* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 01st SEPTEMBER, 2025

IN THE MATTER OF:

\+ **CS(COMM) 660/2024 & CC(COMM) 1/2025, CC(COMM) 2/2025, CC(COMM) 3/2025, I.A. 41457/2024, I.A. 41458/2024, I.A. 41459/2024, I.A. 46396/2024, I.A. 46412/2024, I.A. 46413/2024, I.A. 46441/2024, I.A. 46442/2024, I.A. 46443/2024 I.A. 46448/2024, I.A. 46449/2024, I.A. 46450/2024, I.A. 46451/2024, I.A. 46523/2024, I.A. 46524/2024, I.A. 46525/2024, I.A. 46526/2024, I.A. 46527/2024, I.A. 398/2025**

ONKAR INFOTECH PVT. LTD. .....Plaintiff

Through: Mr. P. S. Patwalia, Sr. Advocate & Mr. Dayan Krishnan, Sr. Advocate with Mr. Harpreet Singh, Mr. Karan Luthra, Mr. Shreedhar Kale, Mr. Yogesh Malik, Mr. Rohan Dua, Advocates

versus

DELHI INTERNATIONAL AIRPORT LTD. & ORS .....Defendants

Through: Mr. Raj Shekhar Rao, Sr. Advocate with Mr. Amitabh Chaturvedi, Mr. Ankit Monga, Shourya Tomar, Advocates for D-1.
Mr. Manu Krishnan, Mr. Tejasvi Chaudhry and Ms. Rajshree Jaiswal, Advs for D-2 & D-3.
Mr. Anirudh Bakhru, Mr. Manu Krishnan, Mr. Tejasvi Chaudhry and Ms. Rajshree Jaiswal, Advs for D-4.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

1. The instant Suit has been filed by the Plaintiff with the following prayers:-

> *"(a) Pass a decree of possession in favour of the Plaintiff and jointly and severally against the Defendants directing the Defendants to forthwith hand over the vacant and peaceful possession of the. Subject Premises i.e., an area admeasuring 2.45 acres (consisting of one main dwelling building block having built-up area of 30,000 Sq. ft. with lawn) of Property bearing No. D-17, Pushpanjali Farms, Bijwasan, New Delhi - 110037, which is admeasuring a total of 3.8125 acres;*
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> *(b) Pass a decree of money in favour of the Plaintiff and jointly and severally against the Defendants directing the Defendants to pay a sum of Rs. 30,90,810/- (Rupees Thirty Lakhs Ninety Thousand Eight Hundred and Ten Only) towards the arrears of rent for a period of 21 days i.e., 01.07.2024 to 21.07.2024 along with interest at the rate of 18% per annum from the due date till the date of actual payment;*
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> *(c) Pass a decree in favour of the Plaintiff and jointly and severally against the Defendants directing the Defendants to pay mesne profits and/or damages at the rate of Rs. 1,00,00,000/- (Rupees One Crore only) per month to the Plaintiff, w.e.f 22.07.2024 till the vacant and peaceful possession of the Subject Premises is restored back to the Plaintiff, along with interest at the rate of 18% per annum from the due date till the date of actual payment;*

(d)Pass a decree of permanent injunction restraining the Defendants and its employees, associates, agents, representatives and assignees, jointly and severally from selling, alienating, transferring or creating any third-party rights or in any manner interfering with the ingress, egress and peaceful possession of Plaintiff, in respect of D-17, Pushpanjali Farms, Bijwasan, New Delhi - 110037;

(e) Direct the Defendants to pay the costs of present litigation to the Plaintiff;

(f) Pass any such further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The facts of the present Suit are as under:

i) The Property No. D-17, Pushpanjali Farms, Bijwasan, New Delhi-110037 admeasuring a total area of 3.8125 acres (*hereinafter referred to as the "**Pushpanjali Property**"),* is divided into:

a. One main dwelling building block having built-up area of 30,000 Sq. ft. with lawn on approximately 2.45 acres of land **("Subject Premises").**

b. Independent out house building block on 1.3625 acres of land.

ii) It is stated that for entering the aforesaid two building blocks, there is a common main gate and common passage. On 01.04.2020, the erstwhile owner of the Pushpanjali Property i.e., M/s Indus Sor Urja Pvt. Ltd. and the Defendant Nos. 1 to 3 executed an unregistered agreement titled as "Lease Deed"

(*hereinafter referred to as the "**Lease Deed**")*, whereby the Defendant Nos. l to 3 were given the Subject Premises on lease for the use of the Defendant Nos. 1 to 3. It is stated that as per Clause 2.1 of the Lease Deed, the rent was fixed at Rs.39,67,500/- per month along with applicable GST to be paid by the Defendant Nos. 1 to 3 in the manner stipulated therein. It is further stated that the current rent being paid by the Defendants was a sum of Rs. 45,62,625/- per month including TDS along with applicable GST.

iii) It is stated that the area of 1.3625 acres of land in the Pushpanjali Property was never leased to the Defendants and the same is currently in exclusive possession of the Plaintiff. The Plaintiff is entitled to use the common main gate and common passage, without any hindrance or restriction, in order to access, use, and enjoy the said area of 1.3625 acres of the Pushpanjali Property. It is stated that the Defendants cannot in any manner restrict or impinge on the said right and thereby, interfere with rights of ingress and egress of the Plaintiff *qua* the said area of 1.3625 acres of the Pushpanjali Property.

iv) It is further stated that Clause 1 of the aforesaid Lease Deed dated 01.04.2020 purports that the lease shall be for a period of five years commencing from 01.04.2020. As per Clause 15 of the aforesaid Lease Deed dated 01.04.2020, it was the obligation of the Defendant Nos. 1 to 3 to pay the requisite stamp duty and registration charges. It is stated that since the Lease Deed dated 01.04.2020 seeks to grant a lease for a term

exceeding one year, it could have only been made as and by way of a registered agreement in view of Section 107 of the Transfer of Property Act, 1882 (*hereinafter referred to as the* ***"TP Act"***). It is further stated that in view of Section 2(7) read with Section 17(1)(d) of the Registration Act, 1949, a lease of an immovable property exceeding one year is compulsorily registrable. Since the Lease Deed is not registered, the Agreement dated 01.04.2020 being an unregistered instrument is not valid and unenforceable in law.

v) It is stated that though the Lease Deed dated 01.04.2020 was executed between M/s Indus Sor Urja Pvt. Ltd. (erstwhile owner of the Pushpanjali Property) and the Defendant Nos. 1 to 3 and only the Defendant Nos. 1 to 3 were recognized and inducted as lessees of the Subject Premises, the Plaintiff has learnt that the Defendant No.4 was remitting the share of rent to be paid by the Defendant No.3. Further, the Defendants more particularly, in their communication dated 06.07.2024 to the Plaintiff, claim that the Defendant No.4 was substituted as a "co-lessee" of the Subject Premises instead of the Defendant No.3 w.e.f. 01.01.2023.

vi) It is stated that to the best of the knowledge of the Plaintiff, no document has been ever executed to formally substitute the Defendant No.3 with the Defendant No. 4 as a "co-lessee" of the Subject Premises along with Defendant Nos.1 and 2 and mere payment of rent by the Defendant No.4 on behalf of Defendant No.3 would not make the Defendant No.4 as a "co-

lessee" for the Subject Premises. Therefore, it is stated that the Plaintiff does not recognize the Defendant No. 4 as a "co-lessee" of the Subject Premises. Since the Defendant Nos. 1 to 4 are group companies and/or associate companies forming part of the GMR Group and Defendant No. 4 claims to be a co-lessee of the Subject Premises along with the Defendant Nos. 1 and 2 in place of Defendant No. 3, the Defendant No.4 is also being arrayed as a proper and necessary party.

vii) It is stated that in view of the fact that the Lease Deed dated 01.04.2020 is unregistered, the said Lease Deed is not valid in the eyes of law and cannot be relied upon for any purpose whatsoever. It is further stated that in the absence of a valid written contract for the lease of the Subject Premises, the lease is deemed to be a lease from month-to-month and is terminable by the lessor or lessee by providing a fifteen days' notice in terms of Section 106(1) of the TP Act.

viii) On 20.05.2024, the Plaintiff and M/s Indus Sor Urja Pvt. Ltd., (erstwhile owner of the Pushpanjali Property) executed a registered Sale Deed after payment of consideration of Rs.115 crores and stamp duty and registration charges of approximately Rs.9 crores whereby the Plaintiff became the sole, absolute, and exclusive owner of the Pushpanjali Property and all rights, title, and interest of M/s Indus Sor Urja were transferred to the Plaintiff.

ix) It is stated that the Defendants issued a letter dated 20.05.2024 to the Sub-Registrar office, Kapashera, stating that the

Defendants were alleged "Proposed Purchasers" of the Suit Property and were in discussions with M/s Indus Sor Urja Pvt. Ltd. for the purchase of the Pushpanjali Property. It is stated that the Defendants requested the Sub-Registrar not to register any Sale Deed with respect to the Pushpanjali Property. The Defendants *vide* their letter dated 22.05.2024 addressed to the Sub-Registrar office, Kapashera withdrew all objections to the sale of the Pushpanjali Property. It is stated that the Defendants made such objections only with the intent to create hurdles for the Plaintiff and intimidate the Plaintiff into not purchasing the Pushpanjali Property. It is stated that the Defendants did not have any substantive objections, however, only with the *mala fide* intent and to somehow stall the purchase by the Plaintiff wrote a frivolous and *mala fide* letter without any factual or legal basis.

