his favour by Mr. G. R. Siddiqui. Mr. G. R. Siddiqui's claim was that he had become owner of the entire 5 bigha 18 biswa land on account of him being in adverse possession for the last 44 years, which was confirmed by the judgment and decree dt. 11.08.1978. A careful perusal of the judgment dt. 11.08.1978 reveals that it was in respect of only a 'house' known as 'S. B. House'. It is pertinent to mention that it was the own contention of Mr. G. R. Siddiqui, the predecessor-in-interest of the plaintiff herein, that the suit property was a 'house'. Judgment was not at all in respect of the entire land of 5 bigha 18 biswa. The judgment nowhere gave a finding that plaintiff was in possession of the entire land of 5 bigha 18 biswa. Judgment merely restrained DDA from dispossessing the plaintiff from the suit premises, which was a 'house'. It did not say that Mr. G. R. Siddiqui, the predecessor-in-interest of the



plaintiff herein, had come to acquire possession of the vast stretch of land covering an area of 5 bigha 18 biswa, and that the DDA was restrained from dispossessing him therefrom.

Secondly, the judgment never confirmed the status of G. R. Siddiqui as owner by virtue of ‘adverse possession’ either in respect of the house or in respect of the land covering an area of close to 6 bigha. It did not at all dwell into the aspect of adverse possession. What the judgment had merely directed was that G. R. Siddiqui should not be dispossessed from the house without the due process of law.

Nevertheless, a person who is held to be in possession of a house for the last more than two decades cannot, of his own accord, one fine day, start raising a claim that he has become owner of a land as big as 5 bigha 18 biswa. By common sense and logic, a person who is held to be in possession of a ‘house’ can, at the most, claim to be in adverse possession only in respect of the ‘house’ and not in respect of a land covering an area of nearly 6 bigha.

Furthermore, it is not for a party to himself start proclaiming that he has become owner of a government property, or for that matter any property, by virtue of adverse possession. It is only a court of competent jurisdiction which can give a finding to this effect. In order to make out a case of adverse possession certain pre- conditions are to be fulfilled. A claim for adverse possession has to be rigorously tested on the touchstone of the basic principles underlying it. The reason why it has to be rigorously tested is that the usurper tries to defeat lock, stock and barrel the rights of the true owner. The common notion amongst the general public is that mere possession of a property for 12 years or 30 years, as the case may be, is sufficient to bring a claim within the ambit of adverse possession. However, legally speaking this is not so. The law is well settled that mere possession for howsoever length of time does not result in converting the possession into adverse possession. What is essential is that there must be intention on the part of person claiming adverse possession to dispossess the true owner. The intention needs to be open and hostile enough to bring the same to the knowledge of true owner and he should have an opportunity to object. A person who bases his title on adverse possession must show by clear and unequivocal that possession was



hostile to the real owner and amounted to a denial claimed. In deciding whether the acts, alleged by a person, constitute adverse possession regard must be had to the animus of the person doing those acts which must be ascertained from the facts and circumstances of the case. The crux of the matter is that the possession, must start with a wrongful dispossession of a rightful owner and be actual, visible, exclusive, hostile and continued over the statutory period. **(S. M. Karim vs. Bibi Sakinal, AIR 1964 SC 1254)**. At the cost of repetition, it must be stated that whether or not such conditions have been fulfilled is required to be determined by the court on appreciation of evidence and after giving the true owner a right of hearing. A person cannot *suo moto* proclaim himself to be the owner by adverse possession of any property.

