

(2026) 08 DEL CK 4417

In the Delhi High Court, Principal Bench, New Delhi

Case No : REVIEW PET No. 324/2026, CM APPL. 46934/2026, CM APPL. 46936/2026 in RFA No. 11/2024; REVIEW PET. No. 329/2026 & CM APPL. 47207/2026, CM APPL. 47210/2026 in RFA No. 482/2023

Sanjay Dubey

APPELLANT

Vs

Nandlal

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Code of Civil Procedure, 1908 — Section 114, Order XLVII Rule 1, XII Rule 6, 151
Registration Act — Section 49, 17
Indian Stamp Act — Article 23A of Schedule 1
Transfer of Property Act — Section 53A, 107
Specific Relief Act

Citation : (2026) 08 DEL CK 4417

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Mr. Jayant Bhushan, Mr. Tushar Bhushan, Mr. Yojit Mehra, Mr. Amartya Bhushan, Ms. Priya Kumar, Mr. Deepesh Aneja, Ms. Shruti Verma

Judgement

Neena Bansal Krishna, J.

1. The two aforesaid Review Petitions under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*), have been filed on behalf of the Petitioner, Mr. Sanjay Dubey in RFA No. 11/2024 & RFA No. 482/2023.

2. The factual background as narrated in the Applications, is that *vide* common Judgment and Final Order dated 10.06.2026, passed by this Court in RFA No. 482/2023 (*Ramesh Chandra Dubey & Anr. vs. Nandlal*) and RFA No. 11/2024 (*Sanjay Dubey vs. Nandlal*), the Regular First Appeals, were dismissed and the Judgments and Decrees dated 20.05.2023 and 31.05.2023, passed by the learned Additional District Judge Delhi, were affirmed.

3. The disputes relate to Flat No. 126, Maitri Apartments, I.P. Extension,

Patparganj, Delhi (*hereinafter referred to as 'the Suit Property'*) belonging to Sh. Nand Lal. According to Sanjay Dubey, during the year 2007, negotiations commenced between Sh. Nand Lal and the Petitioner, Mr. Sanjay Dubey, for the sale of the suit property, for a sale consideration of Rs.19,50,000/-. Pursuant to the negotiations, possession of the suit property, was handed over to the Petitioners and the parties agreed that the Respondent would first get the conversion of the suit property into freehold done, before execution of the Sale Deed.

4. Acting upon the representations of the Respondent, the Petitioner Mr. Sanjay Dubey, arranged substantial funds, sold his family's residential property and from time to time, paid an aggregate amount of Rs.16,65,000/-, towards the agreed sale consideration. The parties initially, prepared a Sale Purchase Agreement dated 12.09.2008 on stamp paper, which was subsequently revised, on the insistence of Sh. Nand Lal, which was executed on plain paper on 24.10.2008. Various Letters were exchanged, in regard to the delay in execution of the Sale Deed.

5. It is claimed in the Petition that despite receiving substantial payments and repeated assurances for execution of the Sale Deed, Sh. Nand Lal continuously delayed completion of transaction, on one pretext or the other. Left with no alternative, **the Petitioner, Mr. Sanjay Dubey instituted Civil Suit No. 82/2012 seeking Specific Performance of the Agreement to Sell and consequential reliefs.**

6. The Respondent also filed his **Written Statement in the Suit for Specific Performance, filed by Mr. Sanjay Dubey**, disputing the Agreement to Sell and raised various defences.

7. During the pendency of the dispute, the Respondent adopted mutually destructive stands regarding **the nature of the Petitioners' possession**, in the Legal Notice dated 10.06.2012. The Respondent alleged that the Petitioner was a tenant of the suit property.

8. Thereafter, another Legal Notice dated 25.06.2012 was given by the Respondent wherein he altered his stand and *alleged tenancy only against the Petitioner's father, namely, Mr. Ramesh Chandra Dubey, while not treating the Petitioner as a tenant*. These contradictory Legal Notices, demonstrated that the Respondent himself was uncertain regarding the identity of the alleged tenant thereby giving rise to serious disputed questions of fact.

