



2026:DHC:8803



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Reserved on: 10th August 2026**
Pronounced on: 6th October 2026
Uploaded on: 6th October 2026
CNR No. DLHC010164502019
+ **RSA 69/2019, CM APPL. 15083/2019, CM APPL. 15085/2019**

RAMESH

S/o Sh. Babu Lal
R/o E-223, MCD Flats,
Nand Nagari, Delhi.

....Appellant

Through: Mr Naved Khan, Advocate with
Appellant in person

versus

Smt. GEETA

W/o Sh. Ramesh
R/o Flat No. 110, 2nd Floor,
MCD Flats, 1st Pusta
Usman Pura, New Delhi.

....Respondent

Through: Mr. Rishi Kant Mishra, Advocate
with Respondent in person.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Regular Second Appeal under Section 100 CPC has been preferred by the Defendant/Appellant against the judgment and decree dated 02.11.2018, *whereby the learned Additional District Judge decreed the Suit of the Plaintiff for Possession and Mandatory Injunction, while setting aside the*



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judgment and decree of the learned Civil Judge dated 15.04.2017, dismissing the Suit of the Plaintiff.

2. The Plaintiff, Smt. Geeta had filed a **Civil Suit No.104353/2013** seeking Possession, Permanent and Mandatory Injunction, as well as recovery of mesne profits and mesne/ user charges.

3. The **facts are, in brief**, that the plaintiff was allotted Flat No. E-223, MCD Flats, Nand Nagri, Delhi (*hereinafter referred to as the 'suit property'*), vide Allotment letter dated 09.08.2003, and was the owner.

4. The defendant had approached the plaintiff to let out the flat to him. Though she was initially not inclined, but on his persistence, she agreed to let out the suit property on the condition that he would pay Rs. 1 lakh, so that she could arrange an alternate accommodation for herself.

5. The Defendant also imposed a condition that the Plaintiff should deposit the original allotment of the flat with the Defendant. Accordingly, the Plaintiff handed over the original documents of the suit property, and the Defendant was inducted as a tenant upon payment of Rs. 1 lakh to the Plaintiff, at a nominal rate of rent of Rs.500/- per month.

6. It was agreed that Rs. 1 lakh shall be considered as an interest-free security by the Plaintiff. The Defendant shall vacate the premises along with the original documents to the Plaintiff, as and when she returns Rs. 1 lakh. It was further agreed that, if the Defendant succeeded in arranging some alternative accommodation and wished to vacate the suit property, the Plaintiff would repay the above-mentioned amount.

7. The plaintiff asserted that, being an illiterate lady who could not read or write, she was taken advantage of by the defendant, who got an *Ikrarnama* dated 23.12.2003 prepared, wherein wrong facts were mentioned.



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8. She further stated that the said flat was let out to the defendant in December 2003 and that, immediately thereafter, the defendant started paying the rent, which he paid till June 2004, after which he stopped paying the rent. The plaintiff requested the defendant to vacate the premises after adjusting Rs. 1 lakh from the rent due from the defendant, to which he paid no heed.

9. On 26.06.2012, the Plaintiff along with her son visited the suit property and made a request to the Defendant to vacate the same and receive his balance amount, but the Defendant refused to do so.

10. Left with no alternative, the Plaintiff served the Legal Notice dated 19.03.2013 upon the Defendant to vacate the suit property. The defendant sent a Reply dated 21.03.2013 containing allegedly, bogus and baseless contentions.

11. The plaintiff had thus filed the Suit for **Possession, Permanent Injunction** to restrain the defendant from creating any third parties; **Mandatory Injunction** for directing the defendant to hand over the original documents relating to the suit property, as well as **for mesne profits and user charges @ Rs.10,000/- per month**, for the illegal use and occupation of the suit property.

12. The **Defendant, in the Written Statement**, took the *preliminary objection* that, as per the Plaintiff's own case, the Defendant was a tenant in the suit property at a monthly rent of Rs.500/- and that the tenancy was terminated *vide* Notice dated 19.03.2013. It was, therefore, contended that the Suit was barred under Section 50 of the Delhi Rent Control Act and was liable to be rejected under Order VII Rule 11 CPC.

13. Furthermore, the plaintiff had *not approached the Court with clean hands*, as she was required to return an amount of Rs. 1 lakh from the date of



the Agreement. Furthermore, she has not filed any Suit for Specific Performance of the Agreement dated 23.12.2003.