x) On 20.05.2024, M/s Indus Sor Urja Pvt. Ltd. wrote to the Defendants informing that it has sold the Pushpanjali Property (which includes the Subject Premises) to the Plaintiff and supplied the details of the Plaintiff being the new lessor *qua* the Defendants.

xi) It is stated that in response, the Defendants *vide* email dated 22.05.2024, requested M/s Indus Sor Urja Pvt. Ltd. to provide a copy of the Sale Deed in favour of the Plaintiff with respect to the Pushpanjali Property.

xii) *Vide* email dated 27.05.2024, M/s Indus Sor Urja Pvt. Ltd. forwarded a copy of the duly executed and registered Sale

Deed dated 20.05.2024 of the Pushpanjali Property to the Defendants and once again, confirmed to the Defendants that the title of the Pushpanjali Property along with all rights, entitlements and interests stood transferred to the Plaintiff and all communications by the Defendants ought to be addressed to the Plaintiff. It was also stated that interest free security deposit of approximately Rs. 2.72 crores made by the Defendants had been remitted to the Plaintiff.

xiii) On 10.06.2024 (wrongly dated as 10.07.2024 by the Defendants), the Defendants Nos. 1 to 3 wrote to the Plaintiff stating that the Defendants had received a communication from M/s Indus Sor Urja Pvt. Ltd. stating that the Pushpanjali Property had been sold and transferred to the Plaintiff. The Defendant acknowledged that the rent for the Subject Premises was now required to be paid to the Plaintiff and requested for the bank details of the Plaintiff for remitting the same to the Plaintiff.

xiv) On 29.06.2024, the Plaintiff wrote to the Defendant Nos. 1 to 3 stating that the Agreement dated 01.04.2020 provided for a period of sixty months, however, the same being an unregistered document was invalid and thus, the Defendants were month-to-month tenants and lease for the Subject Premises was month-to-month. It is further stated that since the erstwhile owner of the Subject Premises had committed to a period of sixty months, the Plaintiff was willing to continue the lease till 31.03.2025 subject to the Defendants executing a fresh

lease for the balance period till 31.03.2025 and undertaking to vacate the Subject Premises by 31.03.2025. It is stated that the Plaintiff called upon the Defendants to indicate their acceptance to the above terms to proceed further, failing which, the lease of the Defendants would continue to be month-to-month. The aforesaid communication was issued to the Defendant Nos. 1 to 3 by email on 29.06.2024 itself and by speed post on 01.07.2024 to the registered office of the Defendants. The speed post was duly delivered to Defendant Nos. 1 and 2. It is stated that the Plaintiff did not receive any response from the Defendants to the Plaintiff's communication dated 29.06.2024.

xv) On 06.07.2024, the Defendants issued a letter to the Plaintiff whereby the Defendants enclosed three cheques towards the quarterly rent payment of the Subject Premises for the period 01.07.2024 to 30.09.2024. It is stated that the Defendants requested the Plaintiff to acknowledge the receipt of the said payment. The said communication clearly shows that the Defendants accepted both the title of the Plaintiff to the Subject Premises as also the landlord-tenant relationship between the parties. The aforesaid communication was received by the Plaintiff through speed post on 08.07.2024.

xvi) The Plaintiff *vide* its letter dated 07.07.2024 exercised its right to terminate the month-to-month lease of the Defendants by issuing a notice of 15 days. It is stated that the aforesaid communication was sent by email on 07.07.2024 itself and by speed post on 08.07.2024 at the respective registered offices of

the Defendant Nos. I to 3. On 31.07.2024, the Plaintiff wrote to the Defendant Nos. 1 to 3 with reference to Defendants' letter dated 06.07.2024 stating that the Plaintiff had already exercised its right to terminate the month-to-month lease of the Defendants through its letter dated 07.07.2024 and in view of the 15 days' notice period having expired, the lease of the Defendants stands determined. It is stated that the Plaintiff refused to accept the rent sought to be paid through cheques issued by the Defendants and called upon the Defendants to collect the same from the Plaintiff's office, failing which, the Plaintiff shall return the cheques by speed post addressed to the Defendant No.1's registered office. It is stated that the Plaintiff also called upon the Defendants to hand over the vacant and peaceful possession of the Subject Premises in view of the fact that the lease of the Defendants stood determined and the Defendants were in unlawful occupation of the Subject Premises.

3. Defendant No.1 has filed its written statement by raising the following preliminary objections:-

i. That the instant Suit is not maintainable as the Pushpanjali Property is an agricultural land and NOC/permission has not been taken from the concerned authorities under the Delhi Lands (Restrictions on Transfer) Act, 1972 read with Delhi Land Reforms Act, 1954 (*hereinafter referred to as* ***"DLR Act"***) for registration of the Lease Deed dated 01.04.2020.

ii. It is also stated that the Plaintiff has concealed material facts and has deliberately stated the facts in a distorted manner.

iii. It is further stated that the Lease Deed was not registered primarily because of the fact that the parties were in active negotiations for purchase of the Pushpanjali Property. It is also stated that the Defendants have spent substantial amount of money for making the property fit for accommodation for their Chief Managing Director (*hereinafter referred to as "**CMD**"*) for whose residence the property has been taken on lease.

iv. It is stated that since the NOC/permission could not have been taken due to the circumstances beyond the control of the Defendants like onset of COVID-19 pandemic etc., the sale could not go through and the Defendants could not purchase the property.

v. It is the case of the Defendants that there were communications for extending the Lease Deed up to from 01.04.2025 till 31.03.2028.

4. I.A. 398/2025 has been filed in CS (COMM) No.660/2024 on behalf of the Plaintiff seeking passing of a summary judgment under Order XIII-A of CPC for a decree of possession in favour of the Plaintiff and jointly and severally against the Defendants to forthwith hand over the vacant and peaceful possession of the Subject Premises.

5. The prayer (a) of the instant application reads as under:-

> *"(a) Pass a Summary Judgment under Order XIII-A of the Code of Civil Procedure, 1908 for a Decree of possession in favour of the Plaintiff and jointly and severally against the Defendants directing the*

Defendants to forthwith hand over the vacant and peaceful possession of the Subject Premises i.e., an area admeasuring 2.45 acres (consisting of one main dwelling building block having builtup area of 30,000 Sq. ft. with lawn) of Property bearing No. D-17, Pushpanjali Farms, Bijwasan, New Delhi - 110037, which is admeasuring a total of 3.8125 acres, as claimed in Prayer (a) by the Plaintiff in CS(COMM) No. 660/2024;"

6. Defendant No.1 has also filed an application being I.A. 46525/2024 under Order VII Rule 11 of CPC for rejection of plaint by contending that the Plaintiff has deliberately concealed and suppressed certain documents and has projected the facts in a distorted, wrong, and incorrect manner. It is stated by Defendant No.1 that the Plaintiff has got the larger portion of the land mutated in the land revenue records under the provisions of DLR Act by treating the land as an agricultural land. It is stated that knowing fully well that the DLR Act and the Delhi Land (Restriction on Transfer) Act, 1972 shall apply, the Plaintiff has chosen to file the instant Suit without approaching the authorities under the DLR Act. It is stated that Section 84 of the DLR Act bars filing of a suit for eviction from the property. It is stated that the Plaintiff after getting its name recorded as a *Bhumidar* could have sought eviction only under the DLR Act for eviction. It is stated that the Plaintiff has, therefore, distorted the facts by projecting the present case as a simple suit for eviction without resorting to DLR Act. It is further stated that the Notification dated 24.10.1994, issued under Section 507 of the Delhi Municipal Corporation Act, 1957 declaring Bijwasan village as urbanized, has been suspended by a Division Bench of this Court vide Order dated 24.11.2004 passed in W.P.(C) 2596/2001 which means that the land

continues to be the agricultural land within the domain of DLR Act and, therefore, a suit for eviction is not maintainable.

7. To substantiate its contention, the learned Senior Counsel for the Plaintiff states that the Defendants have admitted the landlord-tenant relationship between the Plaintiff and the Defendants, inasmuch as the Defendants had given their objection to the Sub-Registrar, Kapashera to the registration of the Sale Deed between M/s Indus Sor Urja Pvt. Ltd. and the Plaintiff. The said objection was withdrawn by the Defendants *vide* a letter dated 22.05.2024. It is stated that the Defendants had themselves admitted that they were inducted as tenants by M/s Indus Sor Urja Pvt. Ltd and that the Plaintiff is the successor-in-interest of M/s Indus Sor Urja Pvt. Ltd and the Defendants in its Written Statements seeks to tender the rent of Subject Premises. It is further stated that the Defendants had themselves filed an application to render the rent in the Court. It is stated by the learned Senior Counsel for the Plaintiff that in the Written Statement, the landlord-tenant relationship is also established from the fact that the Defendants claim an alleged right of extension of the Lease Deed dated 01.04.2020 w.e.f. 01.04.2025 till 31.03.2028 from the Plaintiff, thereby clearly admitting to the landlord-tenant relationship between the Plaintiff and the Defendants. It is stated that the Defendants do not make any claim that the tenancy of the Defendants for the Subject Premises was protected under the Delhi Rent Control Act, 1958.

8. In view of the fact that the Lease Deed is unregistered, the Defendants were incapable of tendering any evidence. It is stated that the tenancy at best could have been on month-to-month basis and was terminated *vide* letter

dated 07.07.2024. Therefore, there cannot be any defence whatsoever on the part of the Defendants.

9. It is stated by the learned Senior Counsel for the Plaintiff that the so called communication, by which the Defendants had written the letter to the erstwhile owner for extension of lease from 01.04.2025 to 31.03.2028, has no meaning at all for the reason that since the Lease Deed itself is unregistered, it could not be tendered as evidence. It is further stated that the so called communication of extension has no meaning in the eyes of law and that no useful purpose will be served by framing issues and enabling the party to lead evidence.