9. Subsequently, **Sh. Nand Lal instituted a Suit bearing No. 248/2012 for Possession, Recovery of Rent, Mesne Profits and Permanent Injunction against the Petitioners alleging existence of an oral tenancy.**

10. During the pendency of the two Suits, the learned Trial Court passed various interlocutory Orders between 10.10.2017 and 02.06.2023.

11. During the proceedings before this Court, by Order dated 20.08.2018, this

Court directed the Petitioner, to secure the Respondent's interest by depositing Rs.3,00,000/- in the Fixed Deposit, in the name of the District and Sessions Judge, Karkardooma Courts, Delhi. The Order was duly complied with, demonstrating the continuous readiness and willingness on the part of the Petitioner, to perform his obligations under the Agreement to Sell. Thereafter, this Court passed further Orders dated 24.03.2021 and 07.12.2022, the copies of which, have been annexed with the Review Petition.

12. The Petitioners have contended that despite existence of numerous disputed questions of fact concerning the alleged tenancy, execution of the Agreement to Sell, payment of substantial sale consideration, *identity of the alleged tenant, readiness and willingness* of the Petitioner and legality of the *Respondent's inconsistent pleas*, the learned Trial Court decided the Suits under Order XII Rule 6 CPC, without giving an opportunity to the parties, to lead their evidence. **Vide Judgment dated 20.05.2023, the learned Trial Court decreed the Suit of the Respondent for Possession and other consequential reliefs.**

13. Thereafter, **vide Judgment dated 31.05.2023, the Suit of the Petitioner for Specific Performance, was dismissed, solely on the basis of the findings recorded in the possession Suit.**

14. The Petitioner preferred **RFA No. 482/2023** and **RFA No. 11/2024**, before this Court. In the interim, the execution proceedings were initiated by the Respondent, wherein the Executing Court passed an Order dated 11.08.2025.

15. *By a common Judgment dated 10.06.2026, this Court has dismissed both the Appeals and affirmed the Order of the learned Trial Court.* While doing so, it was concluded that the Petitioners had entered into possession as tenants and that there was *no concluded Agreement to Sell* and the Respondent was entitled to Possession.

16. The Petitioners submit that *there is an error apparent on the face of the record.* The Judgment overlooks material pleadings and documentary evidence, fails to consider the contradictory stands of the Respondent in respect of the tenancy and has treated disputed facts as admissions, for the purpose of Order XII Rule 6 CPC. The complex issues involved in the two Suits, could not have been decided without recording the evidence, and the statutory provisions governing fixed-term leases, Agreements to Sell and settled principles governing decrees on admissions, have been overlooked.

17. After the pronouncement of the Judgment, Sh. Ramesh Chandra Dubey, father of the Petitioner, Mr. Sanjay Dubey, had expired on 13.06.2026. The Review Petition is, therefore, being instituted with an Application under Section 151 CPC seeking exemption from filing the *vakalatnama* and supporting Affidavits.

18. **The grounds on which the two Review Petitions have been filed,** are that the binding precedents cited by the Petitioners, have been omitted from

consideration in the impugned Judgment. Moreover, material pleadings and statutory provisions, have been overlooked, which tantamount to a patent legal error apparent on the face of the record.

19. It is stated that the present Petition for Review, neither seeks rehearing of the Appeals nor re-appreciation of the evidence. *It is confined exclusively to correction of errors apparent on the face of the record, non-consideration of binding precedents and omission to consider material submissions and statutory provisions and other patent legal errors.*

20. It is claimed that the Petitioner had *consistently denied the relationship of the landlord and the tenant and had pleaded that monthly payment of Rs.9,000/- was made towards the agreed sale transaction, pending execution of the Sale Deed.* Such pleadings constituted an alternative factual explanation and not an admission of tenancy. A decree under Order XII Rule 6 CPC, can be passed only where the admissions are clear, unequivocal and unconditional.