14. The defendant claimed that the suit property had been purchased by him, and had been handed over possession of the suit property, pursuant to the Agreement dated 23.12.2003. The defendant had also been given the power to sell the suit property. The plaintiff had also undertaken not to enter into any agreement to sell in respect of the suit property with any other person. It was further agreed that, if the amount of Rs. 1 lakh was returned within 3 years, the defendant would return all the original documents, as well as the suit property, to the plaintiff. The defendant thus, asserted that the Suit of the plaintiff was liable to be dismissed.

15. The Plaintiff, ***in the Replication***, reaffirmed the averments made in the Plaint and denied the allegations made in the Written Statement

16. The **Issues in the Pleadings were framed on 19.04.2014**, as under:

(i) Whether the suit of the plaintiff is barred under Section 50 of the DRC Act? OPD

(ii) Whether the defendant is the owner of the suit property? OPD

(iii) Whether the plaintiff is entitled for decree of possession of the suit property as claimed? OPP

(iv) Whether the plaintiff is entitled for decree of permanent injunction as claimed? OPP

(v) Whether the plaintiff is entitled for decree of mandatory injunction as claimed? OPP

(vi) Relief.”



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17. **The plaintiff, in support of her case, examined herself as PW-1**, she proved the site plan as PW1/1, Election ID card as PW1/2, copy of receipt of Rs.5000/- issued by the MCD as PW1/3, the agreement dated 23.12.2003 as Mark A, the Notice dated 19.03.2013 as Ex. PW-1/5, copy of reply dated 21.03.2003, as Ex. PW-1/6, copy of allotment letter dated 14.08.2003, marked as Ex. B.

18. **PW-2, Sh. Manish Kumar, Head Clerk, Land and Building, EDMC** produced the record pertaining to the suit property and proved the Allotment Letter dated 14.08.2003 in favor of Smt. Geeta as PW. 2/1, copy of the Application Form regarding deposit of Rs.5500/- is PW2/2; copy of Receipt of Rs.5500/- dated 27.08.2003, issued by the MCD as Mark-X.

19. **The Defendant, in support of his case, examined himself as DW-1** and tendered his affidavit, Ex.DW1/A and proved his copy of ration card as Ex. DW1/1, Election ID card as Ex. DW1/2, copy of allotment slip as Ex. DW1/3, reply to legal Notice, and copy of *Ikrarnama* as Ex. DW1/5.

20. **DW-2, Sh. Ravi Kumar, and DW-3, Rajesh Kumar**, who are brothers-in-law of the Defendant, tendered their affidavit of evidence Ex.DW2/A&DW-3/A, respectively, and corroborated the testimony of the defendant.

21. **The learned Civil Judge**, in the judgment dated 15.04.2017, observed that the Defendant had failed to produce any evidence, nor was any notification placed on record, to establish that the Suit was barred under Section 50 of the DRC Act.



22. On appreciation of the evidence, it was further observed that the Plaintiff had proved her ownership *vide* the Allotment Letter, PW2/1, whereas the Defendant had failed to produce any document to establish his ownership over the suit property. The Defendant had also failed to establish that he had perfected his title by adverse possession.

23. While considering the Plaintiff's claim for possession, the learned Civil Judge observed that the Plaintiff had received Rs.1 lakh from the Defendant, which was equivalent to the market value of the suit property. However, there was no legally valid sale in favour of the Defendant, and therefore, it was an **illegal** transaction of sale. *The Defendant was held to be more than a mere tenant, but less than the owner of the suit property and, accordingly, the Plaintiff was held not entitled to recovery of possession.*

24. It was further observed that, since the Defendant had no ownership rights in the suit property, he was restrained from creating any third-party interest therein. The relief of Mandatory Injunction for return of the original allotment documents was declined, on the ground that the transaction between the parties was apparently illegal and that such an illegal transaction could not be restored through the Court.

25. *In view of the aforesaid discussion, the Suit for possession, Mandatory Injunction and mesne profits was dismissed, while the Defendant was restrained from creating any third-party interest in the Suit Property.*



26. Aggrieved, the Plaintiff, Geeta, filed **RCA No. 95/2017** to challenge the dismissal of his Suit for Possession and mandatory Injunction. The learned Additional District Judge, upon re-appreciation of the evidence, found that the plaintiff had proved herself to be the owner by virtue of the Allotment Letter dated 14.08.2003, which had been proved by PW-2, Manish Kumar, as Ex. PW2/1.