10. Reply has been filed by the Defendant No.1 stating that the Subject Premises was agricultural in nature within the meaning of the DLR Act as well as The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (*hereinafter referred to as* ***"1948 Act"***). Both Indus Sor Urja Pvt. Ltd., as well as the Plaintiff, were *Bhumidar* within the meaning of the DLR Act. It is stated that the Plaintiff required the necessary no objection and clearance under the provisions of the aforesaid DLR Act, the 1948 Act, and also under the provisions of the Delhi Lands (Restriction on Transfer) Act, 1972 for executing and registering any document purporting to transfer, whether by way of sale or lease, of the demised property or any part thereof. It is stated that the provisions of DLR Act were no longer applicable to the said property as the same was covered by the notifications dated 24.10.1994 under Section 507 of the Delhi Municipal Corporation Act, 1957 (*hereinafter referred to as 'DMC Act'*) and the notification dated 18.06.2013 issued under Section 11A(2) of the Delhi Development Act, 1957 notifying various villages containing existing farm

houses clusters as low density residential area in urban extension, list of which villages includes Bijwasan at serial No.22 and further notifying that low density residential plots are also allowed in the village falling in free belt.

11. It is stated by the learned Senior Counsel for Defendant No.1 that the Plaintiff has consciously not disclosed the following vital facts to this Court. It is stated that the *vide* Judgment dated 24.11.2004 passed in W.P. (C) 2596/2021, the operation of notification dated 24.10.1994 was suspended till Central Government takes a decision in terms of minutes dated 25.06.2002. It is stated that as the operation of the said notification issued under the DMC Act stood suspended in 2004, the entire land of village Bijwasan continued to be rural/agricultural and continued to be governed by the provisions of the DLR Act and the 1948 Act which is also evident from the fact that consolidation proceedings under the 1948 Act were continuing in Bijwasan, which would only have continued if the land of village Bijawasn was occupied or left for agricultural purposes. It is stated that since the notification dated 24.10.1994 under Section 507 of the DMC Act remained suspended and the LDRA notification did not have the effect of taking away the applicability of the DLR Act to village Bijwasan, consolidation proceedings with respect to village Bijwasan continued under the 1948 Act even after the LDRA notification dated 18.06.2013 and Resolution No. 674 dated 17.08.2020 passed by/under the orders of Consolidation Officer, Village Bijwasan, Kapashera, New Delhi and such consolidation proceedings were continuing in village Bijwasan even in the year 2022 as was noticed by this Court in Judgment dated 23.12.2002 passed in W.P. (C) 6976/2022. It is stated that on 29.11.2021, DDA has itself taken the view

that village Bijwasan was a rural village which is evident from the minutes of 12th Technical Committee of DDA for the year 2021 dated 29.11.2021, circulated on 08.12.2021.

12. Learned Senior Counsel for the Plaintiff reiterates its contention made in the application to contend that the Lease Deed being unregistered cannot be looked into in or as evidence. The Defendants have admitted that the Plaintiff is their landlord. Since the Lease Deed is unregistered, the Defendants can at best be inducted as month-to-month tenant. The tenancy has been terminated *vide* Notice dated 07.07.2024. The communications relied on by the Defendants on the extension of unregistered Lease Deed from 01.04.2025 to 31.03.2028 is of no consequence on the ground that the Lease Deed is unregistered. The reasons as to why the Lease Deed has not been registered i.e. the talks between the erstwhile owner i.e. M/s Indus Sor Urja Pvt. Ltd and Defendants regarding the sale of the property etc., are irrelevant. It is also contended that the communications between the Plaintiff and the M/s Indus Sor Urja Pvt. Ltd on 18.08.2022, 23.09.2022, 03.10.2022 and 12.10.2022 will not bind the Plaintiff nor does it amount to any Agreement extending the Lease Deed to 2028. The provisions of the DLR Act is not applicable because the land in question does not come within the definition of "land" under Section 313 of the DLR Act in as much as only such of the land must be held or occupied for purposes connected with agriculture, horticulture or animal husbandry alone is amenable to the DLR Act and the present property having been purchased only for the residence of their CMD cannot attract the provisions of the DLR Act. The learned Senior Counsel for the Plaintiff places reliance on the judgment passed by this Court in NB Singh (HUF) v. Perfexa Solutions Pvt Ltd., **2009 (111)**

DRJ 106, Anand J. Datwani v. Geeti Bhagat Datwani & Ors., **2013 (137) DRJ 146**, Nilima Gupta v. Yogesh Saroha & Ors., **2009 107 DRJ 566**, Sushma Kapoor v. Govt. of NCT of Delhi & Anr., **2021 SCC Online Del 5170** for this purpose.

13. He states that once a Zonal Plan is issued in respect of an area and the area is covered by the Master Plan, the provisions of the DLR Act are not applicable. Learned Senior Counsel for the Plaintiff further places reliance on the judgment passed by this Court in Sanraj Farms Private Limited v. Charan Singh and Anr., **2019 SCC Online Del 10741**. He states that the land has been declared as a "Low Density Residential Area" *vide* Notification dated 18.06.2013 issued by the DDA and states that the land has been urbanized, therefore the provisions of the DLR Act are not applicable. He further places reliance on the judgment passed by this Court in Mahajan Industries Pvt. Ltd. v. Gaon Sabha, **2023 SCC Online Del 23** and Sanvik Engineers India Private Limited and Another v. State (NCT of Delhi), **2022 SCC Online Del 360**. He states that since the Notification under Section 507(a) of DMC Act has been issued for village Bijwasan, the provisions of the DLR Act automatically gets excluded. Various decisions have been relied upon and the emphasis has been led on the Judgment passed by the Apex Court in Mohinder Singh v. Narain Singh, **2023 SCC Online SC 261**.

14. Learned Senior Counsel for Defendant No.1 states that the larger property was purchased by M/s Indus Sor Urja Pvt. Ltd from Vijeta Properties Pvt. Ltd *vide* registered Sale Deed bearing Registration No.16218, which shows land to be agricultural and seller to be *Bhumidhar* under DLR Act, despite the fact that it would have ordinarily become aware of the same while conducting due diligence before purchasing the larger

property having a market value of about Rs.150 crores for a valuable consideration of Rs.115 crores.

15. Learned Senior Counsel appearing for the Defendants further contends that the application filed by the Plaintiff under Order XIII-A of the CPC is not maintainable for the reasons that the Plaintiff, in the Plaint, has not given specific details regarding the property. He states that the Subject Premises of the Pushpanjali Property was used for the purpose of residency and the remaining balance was agricultural land. In the absence of any demarcation, it cannot be said that the entire land is outside the ambit of the application of the Delhi Land Reforms Act, 1954. He further states that there has been suppression of material facts. It is stated that the Plaintiff, in its Plaint, was required to specifically plead and demonstrate, by producing relevant documents showing - (i) the Survey/Khasra Nos. comprising the urban extension of village Bijwasan to which the LDRA notification dated 18.06.2013 is applicable; and (ii) the land comprised in the Larger Property was falling within the said Survey/Khasra Nos. of urban extension of village Bijwasan OR (i) the Survey/Khasra Nos. comprising the green belt of village Bijwasan falling in planning zone G/K-II to which the LDRA notification dated 18.06.2013 is applicable; and (ii) the land comprised in the Larger Property was falling within the said Survey/Khasra Nos. of the said green belts of village Bijwasan as such documents would be essential to establish the jurisdiction of this Court in the present matter. Having not done so, the Plaintiff cannot seek to short circuit the adjudication of the present Suit by taking recourse to the application under Order XIII-A CPC.

16. It is stated that Order XIII-A of CPC relating to summary judgment which enables Courts to decide claims pertaining to commercial disputes

without recording oral evidence are exceptional in nature and out of the ordinary course which a normal suit must follow. In such an eventuality, it is essential that the stipulations are followed scrupulously otherwise it may result in gross injustice. The contents of an application for summary judgment are stipulated in Rule 4 of Order XIII-A. It is stated that the application is required to precisely disclose all material facts and identify the point of law, if any. In such an event, if the applicant seeks to rely on any documentary evidence, the applicant must include such documentary evidence in its application and identify the relevant content of such documentary evidence on which the applicant relies. It is further stated that the application must also state the reason why there are no real prospects of succeeding or defending the claim, as the case may be. As per Order XIII-A Rule 4(1), such an application must include the matters set forth in sub-clauses (a) to (e) thereof, which provide that:

> (a) the application must contain a statement that it is an application for summary judgment made under this Order; - The plaintiff has made a vague statement that the application is for summary judgment and has been made under Order XIII-A.
>
> (b) the application must precisely disclose all material facts and identify the point of law, if any; - The plaintiff has not disclosed all material facts and has not identified the points of law, much less disclosing them in a precise manner.
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> (c) in the event the applicant seeks to rely upon any documentary evidence, the applicant must -
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> (i) include such documentary evidence in its application, - The Plaintiff has not included, in the application, all the documentary

evidence on which it seeks to rely upon, particularly notifications dated 04.07.2018 and 28.06.2010 referred to in para 42 of the application.

(ii) identify the relevant content of such documentary evidence on which the applicant relies; - In the application, the plaintiff has not identified the relevant contents of all the documents on which it relies, such as the contents of the sale deed dated 20.05.2024, notice dated 07.07.2024 and the notifications dated 18.06.2013, 04.07.2018 and 28.06.2010.

(d) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be; - Although the plaintiff has stated some reasons under this clause, but the said reasons are flawed and unsustainable, both in law and facts.