Plaintiff's contention that his predecessor-in-interest Mr. G. R. Siddiqui, had perfected his title to the land by way of adverse possession does not impress me at all. Mr. G. R. Siddiqui has *suo moto*, proclaimed himself to be the owner by adverse possession of the government land. Such a course of action is absolutely unheard of. Furthermore, it is my view that he was never able to perfect his title to the land covering an area of nearly 6, bigha by way of adverse possession. This is for following reasons. **The aforesaid judgment granting the relief of permanent injunction was only in respect of a 'house'. It was not in respect of the land stretching over close to 6 bigha. Next, the possession of G. R. Siddique over the premises in respect of which he got the permanent injunction decree, was no longer adverse the moment the decree was passed in his favour.** After the decree had been passed in his favour, his possession was not at all adverse or hostile to the true owner. His possession thereafter was on account of the fact that the court had granted him the necessary protection. His possession was on account of the fact that the court had restrained the true owner from dispossessing him from the premises in question except by the process of law. Having the perpetual injunction decree of the court in his favour, the predecessor-in-interest of the plaintiff was legally not capable of enforcing his claim to adverse possession. Next, an adverse possession arises when the true owner knowing the factum of possession of the usurper, acquiesces to such possession. A bare perusal of the judgment dt. 11.08.1978 reveals that on 15.01.1970 the DDA, as per the own contention of Mr. G. R. Siddique, had



tried to oust him from possession. But for the protection of the court, Mr. G. R. Siddique could have been very well ousted by the DDA. In other words, the ousting of the trespassers/usurper by the true owner was put on hold by the court's order. Therefore, I cannot persuade myself to believe that the DDA, in view of Mr. G. R. Siddique's own contention, had acquiesced to his possession. Next, the foremost requirement of the plea of adverse possession is to recognize the title of the person against whom adverse possession is claimed. An extract out of the judgment reported as **Dharmarajan & Ors. vs. Valliammal & Ors.**, AIR 2008 SC 850 would be of much relevance in this context. It is as follows: *"Secondly, it has nowhere come as to against whom was her possession adverse: Was it adverse against the Government or against the Iyer family? In order to substantiate the plea of adverse possession, the possession has to be open and adverse to the owner of the property in question. The evidence did not show this openness and adverse nature because it is not even certain as to against whom the adverse possession was pleaded on the part of Karupayee Ammal"*. Similarly, in the case of **T. Anjanappa and Ors. vs. Somalingappa and Another**, (2006) 7 SCC 570, it was observed, *"If the defendants are not sure who is the true owner the question of their being in hostile possession and the question of denying title of the true owner do not arise,"* Similar is the view taken in **Ramzan & Ors. vs. Smt. Gafooran & Ors.**, AIR 2008 All 37 and **P. T. Munichikkanna Reddy & Ors vs. Revamma and Ors.**, AIR 2007 SC 1753. In the case at hand, from the judgment dt. 11.08.1978 (para 2 of the judgment) it is clear that it was the own contention of Mr. G.R. Siddique that the house in question *"was not the property of the government"*. Therefore, when Mr. G. R. Siddique was himself denying the title of the true owner in his own plaint, there can never arise any question of adverse possession. Next, this issue can be looked at from another perspective. In the case of **Karnataka Board of Wakf vs. Government of India and Others (2004) 10 SCC 779** the law was stated thus:

“Physical fact of exclusive; possession and the *animus possidendi* to hold as owner in exclusion to the actual owner are the most important factors that are to be accounted in cases, of this nature, Plea of adverse possession is not a pure question of law but a blended one of fact and law and, therefore as person who claims adverse possession should show (a) on what date he came into possession, (b) what was the nature of his possession, (c) whether the factum of possession was



known to the other party, (d) how long his possession has continued, and (e) his possession was open and undisturbed. **A person pleading adverse possession has no equities in his favour since he is trying to defeat the rights of the true owner it is for him to clearly plead and establish all facts necessary to establish his adverse possession**

Applying the aforesaid law as enunciated in Karnataka Board of Wakf (supra), I find from the judgment dt. 11.08.1978 that Mr. G. R. Siddique was himself not sure as to on what specific date did he come into possession of the property in question. At some places in the Judgment, it is mentioned that he was in possession for the last two decades; and a few other places, it is mentioned that he was in possession for 22-23 years ago. Suffice to say, that the specific date of his trespass is not mentioned. Still more, his possession cannot, to my mind, be said to be open and undisturbed. Mr. G. R. Siddique, as per his own averments, had claimed that DDA had tried to oust him on 15.01.1970. However, thereafter Mr. G. R. Siddique approached the court and in view of the decree the DDA did not try to oust his possession. Thus, it cannot be said that his possession was open and undisturbed. His possession from the point of time he got the court's protection was on account of the fact that he was armed with the court's order. As per the judgment of the Apex Court, the onus was squarely upon Mr. Siddique to clearly plead and establish all facts necessary to establish his adverse possession. The mere fact that he was in possession for 44 years would not suffice. And it is not for a trespasser to himself proclaim that he had perfected his title by adverse possession.