21. The existence of two competing versions itself excludes the applicability of Order XII Rule 6 CPC. It is noted in Paragraph 74 of the impugned Judgment that *it was a case of the Petitioner and his father that the Agreement dated 12.09.2008 on stamp paper, was never signed by the Respondent. Further, that the subsequent Agreement dated 24.10.2008 on plain paper, was also not signed by the Respondent.*

22. This is contrary to specific case pleaded by the Petitioner in the Complaint that the stamp paper Agreement, *was signed by both the parties but was subsequently, torn by the Respondent. Thereafter, the plain paper Agreement was also executed by both the parties. In fact, the documents signed by seller and buyer, had been placed on record. This Court seems to have looked at the unsigned translation filed in the Court.*

23. In Paragraph 75 of the impugned Judgment, it has been erroneously recorded that it was agreed that the Property *will first be converted to freehold, before a formal Agreement to Sell, is executed.* In fact, what was stated by the Petitioner, was that the Defendant would get the suit property converted to freehold, before **"the execution of Sale Deed" and not the "Agreement to Sell."** There has been a conflation about execution of Sale Deed and the Agreement to Sell.

24. In Paragraph 76, it has been held that there was no denial in the Written Statement that they were paying Rs.9,000/- per month. It was specifically stated in Paragraph 15 of the para wise Reply that Rs.9,000/- was being paid as part of the sale consideration, as per the terms of Agreement dated 24.10.2008.

25. It is next contended that in Paragraph 83, it has been held that there was no formal Agreement to Sell ever executed between the parties. According to the Petitioner, an Agreement to Sell had in fact been executed and signed by both the parties, *though no formal Sale Deed was executed.*

26. In Paragraph 84, it has been stated that the Agreement to Sell dated 12.09.2008 executed on stamp paper, was not signed by the Defendant and since no formal signature existed, it meant that no Agreement to Sell, was executed. In fact, it was a case of the Petitioners that the Agreement to Sell prepared on stamp paper, was duly signed and executed by the Defendant, which was subsequently torn by the Defendant.

27. *In Paragraph 88, it has been erroneously observed that there was no written or registered document of Agreement to Sell ever executed between the parties, when in fact, it was the case of the Petitioners that the two Agreements to Sell, were duly signed and executed. The First Agreement to Sell dated 12.09.2008 was prepared on stamp paper and signed by both the parties, which was subsequently torn leading to second Agreement to Sell dated 24.10.2008 on plain paper. Both these Agreements were duly signed and executed by both the parties and the Agreement to Sell on plain paper, was duly notarised, a copy of which is on record. The translated copy of the Agreement to Sell was not the original.*

28. *In Paragraph 89, it has been observed that an Agreement to Sell has to be registered. It is stated that proviso to Section 49 of the Registration Act, itself states that an unregistered document, may be received as an evidence of the contract in a Suit for Specific Performance.*

29. The reliance on Stamp Act, is misplaced. It is only on a conveyance in the nature of part performance under Section 53A of the Transfer of Property Act (*for short 'TPA Act'*), that 90% of the duty as a conveyance is required, to be paid as stamp duty under Article 23A of Schedule 1 of the Indian Stamp Act. It was not a case of protection of possession under Section 53A of the TPA Act, but a case of Specific Performance.

30. It has not been appreciated that the execution and genuineness of the Agreements to Sell, were disputed questions requiring trial. It has been overlooked that the Defendant had disputed the Agreement to Sell as forged, while the Plaintiff had asserted their execution and relied upon receipts, correspondence, possession and payment of substantial consideration.

31. The readiness and willingness could not have been decided without evidence. The Appellant has specifically pleaded his continuous, readiness and willingness. The payment of Rs.16,65,000/-, repeated letters, notices, deposit of sale consideration, are all his acts reflecting readiness and willingness.