27. It was further observed that the Defendant, while claiming ownership of the suit property on the basis of having purchased it from the Plaintiff, had not produced any evidence to establish his ownership.

28. It was further observed that ***Ikrarnama, Ex.DW1/5***, recorded a ***loan*** of Rs.1 lakh taken by the Plaintiff from the Defendant and the handing over of the original Allotment Letter, as security, which the Plaintiff was to get back upon repayment of Rs.1 lakh. ***The Defendant, therefore, was held to have no ownership right in the suit property.***

29. It was consequently held that the Defendant had no right to retain possession of the suit property. The Judgment and decree dated 15.04.2017 was accordingly **set aside** to the extent of relief of Possession and Mandatory Injunction.

30. **The Appeal was consequently allowed, and the Plaintiff was held entitled to possession of the suit property and Mandatory Injunction for return of the original allotment documents on payment of Rs. 1 Lakh to the Defendant; the Suit of the plaintiff was accordingly decreed.**



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31. *Aggrieved by the said Judgment dated 02.11.2018, the Respondent/Appellant preferred the present Regular Second Appeal.*

32. The **grounds of challenge** are that the learned First Appellate Court failed to appreciate the true nature and effect of Ex.DW1/5, which records the transaction of Rs.1 lakh between the parties and the handing over of the original documents of the suit property, as security, pursuant to the said transaction, under which the Defendant was put in physical possession of the suit property, and that the Plaintiff failed to establish that the Defendant had been inducted as a tenant, at a monthly rent of Rs.500/-.

33. It is further contended that there was no Rent Agreement, rent receipt, or other documentary evidence to establish the alleged relationship of landlord and tenant between the parties.

34. It is also contended that the learned First Appellate Court failed to consider the applicability of Section 37A of the Slum Areas (Improvement and Clearance) Act, 1956, in respect of the suit property.

35. Furthermore, the transaction between the parties was illegal and void *ab initio*, in reference to *Section 23 of the Indian Contract Act, 1872*, and therefore it cannot be enforced through a Court of law.

36. It was further contended that it has also not been appreciated that in ten years, the Respondent never sent any notice nor demanded the flat, but due to an increase in the cost of the flat, she is trying to take the flat back illegally.



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37. Therefore, the judgment and decree dated 02.11.2018 of the learned District Judge be set aside, **and the judgment and decree of the learned Civil Judge dated 12.04.2017 be restored.**

Submissions heard and record perused.

38. The Plaintiff/Respondent had filed the suit for claiming possession from the defendant, on the assertion that he was inducted as a tenant. To prove her ownership of the suit property, the **first aspect** that emerges from the record is the Plaintiff's claim of ownership over the suit property. The Plaintiff has relied upon the **Allotment Letter, Ex.PW-2/1**, that was issued in her name, and pursuant thereto, she had got possession of the suit property. *The Plaintiff's right in the suit property is in the nature of ownership and is thus further established*, as proved through PW-2, Manish Kumar, who produced the official records of the MCD.

39. The **second aspect** which emerges from the record is the capacity in which the Defendant came in occupation of the suit property. The Plaintiff has asserted that the Defendant was inducted as a tenant @ Rs.500/- per month and that he paid rent till June 2004. The Defendant has categorically denied that he was ever inducted as a tenant and has claimed that he was inducted in the suit property as its owner by virtue of the **Ikrarnama, Ex.DW1/5**.

40. The Defendant has not denied having taken possession of the suit property from the plaintiff but denied his induction as a tenant. He claimed, on the other hand, an independent right in the suit property based on the **Ikrarnama Ex.DW1/5**. The Defendant's entire case regarding the ownership is, therefore, required to be examined with reference to this document.



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41. It was explained by the Defendant in his testimony that the Plaintiff had taken a loan of Rs.1 lakh from him on a monthly interest of Rs.6,000/- and, as security for the said amount, had handed over the original Allotment Letter of the suit property to him.

42. The Defendant has further stated that the possession of the suit property was also delivered to him and it was agreed between the parties that, in case the Plaintiff failed to return the loan amount within three years from 23.12.2003, she would execute a Sale Deed in respect of the suit property in his favor, after expiry of three years.