In the case of **P. T. Munichikkanna Reddy (supra)** the Apex Court made the following observation, "*Therefore it will have to be kept in mind that the Courts around the world are taking an unkind view towards statutes of limitation overriding property rights.*"

Therefore, in view of the aforesaid discussion, I find that Mr. G. R. Siddique was at best only a trespasser in the property. He was not the owner thereof. His claim to adverse possession does not at all pass the muster. Under the law a person cannot transfer a better title than he himself has. This principal follows the legal maxim "Nemo dat quod non habet", A trespasser cannot pass on any title to his successor-in-



interest. This would be despite the fact that the trespasser had executed some documents in favour of his successor-in-interest. On this, aspect, I find that the plaintiff's case is *prima facie* devoid of merit.

In the case of **Karnataka Board of Wakf (supra)**, it has also been held by the Apex court that there are no equities in favour of a person whose basis of ownership over a property is founded on the principals of adverse possession. On this premise, the plaintiff whose assertion of ownership with respect to land spread over nearly 6 bigha is founded on the claim of adverse possession of his predecessor in interest, cannot have any equity. In his favour. This would be despite the fact that the documents in his favour are nearly 20 years old. The relief of injunction, it is to be noted, is a equitable relief. Therefore, a person in whose favour there are no equities, cannot be granted this equitable relief.

Construction of house - Having dealt with the present case so far from the point of view. of adverse possession, I shall now come to another aspect of the present matter and this is regarding the construction of the so-called tenanted premises in question. The plaintiff in his own plaint contends that the tenanted premises bearing no. K-556-Z, was constructed by him from his own savings and funds'. This contention would in effect mean that when he had made the purchase from Mr. Siddique in 1993, the tenanted premises never existed. That is to say, it came into existence only after the plaintiff raised its construction from his own funds. This leads to the inference that the 'house'. In respect of which the perpetual injunction decree was passed and in which Mr. Siddique was claiming to be residing for two decades is not the same property which is stated to be under the tenancy of the defendant. Therefore, to my mind, when Mr. Siddique was not even claiming to be residing in a structure which had not been constructed by then; how can the plaintiff herein, claim any right, title or interest therein.

Averment regarding relationship of landlord and tenant-

The plaintiff states that the defendant is his tenant and that the monthly rent is Rs. 15,000/-. The plaintiff, for reasons best known to him, has not at all disclosed in the plaint as to since when and for what period the defendant has been his tenant. He also does not



state as to what was the rent at the inception of the tenancy. His averment that the present rent is Rs. 15,000/- per month does not inspire much confidence. There are no rent receipts to show that the rent is/was Rs. 15,000/-. There is no lease deed executed between the parties. The plaintiff's argument is that the tenancy was an oral one and that rent receipts were never issued. Even if this argument is to be accepted at its face value; yet I am not inclined to believe the plaintiff's case that the defendant is/was his tenant. If the rent was Rs. 15,000/-, the plaintiff ought to have surely filed his income tax return reflecting the annual rental income. No income tax return has been filed. A mere averment without anything substantiating it, would not suffice. A self serving *ipse dixit* on the part of the plaintiff in this regard will not at all pass the muster.