(e) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief - Although the plaintiff has stated the grounds for seeking relief under Order XIII-A, but the said grounds are flawed and unsustainable, both in law and facts.

17. Learned Senior Counsel for the Defendants further states that Order XIII-A of the CPC can be invoked and the summary judgment can only be passed if the Court is of the opinion that the Defendant has no real prospect of successfully defending the claim and there is no compelling reasons as to why claim cannot be granted before recording of oral evidence. He draws the attention of this Court to the various issues that has arisen in this case which are, whether the Pushpanjali Property is covered under the DLR Act,

whether the suit itself is maintainable because of the failure on the part of the Plaintiff to diverge full facts, and whether there are important question of facts for which the evidence has to be led. He draws the attention of this Court to the Judgment passed by the Madras High Court in Syrma Technology Private Limited v. Powerwave Technologies Sweden AD, **2020 SCC OnLine Mad 5737** and Kuldeep Singh Sejwal v. Sunita Kohli and Another, **2022 SCC OnLine Del 3663,** for this purpose. He also states that the contents of the Lease Deed can be used for collateral purposes and more particularly when the Plaintiff, in the Lease Deed has been given a right of preemption. He states that the Notification under Section 507 of the MCD Act has been stayed by this Court in WP(C) No.2696 of 2001. He therefore states that since the land has not been notified under 507 of MCD Act, it has not been urbanized.

18. Learned Senior Counsel for the Defendants draws attention of this Court to the Notification dated 18.06.2013 issued by the Ministry of Urban Development declaring the area as a 'lower density area' which has been stayed by the DDA itself in the clarification dated 17.10.2023. He states that the Notification declaring village Bijwasan as a lower density residential area, does not urbanize the village Bijwasan and these issues are pending before the Co-ordinate Benches of this Court. He further states that the issue as to whether the entire area which has been purchased by the Plaintiff should be considered for the purpose of the DLR Act or whether only the Subject Premises should be considered is the matter to be decided only in the trial. He draws attention of this Court to Section 185 of the DLR Act stating that since the issue in question relates the eviction of the property, the cognizance of suit has been barred by Section 185 of the DLR Act.

19. Heard the learned Senior Counsel for the parties and perused the material on record.

20. Indisputably, Subject Premises was taken on lease by the Defendants from M/s Indus Sor Urja Pvt. Ltd. and the Defendant Nos. 1 to 3 executed an unregistered Agreement titled as "Lease Deed". The rent was fixed at Rs.39,67,500/- per month along with applicable GST to be paid by the Defendant Nos. 1 to 3 in the manner stipulated therein. The current rent being paid by the Defendants was a sum of Rs. 45,62,625/- per month including TDS along with applicable GST.

21. Section 105, 106 and 107 of the TP Act and the provisions of Sections 17 and 49 of the Registration Act, 1908 reads as under:-

Transfer of Property Act, 1882

*"**105**. Lease defined.—A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.*

Lessor, lessee, premium and rent defined.—The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent.

***106**. Duration of certain leases in absence of written contract or local usage.—(1) In the absence of a contract or local law or usage to the contrary, a lease of immovable property for agricultural or manufacturing purposes shall be deemed to be a lease*

from year to year, terminable, on the part of either lessor or lessee, by six months' notice; and a lease of immovable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice.

(2) Notwithstanding anything contained in any other law for the time being in force, the period mentioned in subsection (1) shall commence from the date of receipt of notice.

(3) A notice under sub-section (1) shall not be deemed to be invalid merely because the period mentioned therein falls short of the period specified under that sub-section, where a suit or proceeding is filed after the expiry of the period mentioned in that sub-section.

(4) Every notice under sub-section (1) must be in writing, signed by or on behalf of the person giving it, and either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party, or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.]

***107**. Leases how made.—A lease of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.*

[All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession.

[Where a lease of immoveable property is made by a registered instrument, such instrument or, where there

are more instruments than one, each such instrument shall be executed by both the lessor and the lessee :]

Provided that the State Government may from time to time, by notification in the Official Gazette, direct that leases of immoveable property, other than leases from year to year, or for any term exceeding one year, or reserving a yearly rent, or any class of such leases, may be made by unregistered instrument or by oral agreement without delivery of possession.]"

Registration Act, 1908

*"**17**. Documents of which registration is compulsory. — (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely:—*

(a) instruments of gift of immovable property;

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;

(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;

[(e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property :]

Provided that the [State Government] may, by order published in the [Official Gazette], exempt from the operation of this sub-section any lease executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

[(1A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of section 53A of the Transfer of Property Act, 1882 (4 of 1882) shall be registered if they have been executed on or after the commencement of the Registration and Other Related laws (Amendment) Act, 2001 and if such documents are not registered on or after such commencement, then, they shall have no effect for the purposes of the said section 53A.]

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to—

(i) any composition deed; or

(ii) any instrument relating to shares in a joint stock Company, notwithstanding that the assets of such

Company consist in whole or in part of immovable property; or

(iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(iv) any endorsement upon or transfer of any debenture issued by any such Company; or

(v) [any document other than the documents specified in sub-section (1A)] not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or

(vi) any decree or order of a Court [except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding]; or

(vii) any grant of immovable property by [Government]; or

(viii) any instrument of partition made by a Revenue-Officer; or

(ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Act, 1871, or the Land Improvement Loans Act, 1883; or

(x) any order granting a loan under the Agriculturists Loans Act, 1884, or instrument for securing the repayment of a loan made under that Act; or

(xa) any order made under the Charitable Endowments Act, 1890 (6 of 1890), vesting any property in a Treasurer of Charitable Endowments or divesting any such Treasurer of any property; or]

(xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; or

(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue-Officer.

[Explanation.—A document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.]

(3) Authorities to adopt a son, executed after the 1st day of January, 1872, and not conferred by a will, shall also be registered."

……

> *"**49**. Effect of non-registration of documents required to be registered.— No document required by section 17 [or by any provision of the Transfer of Property Act, 1882 (4 of 1882)], to be registered shall—*
>
> *(a) affect any immovable property comprised therein, or*
>
> *(b) confer any power to adopt, or*
>
> *(c) be received as evidence of any transaction affecting such property or conferring such power,*
>
> *unless it has been registered:*
>
> *[Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (3 of 1877), or as evidence of any collateral transaction not required to be effected by registered instrument.]"*

22. A perusal of the above shows that any Lease Deed of an immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument. The effect of non-registration of Lease Deed has been discussed by the Apex Court in Anthony v. K. C. Ittoop & Sons, **(2000) 6 SCC 394**, wherein the Apex Court has observed as under:-

> *"**11**. The resultant position is insurmountable that so far as the instrument of lease is concerned there is no scope for holding that the appellant is a lessee by virtue of the said instrument. **The Court is disabled from using the instrument as evidence and hence it***

> ***goes out of consideration in this case, hook, line and sinker (vide Shantabai v. State of Bombay [AIR 1958 SC 532 : 1959 SCR 265], Satish Chand Makhan v. Govardhan Das Byas [(1984) 1 SCC 369] and Bajaj Auto Ltd. v. Behari Lal Kohli [(1989) 4 SCC 39 : AIR 1989 SC 1806]****."*** (emphasis supplied)

23. The Apex Court in Paul Rubber Industries Private Limited v. Amit Chand Mitra and Another, **2023 SCC OnLine SC 1216** after quoting Anthony (supra) has observed as under:-

> *"**12. The same view was broadly reflected in the cases of Shri Janki Devi Bhagat Trust, Agra v. Ram Swarup Jain (Dead) by Lrs. [(1995) 5 SCC 314] and Satish Chand Makhan v. Govardhan Das Byas [(1984) 1 SCC 369]. Section 107 of the 1882 Act which we have quoted above stipulates that a lease of immovable property from year to year or for any term exceeding one year can be made only by a registered instrument**. So far as Section 106 of the said statute is concerned, in which distinction is made between lease of immovable property for agricultural or manufacturing purpose and lease of immovable property for any other purpose, the same provides that a lease of immovable property for agricultural or manufacturing purpose shall be deemed to be a lease from year-to-year terminable by six months' notice. In other cases, termination would require fifteen days' notice. **The subject agreement had a duration of five years with a provision for renewal for a further period of five years. Hence under the first part of Section 107, for the said lease agreement to be admissible, registration of the same would have been necessary**. The deeming provision of sub-section (1) of Section 106 so far the same related to lease for agriculture or manufacturing purpose would not be applicable as the deed was not registered. The appellant has argued that the Trial Court had admitted the lease agreement in*

evidence, and for determining the purpose of lease, we can examine the deed. But this argument is flawed. This provision contemplates lease for manufacturing purpose, in absence of contract or local law to the contrary, shall be deemed to be year to year lease. In that case, it would require six months' notice for termination. ***But here, the agreement itself provides a five year duration, and hence ex-facie becomes a document that requires compulsory registration. That is the mandate of Section 107 of the 1882 Act and Sections 17 and 49 of the 1908 Act. The Court cannot admit it in evidence, as per the judgment in the case of Anthony (supra). A coordinate Bench in the case of Shyam Narayan Prasad v. V. Krishna Prasad [(2018) 7 SCC 646] has re-affirmed this view, referring to Section 49 of the Registration Act. This is a prohibition for the Court to implement and even if the Trial Court has taken it in evidence, the same cannot confer legitimacy to that document for being taken as evidence at the appellate stage. The parties cannot by implied consent confer upon such document its admissibility. It is not in dispute in this case that the period between service of notice and institution of the suit fell short by four days of completion of six months. In any case, we do not consider it necessary to address this question as in our opinion, the requirement to give six months' notice does not arise in this case. That point has not been raised before us.***" (emphasis supplied)

24. The contention of the learned Senior Counsel for the Defendants that even though the Lease Deed can be considered for collateral purposes is of no consequence. The collateral purpose, for which the learned Senior Counsel for the Defendants urges this Court to investigate, is the right of first refusal which has been given to the Defendants by the erstwhile owner i.e. M/s Indus Sor Urja Pvt. Ltd., the purpose for which the property has

been leased and the possibility of extension of the lease deed. This Court cannot look into the Lease Deed for any of these purposes. In any event, none of these purposes are of any consequence as for whatsoever reasons, the contemplated sale did not go through. The Plaintiff has purchased the Pushpanjali Property, whilst the Defendants tried to stall the registration of the Sale Deed in favour of the Plaintiff and failed. The erstwhile owner i.e. M/s Indus Sor Urja Pvt. Ltd., had informed the Defendants about the sale of the Pushpanjali Property. The Defendants have accepted the sale and have offered for deposit of rent. These facts establish that once the Defendants are month-to-month tenant, they are liable to be evicted on termination of the Lease Deed which has been terminated by giving the Notice dated 07.07.2024 under Section 107 of the TP Act.