32. Furthermore, Judgment relies heavily upon observations recorded in another proceedings dated 07.03.2012. Such observations were never recorded after trial, were not admissions in the present Suit and could not have legally constituted admissions under Order XII Rule 6 CPC.

33. It has not been appreciated that *the Respondent himself had pleaded a fixed tenancy for two years, which commenced on 01.06.2007 and continued till*

31.05.2009. For a fixed period Lease of more than one year, it has to be compulsorily registered under Section 107 of TPA and Section 17 of the Registration Act. In the absence of any registered Lease Deed, the plea of fixed-term tenancy, could not have been accepted. The contradictions in the Respondent's own pleadings of simultaneously pleadings, oral tenancy and fixed tenancy of two years, which are mutually destructive, have been overlooked.

34. It has also not been considered that the Possession delivered long before the execution of the Sale Deed, payment of 16.65 Lakhs, payment of municipal dues, payment of maintenance, payment of house tax, NOC issued for gas connection and continuous correspondence, were corroborating the Agreement to Sell.

35. The doctrine of part performance independently of Section 53A, has not been appreciated. It has been rejected merely because there was no registered Agreement. However, even if protection of Section 53A, was unavailable after 2001 amendment, the absence of registration by itself, did not destroy the maintainability of the Suit for Specific Performance under Specific Relief Act. The protection under Section 53A has been conflated with the enforceability of an Agreement to Sell.

36. It is submitted that the possession since 2007, was referable to Agreement to Sell. The possession had been delivered pursuant to negotiations for sale.

Whether possession was: as tenant, prospective buyer or permissive occupant, could not have been decided, without evidence. It is, therefore, submitted that the impugned common Judgment dated 10.06.2026 in RFA No. 11/2024, be reviewed and set-aside.

37. **In respect of RFA No. 482/2023** which was pertaining to the Suit for Possession, it was additionally stated that as per the Respondent himself, the tenancy was oral for a fixed period from 01.06.2007 to 31.05.2009, which automatically terminated by efflux of time.

38. It was claimed that a Lease of more than one year, requires compulsory registration under Section 107 of the TPA Act read with Section 17 of the Registration Act. In the absence of any registered Lease Deed, the plea of fixed-term tenancy, was legally unenforceable.

39. Furthermore, as had been noted by this Court in its earlier Order dated 11.01.2019, there was *bona fide* dispute regarding the identity of the tenant and therefore, there could be no decree on admissions legally passed. The Respondent has relied upon oral tenancy, oral terms, dishonoured cheques, alleged defaults, enhancement of rent and termination, each of which allegation required proof through oral and documentary evidence.

40. The decree passed by the learned District Judge, has been affirmed, without recording any evidence whatsoever. Furthermore, the Property belongs to a Co-operative Group Housing Society wherein induction of a tenant is ordinarily regulated, through Society procedure, police verification and other mandatory

formalities. The Respondent admittedly produced no document in regard to police verification, permission from the Society, Tripartite Agreement, security receipts or any tenancy agreement.

41. These missing documents give rise to triable issues, which has been overlooked by this Court. It has also not been considered that the payment of Rs.9,000/- per month w.e.f. 01.06.2007, cannot be held as a clear admission that the Petitioner and his father, were tenants paying Rs.9,000/- per month as rent.

42. There is no admission whatsoever of the Appellant being a tenant @Rs.9,000/- per month in the Suit premises; rather it is an affirmation that this amount was being paid, in terms of the Agreement to Sell dated 24.10.2008.

43. **Learned Senior Counsel on behalf of the Respondent**, had vehemently opposed the Application by submitting that all the alleged inconsistencies that have been pointed out in the Review Petition, are pertained to not the pleadings, but to the appreciation of the facts by the Court. In case, there is any error in appreciation that cannot be a subject matter of the Review Petition. So long as the facts are narrated correctly, the Court may interpret them in any manner but that cannot be a subject matter of Review but an Appeal or other appropriate remedy, may can be availed. It is, therefore, vehemently contended that there is no ground for review of the impugned Judgment.