Ld. Counsel for the plaintiff during the course of his arguments made a submission which went beyond his pleadings. He stated that in fact Moinuddin (def. claims to have purchased the property from Moinuddin) was the tenant of Mr. Siddiqui, his predecessor-in-interest. And later, when Moinuddin vacated the premises, the defendant was inducted as a tenant and he attorned to the plaintiff. Now this argument is absolutely beyond the pleadings as set up by the plaintiff. It is a settled law that a party cannot travel beyond his own pleadings and set up an inconsistent case with what has been already pleaded by him in the pleadings. Pleadings is the very foundation of a case of a party and one cannot go beyond it. The party cannot at its own choosing and option argue and lead evidence beyond the scope of his own pleadings. Reference in this regard can be made to the decision of **Abu Bakar vs. Haran, AIR 1996 SC 112**. Furthermore, if Moinuddin was the earlier tenant and the defendant thereafter continued in the tenancy in the same property, it ought to have been mentioned in the pleadings. Furthermore, when the defendant came to acquire the tenancy and he attorned to him, as alleged, not even a single piece of document was executed reflecting the existence of landlord and tenant relationship.

There is another side to this aspect. The plaintiff's argument about Moinuddin being a previous tenant in the same property under Mr. Siddique is actually a self- defeating argument. As already noted hereinabove, the tenanted property was actually constructed by the plaintiff out of his savings and funds. Therefore,



the tenanted property would have been constructed after the plaintiff '*purchased*' it from his predecessor-in-interest. Therefore, at the time when Mr. Siddique was the '*owner*' the tenanted property was not in existence. Thus, when the tenanted property was not in existence, where is the question of Mr. Siddique inducting Moinuddin as the tenant.

There is another thing which is required to be taken note of: The plaintiff's averment is that the property K-556-Z wherein the defendant is residing is very close to his house K-556-B where he himself is residing, Now, the tenant cannot be without electricity and water connections. The landlord ought to make the necessary arrangement for electricity supply and water connection, if he is keeping a tenant at a monthly rent of Rs. 15,000/-. However, the plaintiff's case in this regard is woefully lacking in material particulars. He does not state as to how the electric and water connection is being supplied to the tenanted premises in question. He does not state as to in whose name the electric and the water supply has been installed. He also does not state as to whether the monthly rent is exclusive or inclusive of the electric and the water charges. These factors taken together create a big doubt in the plaintiff's case about the alleged tenancy.

In view of the foregoing discussion, the plaintiff's application under Order XXXIX Rules 1 & 2 read with section 151 CPC stands dismissed. Interim order stands vacated. Copy of this order be sent to DDA to apprise it of the manner in which DDA land is being claimed and sold of by individuals as their own property. Court notice be issued to DDA. Put up on 23.07.2013."

(Emphasis Supplied)

36. The aforesaid order was challenged by way of CM(M) 632/2013 before this Court, and as the original suit before the learned Trial Court stood dismissed in default *vide* order dated 29.04.2014, the CM(M) 632/2013 also came to be dismissed as infructuous *vide* order dated 07.08.2014 passed by the learned Single Judge of this Court. The aforesaid order dated 24.05.2013,



therefore, attained finality. The judgment of the Hon'ble Supreme Court in **South Eastern Coal Field (*supra*)**, as relied upon by the learned counsel for the Petitioners, is not applicable to the facts of the present case, inasmuch as, the issue involved therein pertained to the validity of an interim order passed in favour of a party, which stood reversed upon the final adjudication of the matter against the said party, who had succeeded at the interim stage. In the present case, as noted hereinabove, the interim order was never interfered with and the suit which was dismissed in default did not change the nature of the interim order. The contention of learned counsel for the Petitioners that the aforesaid order dated 24.05.2013 was interim in nature, and therefore, it could not have been looked into by the learned ARC to determine the ownership of the predecessor-in-interest of the Petitioners, *i.e.*, late Dr. Alamgir Alvi is untenable. As noted above, the said order examines in detail the contention and gave a finding which though was *prima facie* in nature, but was never challenged. Even at this stage, the same documents which were examined in the said suit have been placed on record.