25. The only other issue that has arisen is as to whether the DLR Act is applicable to the Pushpanjali Property or not. The said issue is no longer *res integra*.

26. The term "Land" has been defined under Section 3(13) of the DLR Act, which reads as under:-

> *"land except in sections 23 and 24, means land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes*
>
> *(a) buildings appurtenant thereto,*
>
> *(b) village abadis,*
>
> *(c) grovelands,*
>
> *(d) lands for village pasture or land covered by water and used for growing singharas and other produce or*

> *land in the bed of a river and used for casual or occasional cultivation, but does not include - land occupied by building in belts or areas adjacent to Delhi town, which the Chief commissioner may by a notification in the official Gazette declare as an acquisition thereto;"*

27. The Defendant No.1 in his Written Statement has admitted that it has taken 2.45 acres of land and an independent house building block which is of 1.3625 acres of land within 2.45 acres of land for the purpose of the residence of the CMD of Defendant No.1. It is stated that a substantial amount of money has been spent by the Defendants in developing the land by constructing a swimming pool and other amenities. The land was therefore not being used for the purpose of agriculture or horticulture.

28. A co-ordinate Bench of this Court in NB Singh (*supra*) while dealing with the application filed under the DLR Act in a suit for eviction filed in this Court where an objection has been taken by the Defendants on the maintainability of the suit that the land in that case is governed by the DLR Act after observing that the land in question was actually farm house consisting of swimming pool, lawns, servant quarters etc., has observed as under:-

> *"**9**. Before I proceed further, it needs to be noticed that this Court in the case of Ram Lubbaya Kapoor v. J R Chawla and Others, 1986 RLR 432 has held that any land before it can be termed as "land" for the purpose of DLR Actmust be held or occupied for purposes connected with agriculture, horticulture or animal husbandry etc. and if the land is not used for said purposes, it ceases to be land for the purpose of Delhi Land Reforms Act, 1954. It has been further held that a Bhumidhar is bound not only to retain possession of his*

land but also use it for specified purposes at all material times if he is to continue to be a Bhumidhar. A similar view was taken by this Court in Narain Singh and Another v. Financial Commissioner in WP(C) No. 670 of 1995 decided on July 14, 2008.

10. It is manifest from the above judgments of this Court that a property ceases to be an agricultural property if it is not used for agricultural purposes. In the present case, as noticed above, defendant in its written statement has admitted that the suit property is a farm-house which consists of a dwelling unit on its ground floor and first floor, a swimming pool and servant quarter etc. The defendant has further admitted that the suit property was leased out to it for the residence of its Managing Director Shri T.S. Sandhu. It is also admitted that the rental of the suit property at the time it was leased out to defendant was Rs. 1,60,000/- per month and it is being continuously used by its Managing Director Shri T.S. Sandhu for his residence.

***11**. The aforesaid facts coupled with the fact that the plaintiff got the plan sanctioned from the Municipal Corporation of Delhi for raising construction on the so-called agricultural land, obtained completion certificate from the Municipal Corporation of Delhi and is paying house-tax as assessed by the Municipal Corporation of Delhi lead me to no other conclusion except to the conclusion that the suit property, by no stretch of imagination, can be called an agricultural land. The defendant-company who had taken premises on lease for the residence of its Managing Director on a hefty rent of Rs. 1,60,000/- per month is estopped from contending that the suit property is an agricultural land covered by the Delhi Land Reforms Act, 1954. Of-course, learned counsel for the defendant sought to place reliance on the revenue records to*

> *make good the submission that the plaintiff continues to be a Bhumidhar in such records but in the facts and circumstances, as noticed above, the description of the plaintiff as a Bhumidhar is of no consequence."*

29. In the same vein, another co-ordinate Bench of this Court in Anand J. Datwani (*supra*) while dealing with another farm house in a suit for partion where an objection has been raised on the maintainability of the suit stating that the land being agricultural land is not available to the jurisdiction of this Court and the Petition can be only dealt with by the authorities under the DLR Act has observed as under:-

> *"**8**. The contention of the learned counsel for the plaintiff is that though the land/suit property in question was an agricultural land but having regard to the fact that no agricultural activity was ever carried on it and the fact that two independent residential units have been built on it out of which one was used by the plaintiff and the defendant no. 1 as their residence and the other was rented out, the suit property has ceased to be an agricultural land therefore it no longer comes within the purview of the provisions of the Delhi Land Reforms Act, 1954.*
>
> *****
>
> ***21**. **After having heard both the parties and perusing the judgments being relied upon by them, I am of the view that the provisions of the DLR Act shall not apply to a land which at the outset was an agricultural land but is no longer being used for the agricultural purposes.***
>
> *****

> ***26. Above discussion makes it amply clear that an agricultural land must be used for the agricultural purposes only if the Land Reforms Laws are to be made applicable and if it is not so used, it will cease to be an agricultural land. In the instant case, admittedly, the land in question has not been used for any purposes contemplated therein under the Land Reforms Act, instead, the land has been built upon. Admittedly, two residential units have been constructed on the land in question out of which one is used by the parties as their residence and the other one was rented out and so far, the land has not been, in fact had never been used for the agricultural purposes. It is not the case of the defendants that they are carrying out any agricultural activity or any other allied permissible activity on the land in question. Therefore, as per the aforesaid reasoning and the view taken consistently by this court in number of judgments, the land in my considered view, has ceased to be an agricultural land and will no longer be governed by the provisions of the Delhi Land Reforms Act. Thus, the jurisdiction of civil court cannot be said to be barred by virtue of the provisions of section 185 of the Act."*** (emphasis supplied)

30. Another co-ordinate Bench of this Court in Harpal Singh v. Ashok Kumar & Anr., **2014 SCC OnLine Del 4860**, while dealing with the objections under Section 185(1) of the DLR Act in a suit for injunction has observed as under:-

> *"**9**. This Court is of the view that insofar as the property's character was changed because of unauthorised constructions, as averred in the suit and as the suit was decreed ex parte, any party aggrieved by the said decree would have to pursue his/her remedy as per law in an appeal. The Executing Court rightly cannot override the decree which has attained finality.*

> ***The proceeding under DLR Act deals only with agricultural land, but insofar as the suit property has changed its character from agricultural land to unauthorised colony because of a boundary wall having been raised, and other alleged constructions in the neighbourhood, which development was not contested by the present petitioner, therefore, it cannot be said that the decree was obtained by fraud. Insofar as the petitioner-objector/defendant had ample opportunities to contest the suit, which was not so done, it cannot be said that the decree was based upon fraud. Therefore, reliance upon the precedents, as cited by the learned counsel for the petitioner is misplaced. The petition is without merit and is accordingly dismissed."*** (emphasis supplied)

31. The issue therefore is no longer *res integra* that once a land has been put to complete non-agricultural use, the provisions of the DLR Act are not applicable. The instant Suit deals with the Subject Premises which is a subject matter of the unregistered Lease Deed where the property has been used for the residence of the CMD of Defendant No.1. The said land which is the subject matter of the Suit which is covered in the Lease Deed does not come under the purview of the DLR Act.

32. The admission on the part of the Defendant in the Written Statement that the subject land is being used by the CMD of the Defendant No.1 for his residence, coupled with the fact that the Lease Deed is unregistered is sufficient to non-suit the Defendant because once the land is admittedly not being used for any agricultural/horticultural purposes and the land in question being an identified piece of land, it will automatically come outside the ambit of DLR Act, as has been consistently held by this Court in the Judgments discussed above. The fact that the lease is unregistered would

mean that the contents of the Lease Deed cannot be led as evidence in Court. Since the lease deed is unregistered, the Defendant No.1 would be only a month to month tenant and would be liable to be evicted by termination of the Lease Deed by giving a notice 15 days prior to the eviction, which has been done in this case.

33. Material on record also indicates that the DDA has issued a Notification dated 18.06.2013 stating that certain villages including village Bijwasan has been declared as lower density residential area which would take this land outside the ambit of the DLR Act.

