

(2026) 08 DEL CK 4410

In the Delhi High Court

Case No : RSA 185/2024, CM APPL. 62837/2024 & 27158/2026

Brij Raj & Anr.

APPELLANT

Vs

Chand Babu

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

CPC — Section 100, 96 read with Section 41

Citation : (2026) 08 DEL CK 4410

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Mr. Aftab Husain, Ms. Anita, Mr. Puneet Kumar, Mr. Vipul Kumar, Mr. Rakesh Kumar, Ms. Taniya

Judgement

Neena Bansal Krishna, J.

1. Regular Second Appeal under Section 100 CPC has been filed **against the Judgment dated 01.08.2024**, whereby the learned District Judge has **upheld the Judgment dated 27.05.2023**, whereby the learned Civil Judge has decreed the Suit of the Plaintiff/Respondent (*Sh. Brij Raj and Smt. Renu Raj*) for **Mandatory Injunction directing the Defendants/Appellants to hand over the Possession of the property to the Plaintiff but denied the claim for User/Occupation Charges against the Appellants.**

2. **The** Suit No.36255/2016 was filed by the Plaintiff/Respondent for *Permanent and Mandatory Injunction*.

3. This is a case where the Plaintiff's father, *Sh. Chand Babu* who is the owner of the property bearing House No.201, Ground Floor, MIG Flats (Metro Apartments), Jahangir Puri, Delhi- 110033 (hereinafter referred to as '*Suit Property*') has permitted Defendant No.1 *Sh. Brij Raj, his son* and *Smt. Renu Raj, daughter in law*, to reside in one room of the suit property out of love and affection after their marriage which took place on 28.01.2012.

4. However, the Plaintiff has averred that from December 2014 onwards, the

Defendants' conduct towards him became increasingly hostile and disrespectful, and that they failed to provide him with the care and support required in his old age. In the month of June, 2015 the Defendants threatened to dispossess him from the suit property.

5. Consequently, he terminated their right to stay in the property *vide Legal Notice dated 13.07.2015* and thereafter, **filed a Suit for Mandatory Injunction** directing the Defendants to hand over the Possession of the suit property and also for future damages @ Rs.5,000/- per month **w.e.f 01.08.2015** till the delivery of Possession.

6. The Defendants in their **Written Statements** claimed that the Plaintiff was not the absolute owner as an amount of Rs.2 lakhs was given by Defendant No.2 to the Plaintiff, who had assured that he would get the **Sale Deed** executed in his favour. The Defendants further claimed that a huge portion of money was given by Defendant No.1 for the maintenance and other expenses for the house, thereby making Defendant No.1 a *co-sharer* in the property.

7. The claim of atrocities which have been committed by Defendant No.2 after marriage on the Plaintiff, were **denied**. It was claimed that Defendant No.2 had made a Complaint in CAW Cell, which was eventually settled. It was asserted that the Suit was liable to be dismissed.

8. The Plaintiff in the **Replication** re-affirmed the assertions made in the Plaint and denied the averments made in the Written Statement.

9. The **Issues** were framed on 01.06.2017 as under:

(i) *Whether the plaintiff is entitled to the decree of mandatory injunction, as prayed for? OPP*

(ii) *Whether the Plaintiff is entitled to the decree of damages, as prayed for? OPP*

(iii) *Relief.*

10. The Plaintiff examined himself as **PW1** and proved the documents Ex.PW1/1 to Ex.PW1/10 which is the **Allotment Letter** (dated 09.09.1996) of the suit property, Water Bills etc. in support of his case.

11. The **Defendants despite multiple opportunities, failed to produce any evidence, which was closed vide Order dated 27.03.2023.**

12. The **learned Civil Judge** on appreciation of the evidence, observed that admittedly, the property had been purchased by the Plaintiff's father (*Sh. Chand Babu*) which was evident from the **Allotment Letter** and the **Receipt of deposit** of Rs.40218.43/- to establish his ownership.