43. The Defendant, however, also claimed that the Plaintiff had actually sold the suit property to him, after receiving the entire sale consideration of Rs.1 lakh and had also delivered the physical possession to him.

44. It, therefore, becomes pertinent to examine the *Ikrarnama*, **Ex.DW1/5** on which the entire claim of the Defendant rests.

45. The contents of the *Ikrarnama* are produced as under:

जो कि मैं प्रथम पक्ष फ्लैट नम्बर ई- 223, नन्दा नगरी, दिल्ली की दिल्ली नगर निगम भूमि एवं सम्पत्ति विभाग टाउन हाल दिल्ली -6 द्वारा अलाटी है और मैं अपने फ्लैट में काबिल हूँ ।

जो कि हम प्रथम पक्ष ने अपनी कुछ जरूरतों की वजह से मुबलिग 1,00,000/- एक लाख रुपये केवल 8 बतौर कर्जा दिनांक 23-12-2003 को ले रही है । जिसकी बावत मुझ प्रथम पक्ष ने अपने फ्लैट के एलायन्स का मूल कागज जिसका नम्बर ए0ओ0/ एल एण्ड ई0 03/ 915/ 192 दिनांक 14-8-2003 है द्वितीय पक्ष के पास बतौर जमानत रख दिया है और मुझ द्वितीय पक्ष ने ले लिया है ।



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और जब भी मैं प्रथम पक्ष रकम उपरोक्त द्वितीय पक्ष को वापिस कर दूंगी तो अपने फ्लैट के एलाउमेंट का कामज द्वितीय पक्ष से वापिस ले लूंगी जिसपर मुझे द्वितीय पक्ष को कोई एतराज न होगा।

और अगर मैं प्रथम पक्ष रकम उपरोक्त द्वितीय पक्ष को अदा करने में असमर्थ रहती हूँ तो फिर द्वितीय पक्ष को मेरी हर चल व अचल सम्पत्ति से बसूल करने का अधिकार होगा जिसपर मुझे कोई आपत्ति और जब तक मैं प्रथम पक्ष द्वितीय पक्ष की रकम अदा नहीं कर बैती हूँ उपरोक्त फ्लैट को किसी को नहीं बेचूंगी।

हम हर दो पक्ष के वारसान काईम- मुकामान भी हर शर्त उपरोक्त के पाबन्ध और ज़िम्मेवार रहेंगे।

इसलिये यह इकरारनामा लिख दिया कि सनज रहे और समय पर काम आयें।

दिनांक 23-12-2003 वार मंगलवार दिल्ली।

46. On a perusal of the *Ikrarnama* as reproduced above, it records that the Plaintiff had taken a loan of Rs.1 lakh on 23.12.2003 and, as a security, had handed over the original documents of the property to the Defendant. It further provided that, upon repayment of the loan amount, the Defendant would return the original documents to the Plaintiff. ***In case of failure to repay the loan amount, the Defendant would have the right to recover the said amount from her moveable/ immovable properties.*** The Plaintiff had no objection to the same, and she undertook not to enter into any sale agreement for the same. The legal heirs of both the parties were also stated to be bound by this *Ikrarnama*.

47. The contents of the *Ikrarnama*, therefore, establish the loan transaction between the parties and the fact that the original documents of the suit property were handed over as security. The document does not, however, record any possession or transfer of ownership in favor of the Defendant.

48. This *Ikrarnama* was neither a Sale Deed nor an Agreement to Sell and did not create any vested rights of ownership in favor of the Defendant. Pertinently, even the alleged understanding that the Defendant would be entitled to have the sale documents executed in his favor upon



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failure of the Plaintiff to return the loan amount after three years, does not find any mention in the *Ikrarnama*. *Such an alleged oral understanding, which has not been proved, therefore, cannot by itself create any right in favor of the Defendant in respect of the suit property.*

49. The Defendant had also relied upon his testimony that several other allottees had similarly transferred their flats for a sum of Rs. 1 lakh, by executing documents of this nature. However, no cogent evidence in this regard has been produced, except the bald assertion. Moreover, even if such a practice was prevalent, the *Ikrarnama*, allegedly executed between the parties, cannot amount to any document of sale, establishing that the suit property was sold in favor of the Defendant.