34. A co-ordinate Bench of this Court in Sanraj Farms Private Limited (*supra*) while dealing with the notification dated 18.06.2013 has observed as under:-

> *"**13**. In Gur Pratap Singh supra, vide Gazette Notification dated 16th June, 1995 by DDA for amendment of the Master Plan, motels were permitted under Rural Zones/Green Belts and in Commercial Zones and National Highways and Inter-State Roads as defined in the Notification. However, on petitioner therein raising construction of a motel over his land in terms thereof, the SDM started proceedings under Sections 23 and 81 of the Delhi Land Reforms Act, 1954. It was held that (i) land is defined in Section 3(13) of the DLR Act and vide Section 22 thereof land can be used only for the purposes connected with agriculture, horticulture or animal husbandry; once vide amendment of the Master Plan, the land is permitted to be used as a motel, the land is no more agricultural within the meaning of Section 3(13) of the Land Reforms Act; (ii) the Land Reforms Act is an enactment for protecting agricultural use of the land; once the land itself ceases to be agricultural, there is really speaking no question of application of the Land*

Reforms Act; (iii) the amendment of the Master Plan was in accordance with the Section 53(2) of the DDA Act, 1957 and which overrides the provisions of any other law; and, (iv) Section 53(3) of the DDA Act makes it clear that once permission for development in respect of any land has been obtained, the same shall not be deemed to be unlawful by reason of the fact that such permission is required under any other law and which permission has not been obtained; the mandate of the DDA would have an overriding effect, even if the Land Reforms Act was to apply.

***14**. In appeal preferred thereagainst, the Division Bench confirmed the finding of the Single Judge. It was observed that once the Master Plan, which admittedly covered the subject land, gave an option for use of the land falling in Rural Zone or Green Belt as a motel, on the exercise of the said option, the subject land goes out of ambit of Section 23 of the Land Reforms Act, because it would not constitute a change of land use necessitating permission under the said provision.*

***15**. In Shri Neelpadmaya Consumer Products Pvt. Ltd. supra, one of the issues for adjudication in the suit was whether the suit land was governed by the provisions of Delhi Land Reforms Act and the agreement between the parties was in violation of the provisions of the said Act. Following the judgments aforesaid, it was held (i) that a notification for urbanization need not only be through a notification under Section 507 of the Delhi Municipal Corporation Act as the later part of Section 3(13) of the Land Reforms Act does not in any way require that there is only one manner of notification viz only under Section 507 of the Delhi Municipal Corporation Act; (ii) Section 3(13) of the Land Reforms Act only requires that a notification is issued in an Official Gazette to make the land as part of the Delhi town and New Delhi town; once a notification is*

issued applying a zonal plan issued pursuant to the Master Plan showing that subject lands are covered under the zonal plan issued by the DDA, in such a situation it has to be held that the lands cease to be the lands covered under the Land Reforms Act because the issuance of a notification in the Official Gazette results in the lands becoming part of Delhi town; and, (iii) that as per Sections 1, 3(5) and 3(15) of the Delhi Land Reforms Act, once an area falls within a town area and an area ceases to be an agricultural land because it has to be developed as part of the development of the Delhi town or New Delhi town, then such an area no longer remains an agricultural area for being covered under the expression 'land' as defined in Section 3(13) of the Land Reforms Act. "

35. Another co-ordinate Bench of this Court in Sushma Kapoor (*supra*) after quoting Sanraj Farms (*supra*) while dealing with village Gadaipur, New Delhi has observed as under:-

*"**7**. The Court further takes note of the consistent line taken in the body of precedents on this subject starting from the decision of the Division Bench in Smt. Indu Khorana v. Gaon Sabha and the subsequent decisions which were noticed in Sanraj Farms which have explained the concept of "land" as liable to be understood and interpreted under the provisions of the Act. The ratio of those decisions with respect to the applicability of the Act must be recognized to be that land in order to be made subject to proceeding under the Act must answer to the description as set forth in the Section 3(13) of the Act. As would be manifest from a reading of Section 3(13) of the Act, it is only land held or occupied for purposes connected with agriculture, pisciculture, horticulture, animal husbandry or poultry farming which could be subjected to proceedings under the Act. The decisions noted above have proceeded further to hold that once land*

has become urbanized and thus found to have been put to a use or purpose other than those mentioned above, it would clearly fall outside the purview and ambit of the Act. The judgments of the Court in unequivocal terms hold that once the property ceases to answer to the description of land as defined under the Act, proceedings can neither be initiated and if commenced must abate.

***8**. The provisions of Section 3(13) of the Act were interpreted similarly by the Supreme Court in Harpal Singh v. Ashok Kumar6 where the Court held:—*

"5…….The position of law which has been consistently followed is that where the land has not been used for any purpose contemplated under the Land Reforms Act and has been built upon, it would cease to be agricultural land. Once agricultural land loses its basic character and has been converted into authorised/unauthorised colonies by dividing it into plots, disputes of plot holders cannot be decided by the Revenue Authorities and would have to be resolved by the civil court. The bar under Section 185 would not be attracted."

***9**. Once the fact of the land being covered under the notification of 18 June 2013 and covered under a Low Density Residential Area is admitted to the respondents, it is manifest that the proceedings initiated under the Act cannot be sustained. The Court also fails to find any merit in the contention of Ms. Takiar that the revenue authorities would still be empowered to enquire whether constructions were being raised without the requisite permissions as contemplated under the DMC or DDA Acts. Those enactments incorporate sufficient measures for enquiry and enforcement and independently confer powers in*

connection therewith upon statutory authorities other than revenue officials."

36. This Court is not impressed by the arguments of the learned Senior Counsel for the Defendants. The Notification dated 17.10.2023 reads as under:-

"***DELHI DEVELOPMENT AUTHORITY***
O/o THE Commissioner (Land pooling)
Block, 1st floor, Vikas Sadan, INA, New Delhi-110023

No.F17(130)/LP(HQ)/DDA/2022/156 Dated:17/10/2023
To,
The District Matgistrate (North)
DM(North)Office Complex, GT Karnal Road, Alipur,
Delhi-110036

Subject: Regarding clarification sought with respect to LDRA-notified villages in Revenue District North vide DDA notification dated 18.06.2013.

Sir,

This is with reference to your letter dated 23.05.2023 addressed to Commissioner (Land Management), DDA on the subject mentioned above.

In this regard, it is clarified that Section 1(2) of the DD Act 1957 extends the jurisdiction of the Act to the entire NCT of Delhi and consequently Section 7 states that the Master Plan will be for Delhi and for its development. It does not, therefore, restrict prescription of developmental norms to urban Areas only. Such development norms can be prescribed for rural areas also. The sole factum of a policy for development in LDRA/LDRP does not render ineffect, the general character of land use in those areas as urban. Suich policy and concomitant development norms allow a few activities under LDRA/LDRP which may not necessarily

and universally be adopted by all the land owners. Some land owners may opt for these type of developments once permitted, while the others may still continue to remain engaged in agrarian activities.

Furthermore, a notification under Section 507(a) of the DMC Act 1957 is a pre-requisite and is also sine qua non for DDA to consider an area as urban and to cater to its development in that manner, through the Master Plan.

This issues with the approval of the VC,DDA.

(Dr. Tariq Thomas) IAS
Commissioner (Land Pooling)

Copy to;

1. *OSD TO VC, DDA*
2. *PS TO Pr. Commissioner (Land pooling)*
3. *PS to Commissioner (Planning)*
4. *PS TO Commissioner (Land management)*

Commissioner (Land Pooling)"

37. A perusal of the said Notification only reveals that even after declaration that the land has been declared as LDRA, agrarian activities can still be permitted to be continued. This does not mean that the DLR Act will applicable to such area. Once notification of the DLR Act has been issued that the land is outside the ambit of the DLR Act as stated by a co-ordinate Bench of this Court in Sanraj Farms (*supra*) and followed by another judgment in Sushma Kapoor (*supra*), the fact that the agrarian activities can still continue, is of no consequence.

38. Learned Senior Counsel for the Defendants has taken pains to state that the Notification under Section 507 has been stayed for which purpose

the learned Senior Counsel for the Defendants places reliance on the Judgment dated 24.11.2004 passed by this Court in W.P. (C) No.2596/2001.

39. This Court is of the opinion that the reliance placed by the Defendants on the Judgment dated 24.11.2004 would have no application to the facts of the present case for the reason that the land which has been leased out to the Defendants is an identified piece of land which is being used only for the residential purpose of the CMD of Defendant No.1. Admittedly, no agricultural or horticultural activity is being done on the land. As held by the catena of judgments which has been discussed earlier, the land cannot, therefore, come within the definition of land under DLR Act. The fact that certain other portion of land abetting the land in question is also included in the *khasra* will not bring the land in question within four corners of the definition of land under the DLR Act.

40. Further a Co-ordinate Bench of this Court in M S Khatu Dham Residency Pvt. Ltd. vs. GNCTD and Others, **2024 SCC OnLine Del 1139**, while dealing with a case relating to revenue estate of Bijwasan, has noted as under:

> *"**15.** That apart, even on law, it is also not denied that in the year 1994, the Village Bijwasan was declared as Urbanized Area under Section 507(a) of DMC Act, 1957. This coupled with the ratio laid down by the Supreme Court in Mohinder Singh Through LRs v. Narain Singh, 2023 SCC OnLine SC 261, makes it apparently clear that so far as the Village Bijwasan is concerned, the DLR Act, 1954 would not be applicable. Once the law has settled in that context, the restrictions etc, on the basis of provisions of Section 33 of DLR Act, 1954 cannot also be read to be an impediment to obtaining of such NOC."*

41. Order XIII-A of CPC empowers the Court to grant a summary judgment against the Defendant where the Court consider that the Defendant has no real prospects of successfully defending the claim and there is no compelling reasons as to why claim cannot be granted before recording of oral evidence.

42. The principal defence raised by the Defendant is that the land in question comes under the DLR Act and, therefore, the Suit is not maintainable is unsustainable. No useful purpose would be served in directing the parties to lead evidence for adjudicating any of the issues.