37. It has also been argued that the learned ARC could not have decided the title in the proceedings under the Delhi Rent Control Act, 1958. There is no doubt that for the purposes of the proceedings under the Delhi Rent Control Act, 1958, the landlord in question has to show a better title than that of the tenants; however, to avail of the benefit of the summary proceedings under the provisions of the Delhi Rent Control Act, 1958, any landlord approaching thereunder, would have to produce some documents *prima facie* demonstrating ownership over the suit property. The said proceedings cannot be used for the purposes of gaining possession of a land, ownership of which



is otherwise disputed, as is in the present case. As noted hereinbefore, in the order dated 24.05.2013, it has been categorically held that the predecessor-in-interest of the Petitioners did not have the ownership over the land/property bearing Khasra No. 556, Shama Burj, Nizamuddin, admeasuring 5 bigha and 18 biswa (of which the present subject property is a part), and the said order has attained finality. The very same documents, basis which the said suit was filed, cannot be relied upon by the Petitioners to claim ownership over the subject premises in the present proceedings. The title of the property transferred from late Sh. G.R. Siddiqui to the predecessor-in-interest of the Petitioners, *i.e.*, late Dr. Alamgir Alvi cannot be better than that of late Sh. G.R. Siddiqui.

38. Another argument advanced by learned counsel for the Respondent was that the GPA dated 11.10.1993, relied upon by the Petitioners, pertains to 5 bigha and 18 biswa of land, which approximately comes to 600 sq. yds. The said property has been described as under: -

“Property bearing No.556, Khasara, Shama Burj, Nizamuddin, New Delhi, measuring about 5 bigha & 18 Biswa, and the said property is situated near Booli Gate, Dargah, Nazarat Nizamuddin, New Delhi-13 and the said property is bounded as under: -

East D.D.A. Park and Barakamba

West D.D.A.; Park and Nizama Nagar

North Road to Lodi Road and Kusro Park

South Grav Yard, and Road to Dargah.”

If the case of the Petitioners is assumed to be true with regard to the



ownership of the said land, then what is the status of the other portion of the land, because the suit property forms part of the aforesaid 5 bigha and 18 biswa of land. It was further contended that even in the suit filed on behalf of late Shri G.R. Siddiqui, the suit premises have been described as “SB House”. There is further no description of “SB House” with respect to the area, and nothing has come on record to demonstrate that the said “SB House” and the property in the said GPA, as relied upon by the Petitioners, includes the aforesaid “SB House”.

39. However, in the suit filed on behalf of late Shri G.R. Siddiqui, from whom the predecessor-in-interest of the Petitioners, *i.e.*, late Dr. Alamgir Alvi had purchased the subject premises, the suit property in the said suit has been described as “SB House” Nizamuddin, New Delhi. Thus, it was submitted that there was a complete discrepancy with regard to the description of the subject premises in the documents on which reliance has been placed by the Petitioners. It was further submitted by the learned counsel for the Respondents that nothing has come on record with respect to any clarification with regard to the same. Thus, the judgment dated 11.08.1978 was only with respect to the property known as “SB House” and was never in respect of entire land of 5 bigha and 18 biswa, and even otherwise, the said judgment merely protected late Shri G.R. Siddiqui from dispossession, without due process of law from the said property and did not declare him to be the owner by way of adverse possession.

40. Learned counsel for the Petitioners had further relied upon 2 orders passed by learned ARC dated 13.05.2015, with respect to certain other tenants



in respect of basement and first floor of the subject premises. Relying upon the said orders, it was argued by the learned counsel for the Petitioners that the ownership of the subject premises stands confirmed, in view of the eviction order passed by the learned ARC in the said eviction petitions. It is pertinent to note that both the orders relied upon by the learned counsel for the Petitioners were *ex-parte*. The said orders have never been challenged and the issue of ownership was never raised or decided by the learned ARC in the said petitions. Therefore, those orders cannot be considered as *res-judicata* for the purposes of ownership of the properties concerned.