50. The *Ikrarnama Ex.DW1/5* was, at best, a loan document and not a document of sale of the property. The alleged oral Agreement that the plaintiff had agreed to sell the suit property, in case the Loan was not repaid in three years, has not been established by any cogent evidence. There is nothing on record to show that there was any such agreement between the parties by which the Defendant acquired any right of ownership in the suit property. Admittedly, no sale document of any kind was ever executed in favor of the Defendant, and he also did not take any steps to have any such document executed in his favor.

51. ***The learned Additional District Judge, therefore, rightly overturned the finding of the learned Senior Civil Judge that the transaction was apparently an illegal sale and, on a reading of Ex.DW1/5, it is found that the transaction between the Plaintiff and the Defendant was in the nature of a loan transaction of Rs. 1 lakh.***



52. It is, clear that the Defendant had failed to establish any independent right or ownership in the suit property. His possession, even based on his own pleaded case, cannot confer any right of ownership upon him or entitle him to retain possession. *The Plaintiff is therefore entitled to recovery of her suit property.*

53. The next question which arises is the status of the Defendant in the suit property. Even though the plaintiff had asserted that the defendant had been inducted as a tenant @ Rs. 500/- p.m., thereby raising the question as to the applicability of the bar contained in Section 50 of the Delhi Rent Control Act. The Defendant, however, has categorically denied the relationship of landlord and tenant and has claimed an independent right in the suit property.

54. But the effect of the Defendant's denial of the relationship of landlord and tenant, calls for consideration in the context of **Section 111 of the Transfer of Property Act, 1882, which provides for forfeiture of the lease in certain circumstances.**

55. Therefore, the **third aspect** which emerges from the record is the status of a tenant who renounces his character as a tenant in respect of the Suit Property. In the present case, the question which arises for consideration is: whether the categorical assertion of Defendant that he was not a tenant but had acquired an independent right or title in the suit property resulted in the forfeiture of his status as a tenant, under Section 111(g) of the Transfer of Property Act, 1882.

56. **Section 111(g) TPA** deals with *Determination of Lease by forfeiture* and provides for circumstances in which the lease of immovable property ends by forfeiture. It reads as under:

"S.111. By forfeiture; that is to say,



(1) in case the lessee breaks an express condition which provides that, on breach thereof, the lessor may re-enter; or

(2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself; or

(3).....”

57. In Raja Mohd. Amir Ahmad Khan v. Municipal Board of Sitapur, 1964, SCC OnLine SC 246, while referring to the case of Maharaja of Jeypore v. Rukmini Pattamahdevi Garu, (1919) SCC OnLine PC 2, the Apex Court observed that the principles embodied in *Section 111(g) TPA*, are equally applicable to tenancies in which the TPA does not apply, on the ground of the same being in consonance with justice, equity, and goodconscience. It was further observed that it was clear law that permanent tenancies are within the rule and *are liable to forfeiture, if there is a disclaimer of tenancy or denial of the landlord’s title. This disclaimer or repudiation of the landlord’s title, must be clear and unequivocal and made to the knowledge of the landlord.* It was further observed that where there is a disclaimer of tenancy and repudiation of the landlord’s title, *it would amount to forfeiture of the relationship of landlord and tenant.*

58. In Kundan Mal vs. Gurudutta, (1989) 1 SCC 552, it was held that the *principle of forfeiture on disclaimer is founded on the rule that a man cannot approbate and reprobate at the same time. Since the consequence of applying the rule is very serious, it must be held that the denial has to be clear and in unequivocal terms.*

59. Similar observations were made by the Supreme Court in Majati Subbarao vs. P.V.K. Krishna Rao (Deceased) by Lrs. (1989) 4 SCC 732. It was observed that it is abundantly clear from the decision of the Apex Court



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in Kundan Mal (supra), that the principle of forfeiture on disclaimer, was founded on the rule *that a man cannot approbate and reprobate at the same time*. Since the consequence of applying the rule was very serious, *it must be held that the denial of title has to be clear and in unequivocal terms*.