43. A Co-ordinate Bench of this Court in Su-Kam Power Systems Ltd. vs. Kunwer Sachdev and Another, **2019 SCC OnLine Del 10764** has observed as under:

> *"**49.** Consequently, this Court is of the view that when a summary judgment application allows the Court to find the necessary facts and resolve the dispute, proceeding to trial would generally not be proportionate, timely or cost effective. It bears reiteration that the standard for fairness is not whether the procedure is as exhaustive as a trial, but whether it gives the Court the confidence that it can find the necessary facts and apply the relevant legal principles so as to resolve the dispute as held in Robert Hryniak (supra).*
>
> ***50.** In fact, the legislative intent behind introducing summary judgment under Order XIIIA of CPC is to provide a remedy independent, separate and distinct from judgment on admissions and summary judgment under Order XXXVII of CPC.*
>
> ***51.** This Court clarifies that in its earlier judgment in Venezia Mobili (India) Pvt. Ltd. v. Ramprastha*

Promoters & Developers Pvt. Ltd., 2019 SCC OnLine Del 7761 while deciding two applications, both filed by the plaintiff in the said case (one under Order XII Rule 6 and other under Order XIIIA) it had applied the lowest common denominator test under both the provisions of the Code of Civil Procedure and held that the suit could be decreed by way of a summary judgment.

***52.** Consequently, this Court is of the opinion that there will be 'no real prospect of successfully defending the claim' when the Court is able to reach a fair and just determination on the merits of the application for summary judgment. This will be the case when the process allows the court to make the necessary finding of fact, apply the law to the facts, and the same is a proportionate, more expeditious and less expensive means to achieve a fair and just result."*

44. Similarly, another Co-ordinate Bench of this Court in Sun Parma Laboratories Ltd. vs. Mylan Laboratories Limited and Another, **2023 SCC OnLine Del 4661** has observed as under:

***"10.** The Court has considered the matter. The present application under Order XIII-A Rule 3 CPC is one seeking summary judgment. This Court has in Rockwool International A/S v. Thermocare Rockwool (India) Pvt. Ltd., 2018 : DHC : 6774, considered the necessary conditions for passing summary judgment. The kind of cases that can be decided in a summary manner have to be those cases where a party has no real prospect of succeeding in the claim. A perusal of Order XIII A Rule 3 as amended by the Commercial Courts Act, 2005 reads as under:*

"Order XIII-A Summary Judgment 1……2……. 3. Grounds for summary

judgment. - The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that -

(a) the plaintiff has not real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

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

***11.** The pre-conditions for passing of a summary judgment under Order XIIIA Rule 3 CPC, as elucidated in Rockwool International (supra) are:*

i) that there is no real prospect of a party succeeding in a claim;

ii) that no oral evidence would be required to adjudicate the matter;

iii) there is a compelling reason for allowing or disallowing the claim without oral evidence."

45. A Division Bench of this Court in Bright Enterprises Private Ltd. & Anr. vs. MJ Bizcraft LLP & Anr., **2017 SCC OnLine Del 6394** has observed as under:

***"20.** We may also point out that there is a clear distinction between 'return of a plaint', 'rejection of a plaint' and 'dismissal of a suit'. These three concepts have different consequences. A dismissal of a suit would necessarily result in a subsequent suit being barred by the principles of res judicata, whereas this would not be the case involving 'return of a plaint' or 'rejection of a plaint'. What the learned Single Judge*

has done is to have dismissed the suit of the appellants/plaintiffs at the admission stage itself without issuance of summons and this, we are afraid, is contrary to the provisions of the statute.

21. *Apart from this, we are of the view that the learned Single Judge has gone wrong in invoking the provisions of Order XIIIA CPC for rendering a summary judgment. It is true that Rule 3 of Order XIIIA CPC empowers the Court to give a summary judgment against a plaintiff or defendant on a claim if it considers that - (a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and (b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. But, in our view, this power can only be exercised upon an application at any date only after summons have been served on the defendant and not after the Court has framed issues in the suit. In other words, Order XIIIA Rule 2 makes a clear stipulation with regard to the stage for application for summary judgment. The window for summary judgment is after the service of summons on the defendant and prior to the Court framing issues in the suit."*

46. Another Co-ordinate Bench of this Court in Kamdhenu Limited vs. Aashiana Rolling Mills Ltd., **2021 SCC OnLine Del 2426** has analysed Order XIII-A as under:

"VI. Analysis

A. Principles of Order XIII-A of the CPC

28. *Before dealing with the arguments of the parties on merits, it is necessary to appreciate the principles*

applicable to adjudication of an application under Order XIII-A of the CPC.

29. *This Court has had occasion to deal with this in several judgments. Mr. Rao referred me to the decisions of coordinate benches in Jindal Saw Ltd. (supra), Venezia Mobili (supra), Mallcom (India) (supra), K.R. Impex (supra), Su-kam (supra) and Elder Projects Ltd. (supra). Mr. Bansal, on the other hand, relied upon the Division Bench decision in Bright Enterprises (supra), Clues Network (supra), Rockwool (supra), and CFA Institute (supra).*

30. *In Bright Enterprises, the Division Bench allowed the plaintiff's appeal against dismissal in limine of a suit for injunction against infringement of trademark, passing off, etc. The Division Bench held that, upon the institution of a suit, the issuance of summons to the defendant is mandatory, and that the power under Order XIII-A can be exercised only upon an application being made after the service of summons and prior to framing of issues. In Rockwool, the learned Single Judge applied the judgment in Bright Enterprises and came to the conclusion that several of the issues arising in that case could not be decided without trial.*

31. *After the publication of the Delhi High Court (Original Side) Rules, 2018 ["the Rules"], a view has been taken in K.R. Impex (supra), Mallcom (India) (supra) and Jindal Saw Ltd. (supra), that Chapter XV-A of the Rules (which would override the provisions of the CPC by virtue of Section 129 thereof) permits disposal of a suit by summary judgment on any date of hearing. However, it is not necessary in the facts of the present case to enter into this controversy, as summons have indeed been issued in the present suit, and a formal application invoking the provisions*

of Order XIII-A has been filed by the defendant prior to framing of issues.

32. *Mr. Bansal relied upon the judgment in Clues Network (supra), wherein the Division Bench cited the judgment in Bright Enterprises (supra), to hold that the procedure laid down therein has to be followed. In Clues Network, earlier applications filed under Order XIII-A of CPC had already been dismissed and there was no pending application for this purpose. It is in these circumstances that the Division Bench set aside an order of the learned Single Judge disposing of the suit under Order XIII-A, albeit after recording that counsel for the parties had consented to such disposal. The circumstances of the present application are entirely different. It has been instituted in writing after service of summons and prior to framing of issues, as contemplated by Order XIII-A Rule 2. No argument has been raised by Mr. Bansal regarding the proper constitution or presentation of the present application, and the judgment in Clues Network is, in my view, of no assistance to him.*

33. *The circumstances in which an application under Order XIII-A ought to be allowed have been dealt with in Su-Kam (supra). The Court considered the English Law pertaining to Rule 24 of Civil Procedure Rules, which is in pari materia to Order XIII-A of the CPC.*

34. *Rule 3 of Order XIII-A lays down the tests which must be satisfied in order to enter judgment under the said provision. With regard to the 'real prospect of success' limb of the test, the judgment of the Chancery Division in Easyair Ltd. v. Opal Telecom Ltd., [2009] EWHC 339 (Ch) was cited before the Court in Su-Kam. In Easyair, the Chancery Court distilled the principles thus:*

> *"i) The court must consider* ***<u>whether the claimant has a "realistic" as opposed to a "fanciful"</u>***

prospect of success*: Swain v. Hillman (2001) 1 All ER 91;*

ii) A "realistic" claim is ***one that carries some degree of conviction****. This means a claim that* ***is more than merely arguable*** *: ED & F Man Liquid Products v. Patel (2001) 1 All ER 91 at [8];*

iii) In reaching its conclusion the court must not conduct a "mini-trial": Swain v. Hillman;

iv) This does not mean that the court must take at face value and without analysis everything that a claimant says in his statements before the court. ***In some cases it may be clear that there is no real substance in factual assertions made, particularly if contradicted by contemporaneous documents*** *: ED & F Man Liquid Products v. Patel at [10];*

v) However, in reaching its conclusion the court must take into account not only the evidence actually placed before it on the application for summary judgment, but also ***the evidence that can reasonably be expected to be available at trial*** *: Royal Brompton Hospital NHS Trust v. Hammond (No 5) [2001] EWCA Civ 550;*

vi) Although a case may turn out at trial not to be really complicated, it does not follow that it should be decided without the fuller investigation into the facts at trial than is possible or permissible on summary judgment. Thus the court should hesitate about making a final decision without a trial, even where there is no obvious conflict of fact at the time of the application, where reasonable grounds exist for believing that a fuller investigation into the facts of the case would add to or alter the evidence available to a trial judge and so affect the outcome of the case :

Doncaster Pharmaceuticals Group Ltd. v. Bolton Pharmaceutical Co. 100 Ltd. [2007] FSR 63;

vii) On the other hand it is not uncommon for an application under Part 24 to give rise to a short point of law or construction and, ***if the court is satisfied that it has before it all the evidence necessary for the proper determination of the question and that the parties have had an adequate opportunity to address it in argument, it should grasp the nettle and decide it.*** *The reason is quite simple : if the respondent's case is bad in law, he will in truth have no real prospect of succeeding on his claim or successfully defending the claim against him, as the case may be. Similarly, if the applicant's case is bad in law, the sooner that is determined, the better. If it is possible to show by evidence that although material in the form of documents or oral evidence that would put the documents in another light is not currently before the court, such material is likely to exist and can be expected to be available at trial, it would be wrong to give summary judgment because there would be a real, as opposed to a fanciful, prospect of success. However, it is not enough simply to argue that the case should be allowed to go to trial because something may turn up which would have a bearing on the question of construction : ICI Chemicals & Polymers Ltd. v. TTE Training Ltd. [2007] EWCA Civ 725."*

(Emphasis supplied.)