13. Defendant No.1 claimed to be a co-owner, but failed to adduce any evidence. The right of daughter-in-law/Defendant No.2 *Smt. Renu Raj* of residence in shared household was considered in extenso and it was concluded that the relationship between the parties was established to be hostile. From the

pleadings of the parties, and the evidence of the respondent, it was established that there was no indefeasible right of daughter-in-law to live in the suit premises.

14. Accordingly, **Suit for Mandatory Injunction** was allowed and the Defendants were directed to handover the peaceful vacant Possession of the property within one month. However, on consideration of the entire evidence and the relationship between the parties, **it was held that the Plaintiff was not entitled to any Damages.**

15. Aggrieved by this Judgment and Decree, the Defendants had preferred the **First Regular Appeal**, under Section 96 read with Section 41 CPC.

16. The learned District Judge on re-appreciation observed that according to the Appellant, the Complaint in CAW Cell against both the father-in-law and mother-in-law was compromised, although this Compromise was never brought on record. Even otherwise, no evidence was led by the Defendants in support of their case. Though the defendant No.1, the son had claimed that he had contributed Rs.2 lakhs for purchase of the property, but no evidence was led in this regard.

17. The learned Appellate Court concurred with the findings of the learned Trial Court including that in respect the right of the daughter-in-law to reside in the house of the father-in-law. Finding no merit in the Appeal, it was dismissed *vide* **Order dated 01.08.2024.**

18. Aggrieved by the dismissal of the Appeal, the present **Second Regular Appeal** has been preferred.

19. The **grounds of challenge** are that the Learned Trial Court failed to appreciate the existence of a domestic relationship between the Appellants and the Respondents, as recognized by the Hon'ble Supreme Court in *Prabha Tyagi v. Kamlesh Devi*, wherein it was held that when parties are residing together, then they are held to be in domestic relationship.

20. Furthermore, it has not been appreciated that the suit property was the shared household, where the Appellant No.2/Defendant No.2 had come to reside after the marriage and she has a right of residence, irrespective of the ownership of property in favour of the Respondent/father-in-law.

21. It was claimed that the learned Civil Judge has failed to appreciate the defence of the Appellants that they had contributed Rs.2 lakhs in the purchase of the suit property and that the Respondent/Plaintiff had assured of getting the **Sale Deed** executed in his favour.

22. It is, therefore, submitted that the impugned Judgment and Decree be set aside.

Submissions heard and record perused.

23. There is no challenge to the basic facts involved in the case that the father who is admittedly the owner of the suit property, had permitted the Appellants who are the son and daughter-in-law in one room of his flat, but on account of their cruel conduct, was compelled to terminate the permissible user and occupation, **vide Legal Notice dated 13.07.2015**.

24. Admittedly, the Appellants had no legal right to continue in the property, once the permission was withdrawn by the father. Frivolous ground was taken by the Appellants that the Appellant No.1 had paid Rs.2 lakhs towards the purchase of the suit property, but it is bereft of any evidence; in-fact no evidence whatsoever, was led by the Appellants. It has been rightly concluded by the learned Civil Judge and upheld by learned District Judge that *there was no proof any contribution by the Appellants and that the Respondent the father was the absolute owner of the suit property*.

25. **The second aspect** was in regard to the right of the daughter-in-law to reside in the property. Reference is made to the Judgment of *Prabha Tyagi* (supra), wherein the right of the daughter-in-law to reside in the property of father-in-law, was considered in detail. The Apex Court has recognized the right of daughter-in-law to stay in the shared household, even if she has no right, title or interest in the property. However, in the case of *Satish Chander Ahuja vs. Sneha Ahuja* (2021) 1 SCC 414 it has been explained that the right of daughter-in-law is not indefeasible and the only caveat is that she can be dispossessed, only in accordance with law. The distinction was also made in respect of the daughter-in-law whose husband has died and that whose husband was still alive.

26. It has been rightly held that the Appellants can claim no right to continue in the property of the father, once he had withdrawn his permission from them to continue to reside in the premises. The aforesaid discussion reflects that the challenge is only to the facts which beyond the scope of Second Regular Appeal. **No Substantial Question of Law has emerged in this Second Regular Appeal, which is hereby dismissed.**

27. The pending Applications are disposed of accordingly.