60. In Sheikh Miadhar vs. Rajani Kanta Roy, MANU/WB/0481/1909, 5 Ind. Cas. 708, more light was thrown on this aspect, wherein it was held that where in a suit for rent, the Defendant denies the Plaintiff's title and claims to hold under a third party, *the Defendant can be, in a Suit for ejectment by the landlord, debarred from pleading his tenancy and claiming protection of possession on that ground. It was further observed that this principle was embodied in Section 111(g) TPA, wherein one of the grounds for forfeiture, was to set up a title in the third person or in himself.*

61. In the case of Guru Amarjit Singh vs. Rattan Chand and Ors., (1993) 4 SCC 349, *the doctrine of forfeiture was explained to be founded upon the existence of a lease under jural relationship between a lessor and a lessee, as contemplated under Section 105 TPA. The tenant, by repudiation of the relationship of landlord-tenant, exposes himself to the risk of forfeiting his lease and giving a right to the lessor to determine the lease. The repudiation, however, must be clear and unequivocal and anterior to the issuance of the notice determining the lease. Where there was an unequivocal admission of the earlier relationship of landlord-tenant, but denial in the subsequent litigation, the tenant forfeits its right to lease.*

62. The Principles of Forfeiture as encapsulated in Section 111(g)(2), may **be crystallized as under:**

- (i) *The Defendant must have repudiated the relationship of landlord and tenant by denying title of landlord or by claiming title in himself or*



in a third person;

- (ii) such repudiation must be clear and unequivocal and must amount to a renunciation of his character as a tenant; and*
- (iii) the repudiation must be anterior to the issuance of the notice determining the lease.*

63. Applying the aforesaid principles to the facts of the present case, the Defendant has not merely disputed the title of the Plaintiff, but has completely denied the relationship of landlord and tenant between the parties. His specific case is that he was never inducted as a tenant in the suit property and that he came into possession pursuant to the transaction contained in **Ex.DW1/5, Ikrarnama**, claiming an independent right of ownership therein.

64. The Defendant has thus, in his own pleadings, asserted a right in the Suit Property and denied the existence of any landlord-tenant relationship. He has not accepted himself to be a tenant but has claimed that his possession arose from the transaction contained in **Ex.DW1/5, Ikrarnama**, and that he acquired an independent right in the Suit Property.

65. *Such a plea amounts to clear and unequivocal renunciation of his character as a tenant.* Thus, there is overwhelming evidence on record to show that the Defendant has completely repudiated the existence of the landlord-tenant relationship and has asserted an independent right in the suit property.

66. ***The status of Defendant as tenant, therefore, stood forfeited and the relationship of Landlord and tenant between the parties ceased to exist.***

67. *Consequently, once the Defendant has categorically denied his status as a tenant in the suit property, he cannot claim protection available to a*



tenant under Section 50 of the Delhi Rent Control Act. **The bar under Section 50 of the Delhi Rent Control Act would not be attracted.**

68. Lastly, the Defendant has contended that the transaction between the parties was illegal and, being void *ab initio*, could not be enforced through a Court of law. *Reliance has been placed on Section 23 of the Indian Contract Act, 1872.*

69. Section 23 of the Indian Contract Act provides as under:

“23. What considerations and objects are lawful, and what not.—The consideration or object of an agreement is lawful, unless—

it is forbidden by law; or

is of such a nature that, if permitted, it would defeat the provisions of any law; or

is fraudulent; or

involves or implies injury to the person or property of another; or

the Court regards it as immoral, or opposed to public policy.

In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful is void.”

70. The contention of the Defendant is based on the premise that **Ex. DW1/5** constitutes a sale of the suit property, as this document was a sale in disguise, and was, therefore, void under the above-mentioned section. However, as already discussed, this document does not record any sale or transfer of ownership. It records a loan transaction of Rs. 1 lakh and the handing over of the original documents of the suit property, as security.

71. In the present case, the Plaintiff is not seeking the enforcement of Ex. DW1/5, she is seeking recovery of possession of the suit property by relying



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upon her allotment, against the defendant, who has failed to establish any right or title therein.

72. Section 23 of the Indian Contract Act, therefore, has no application to the relief sought in the present case. The mere assertion that the transaction was illegal cannot confer any right upon the Defendant to retain possession of the suit property.

73. The learned District Judge has rightly appreciated the evidence to set aside the dismissal of the Suit by the learned Civil Judge *vide* Judgment dated 15.04.2017. **The Suit of the Plaintiff has, consequently, been rightly decreed.**

Conclusion:

74. There is no infirmity in the present Appeal. **No Substantial Question arises for consideration in the present Appeal**, as the challenge essentially pertains to the appreciation of evidence, which cannot be considered in the Second Appeal. **The Appeal is accordingly dismissed.**

75. The pending Applications are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

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