Submissions heard and the record perused.

44. The brief factual matrix is that the Petitioner, Mr. Sanjay Dubey had filed a Suit No. 82/2012 for Specific Performance of an Agreement to Sell and consequential relief. While the Suit was being contested by the Respondent, Mr. Nand Lal, he also filed a **Civil Suit No. 248/2012** for Possession, Recovery of Rent, Mesne Profits and Permanent Injunction by asserting that Mr. Ramesh Chandra Dubey had been inducted as a tenant in 2007 @Rs.9,000/- per month and denied the execution of any Agreement to Sell whether dated 12.09.2008 or 24.10.2008 with Sh. Sanjay Dubey.

45. Both the Suits were contested by the parties, when the learned District Judge decreed the Suit of Mr. Nand Lal, for Possession and dismissed the Suit for Specific Performance of Mr. Sanjay Dubey, under Order XII Rule 6 CPC *vide* Judgment dated 20.05.2023 and 31.05.2023.

46. **The two RFA No.482/2023 and RFA No.11/2024, were filed by Mr. Sanjay Dubey** against the Order dated 20.05.2023 *vide* which the Suit for Specific Performance was dismissed and the Order dated 31.05.2023 whereby the Suit of the Plaintiff for Possession, was decreed.

47. This Court *vide* common Judgment dated 10.06.2026, dismissed both the Appeals.

48. The main ground on which the review of the common Judgment is sought by

the aforesaid two Review Applications, is that *there is a factual error in the narration of the facts*. It has been held by this Court that the Agreement to Sell dated 12.09.2008 that was executed on a stamp paper, was not signed by Mr. Nand Lal and was subsequently torn. It is further noted that the subsequent Agreement to Sell dated 24.10.2008 executed on a plain paper, was not signed by both the parties.

49. The perusal of the record shows that both the Agreements dated 12.09.2008 and 24.10.2008, had the signatures of both the parties and also, the first Agreement was signed by the witness, Mr. Madan Choubey. The error which is being pointed out by the Petitioner, is that in Paragraph 74 of the impugned Order, **it has been observed by the Petitioner and his father that the Agreement to Sell executed on the stamp paper, was never signed by the Respondent.**

50. This Court had dismissed two Appeals on the wrong premise of there being no signed Agreement to Sell, even though there existed the written and signed Agreements dated 12.09.2008 and 24.10.2008 between the parties. The impugned Judgment, therefore, suffers from an error apparent on the face of the record since it has proceeded on a wrong assumption, which has permeated throughout the Order. The entire reasoning for dismissing the two RFAs, was that there was no written, signed Agreement between the parties, which is factually incorrect.

51. It is also pertinent to note that Mr. Nand Lal had filed a Suit for Possession against Mr. Ramesh Chandra Dubey and Mr. Sanjay Dubey claiming them to be the tenants. It was his own case that the tenant was Mr. Ramesh Chandra Dubey and Mr. Sanjay Dubey being the son, was residing in the suit property since 2007. Mr. Sanjay Dubey has allegedly entered into the two Agreements to Sell of September and October, 2008. Mr. Sanjay Dubey admittedly was not the person inducted as a tenant but he being in possession, asserting his rights in the nature of ownership. Mr. Ramesh Chandra Dubey, who was alleged to be the tenant in 2007, has died after the decision of the two RFAs and Review has been filed only on behalf of Mr. Sanjay Dubey.

52. Considering the factual basis, on which the edifice of entire reasoning was built, is erroneous and factually incorrect. There is an error apparent on face of the record mandating these Review Applications, to be allowed.

Accordingly, the Review Applications are allowed and the common Judgment dated 10.06.2026 in the two RFAs, is hereby set-aside.

53. It is hereby clarified that the observations made herein, is not an expression on the merits of the contentions of rival parties, but a reference is made solely for the purpose of adjudication of the two Review Petitions.

54. Be listed for arguments on 27.08.2026.