41. Learned counsel for the Petitioners further contended that the authorised representative, RW-1, had no authority to depose on behalf of Respondents at all, and therefore, the same would render the whole evidence of the Respondents inadmissible, thereby having no value in the eyes of law. It is pertinent to note that RW-1, was authorised representative of the daughters of Respondent-late Smt. Motia Rani, in whose favour the will had been executed by the father of late Shri Mahendar pal Sachdeva, *i.e.*, late Shri Gurucharan Sachdeva. The aforesaid will has been de-exhibited. Be that as it may, it is not in dispute that the Petitioners herein had themselves impleaded the said Respondents in the eviction petition, and it is a matter of record that Respondents-Smt. Ratkanya Patansethanont and Shri Rattan Deep Singh, *i.e.*, widow and son of late Shri Mahendar Pal Sachdeva, did not participate in the proceedings as they were residing in Thailand. In these circumstances, non-representation on behalf of the said Respondents would have no consequences, inasmuch as the issue which has been decided against the Petitioners with regard to the ownership, is on the basis of their own



documents, which they themselves have produced on record before the learned ARC.

LANDLORD AND TENANT RELATIONSHIP

42. Relationship of landlord and tenant is again essential for proceedings under the Delhi Rent Control Act, 1958. As noted by the learned ARC, the claim of the Petitioners in the eviction petition was that the tenancy was oral in nature, and that the Respondents used to pay the rent in cash, and their predecessor-in-interest, *i.e.*, late Dr. Alamgir Alvi, had inducted the Respondents during his lifetime. However, as noted in the impugned judgment, PW-1 in her cross-examination dated 03.10.2023 had stated that the suit property was given on rent by late Shri G.R. Siddiqui to late Shri Gurucharan Sachdeva (father of late Shri Mahendar Pal Sachdeva-Respondent) and when the predecessor-in-interest *i.e.*, late Dr. Alamgir Alvi purchased the subject premises, the tenancy came to the Petitioners in 1989. Thus, it was correctly observed by the learned ARC that the said statement was contradictory in itself, inasmuch as the Petitioners' own case was that the subject premises had been purchased by their predecessor-in-interest in the year 1993 and not in 1989.

43. Admittedly, there is no receipt on record with respect to payment of any rent by the Respondents. On the other hand, the Respondents have relied upon certain documents establishing their possession over the subject premises from the year 1989, as noted in the preceding paragraph. Thus, the documents which have been placed on record, clearly predates the documents



by way of which the predecessor-in-interest of the Petitioners had allegedly acquired the property in the year 1993. It is pertinent to note that in the eviction petition, the stand of the Petitioners in para 18 (a) (iii) and (iv), as reproduced hereinbefore, was that subsequent to purchase of the subject premises by the predecessor-in-interest of the Petitioners, the said property was let out to the Respondents for commercial purposes. Thus, as rightly observed by the learned ARC, even this prerequisite of landlord tenant relationship could not be proved by the Petitioners.

44. It is a settled principle of law that the scope of interference by a Court in exercise of its revisional jurisdiction is confined to examining whether the judgment assailed suffers from illegality, material irregularity or jurisdictional error and the Revisional Court is not expected to substitute its own view for that of the learned Trial Court, as has been held by the Hon'ble Supreme Court in **Sarla Ahuja v. United India Insurance Co. Ltd.**¹⁴ and **Abid-Ul-Islam v. Inder Sain Dua**¹⁵.

45. This Court after perusing the record and considering the submissions advanced on behalf of the parties, is of the considered opinion that the impugned judgment suffers from no irregularity or illegality warranting interference. The learned ARC, after duly appreciating the pleadings and evidence brought on record during the course of trial, had returned findings which cannot be said to be perverse. Accordingly, no grounds warranting interference with the impugned judgment are made out.

¹⁴ (1998) 8 SCC 119; AIR 1999 SC 100

¹⁵ (2022) 6 SCC 30 : (2022) 3 SCC (Civ) 287 : 2022 SCC OnLine SC 419



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46. In view of the above, the present petition stands dismissed and disposed of accordingly.

47. Pending application(s), if any, also stands disposed of.

48. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA
(JUDGE)**

JULY 16, 2026/kr/db