35. *With regard to the second limb of the test, [corresponding to Order XIII-A Rule 3(b) of the CPC], this Court in Su-kam has recorded the submission based upon the following observations in Blackstone's Civil Practice : The Commentary with regard to 'compelling reasons', thus:*

"(a) The respondent is unable to contact a material witness who may provide material for a defence.

(b) The case is highly complicated such that judgment should only be given after mature consideration at trial.

(c) The facts are wholly within the applicant's hands. In such a case it may be unjust to enter judgment without giving the respondent an opportunity of establishing a defence in the light of disclosure or after serving a request for further information. However, summary judgment will not necessarily be refused in cases where the evidence for any possible defence could only lie with the applicant if there is nothing devious or artificial in the claim.

(d) The applicant has acted harshly or unconscionably, or the facts disclose a suspicion of dishonesty or deviousness on the part of the applicant such that judgment should only be obtained in the light of publicity at trial."

36. *After a consideration of the Statement of Objects and Reasons of the 2015 Act and the English and Canadian judgments relating to similar provisions for summary judgment, this Court has held as follows:*

"42. Consequently, the new Rule, ***applicable to commercial disputes, demonstrates that trial is no longer the default procedure/norm.***

xxxx xxxx xxxx

44. While deciding the test for summary judgment under Rule 24.2, House of Lords in Three Rivers District Council v. Governor and Company of the Bank of England, [2003] 2 A.C. 1, reiterated the observation in Swain v. Hillman, (2001) 1 All ER

91 ***that the word 'real' distinguishes 'fanciful' prospects of success and it directs the Court to examine whether there is a 'realistic' as opposed to a 'fanciful' prospect of success****. The House of Lords in Three Rivers District Council (supra) also held that the Court while considering the words 'no real prospect' should look to see what will happen at the trial and that if the case is so weak that it has no reasonable prospect of success, it should be stopped before great expenses are incurred…*

xxxx xxxx xxxx

45. The Supreme Court of Canada in Robert Hryniak v. Fred Mauldin, 2014 SCC OnLine Can SC 53 has also held that trial should not be the default procedure. In the said case, which was an action for civil fraud against the appellant and a corporate lawyer, who acted for the appellant, the allegation was that the appellant, through that company, had transferred more than US $10 million to an offshore bank following which he claimed that the money had been stolen. That money had initially been transferred to the appellant's company, by the respondents therein, in respect of an investment opportunity.

xxxx xxxx xxxx

47. The Supreme Court of Canada, despite allegation of fraud, did not exercise the power to record oral evidence. Instead, the Court granted summary judgment in favour of the respondents/plaintiff on the basis of the material/pleadings already available with it. The Court held that there is no genuine issue requiring a trial when the judge is able to reach a fair and just determination on the merits on a motion for summary judgment. The Court further

held that that is the case when the process allows the judge to make necessary findings of fact, allows the judge to apply the law to such facts and when such a process is proportionate, more expeditious and a less expensive means of achieving a just result. Consequently, when a summary judgment motion allows the judge to find the necessary facts and resolve the dispute, it would not be necessary to proceed to trial. In this regard the standard for fairness is whether or not the procedure involved in a summary judgment would give the judge the confidence to find necessary facts and apply the relevant legal principles to resolve the dispute…

xxxx xxxx xxxx

49. ***Consequently, this Court is of the view that when a summary judgment application allows the Court to find the necessary facts and resolve the dispute, proceeding to trial would generally not be proportionate, timely or cost effective. It bears reiteration that the standard for fairness is not whether the procedure is as exhaustive as a trial, but whether it gives the Court the confidence that it can find the necessary facts and apply the relevant legal principles so as to resolve the dispute as held in*** *Robert Hryniak (supra).*

50. In fact, the legislative intent behind introducing summary judgment under Order XIIIA of CPC is to provide a remedy independent, separate and distinct from judgment on admissions and summary judgment under Order XXXVII of CPC.

xxxx xxxx xxxx

52. Consequently, this Court is of the opinion that there will be 'no real prospect of successfully defending the claim' when the Court is able to reach a fair and just determination on the merits of the application for summary judgment. This will be the case when the process allows the court to make the necessary finding of fact, apply the law to the facts, and the same is a proportionate, more expeditious and less expensive means to achieve a fair and just result."

(Emphasis supplied.)

37. *In Su-Kam, the Court also explained an earlier judgment of the learned Single Judge in Venezia (supra), wherein it was held that the principles under Order XII Rule 6 and Order XIII-A are similar, inasmuch as the Court is required to consider whether the defences raised by the defendants are a moonshine and sham. Under both provisions, judgment may be entered without trial, if the Court comes to the conclusion that the suit raises no genuine triable issues. This was clarified in Su-Kam to the extent that the remedies are independent, separate and distinct, but were considered in a composite manner in Venezia as the plaintiffs therein had filed separate applications under the two provisions.*

38. *Although the judgment of the learned Single Judge in Su-Kam (supra) has been carried in appeal [RFA(OS)(COMM) 1/2020], the Division Bench has not stayed the operation of the judgment.*

39. *The judgment of a coordinate bench in Mehra Cosmetics (supra) is also instructive as to the approach to be applied. The Court noticed that under the 2015 Act, a suit is supposed to be disposed of without trial, in the absence of any real prospect of success of either of the parties. In the context of a suit*

alleging infringement of trademark and design, the Court held as follows:

> *"15. This Court, in the interim order/judgment, on a perusal of the registered design, has already returned a finding, again though prima facie, that there is no novelty in the design of the container of the Petroleum Jelly, against copying of which infringement is claimed, inasmuch as a large number of other products are available in the market in similar containers.*
>
> *16. I have thus asked the counsel for the plaintiff, how the decision on the said aspect can be any different today and or what evidence would be led by the plaintiff to establish the novelty in the design, even if put to trial. The decision is unlikely to be before the expiry of the period of validity of the design.*
>
> *17. The counsel for the plaintiff has contended that since the plaintiff has a certificate of registration of design, the same will be shown to establish novelty. It is also contended that the defendant no. 4 has since also obtained registration of a similar design and the same will be proved in evidence.*
>
> *18. The process of registration of a design is materially different from that of a trade mark, where an opportunity is given to others to object. Merely because registration has been obtained, is no proof, even prima facie, of the validity of the design. Reference, if any required, in this regard can be made to observations in Mohan Lal, Proprietor of Mourya Industries v. Sona Paint & Hardwares (2013) 200 DLT 322, Aashiana Rolling Mills Ltd. v. Kamdhenu Ltd. (2018) 253 DLT 359 and Vega Auto Accessories (P) Ltd. v. S.K. Jain Bros Helmet (I) Pvt. Ltd. 2018*

> *SCC OnLine Del 9381. Similarly, merely because the defendant no. 4 may have obtained registration of the same design would not make the design of the plaintiff novel.*
>
> *19. A perusal of the certificate of registration of design at Pages 17 to 22 of Part IIIA File also shows the plaintiff to have claimed novelty "in the shape and configuration of container" without any particulars and the counsel for the plaintiff on enquiry has only contended that the novelty is in the ring at the centre of the container to handhold the same. To say the least, the same is not even claimed in the registration, particularly in respect of the front side, back side, left side and right side view of the container.*
>
> *20. Thus, no purpose will be served in putting the claim of the plaintiff for infringement of design also to trial and the same can be summarily dismissed."*

47. In the opinion of this Court, there are no disputed questions of facts in the present case. The land in question which is being used only for the residential purpose of CMD of Defendant No.1 will not come under the definition of DLR Act as the same is not being used for agricultural or horticultural purposes. The lease being unregistered cannot be an evidence for ascertaining the time period of the lease. The Defendants were month-to-month tenants and the Lease Deed stood terminated *vide* Notice dated 07.07.2024.

48. Resultantly, the application being I.A. 398/2025 filed under Order XIII-A of CPC is allowed.

49. I.A. 46525/2024 has been filed by Defendant No.1 for rejection of plaint under Order VII Rule 11 of CPC. It is the contention of the Defendant that the Plaintiff has deliberately concealed and suppressed certain documents and has projected the facts in a distorted, wrong, and incorrect manner. It is stated that the Plaintiff has suppressed the fact that he is a *Bhumidar*. It is stated that if the Plaintiff had disclosed that he is the *Bhumidar*, then this Court would not have entertained the Suit as the Plaint would be barred under the DLR Act. Learned Counsel for the Plaintiff also states that it is now settled law that concealment of material facts in the Plaint will attract provisions of Order VII Rule 11 CPC.

50. Order VII Rule 11 of the CPC reads as under:-

> "***11. Rejection of plaint.—***
>
> *The plaint shall be rejected in the following cases:—*
>
> *(a) where it does not disclose a cause of action;*
>
> *(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
>
> *(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
>
> *(d) where the suit appears from the statement in the plaint to be barred by any law;*
>
> *(e) where it is not filed in duplicate;*

> *(f) where the plaintiff fails to comply with the provisions of rule 9:*
>
> *Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.*"

51. This Court has already rejected the contention of learned Counsel for the Defendant that the Suit is not maintainable in view of the provisions of the DLR Act. This Court is, therefore, of the opinion that none of the ingredients of Order VII Rule 11 of the CPC are attracted to this case.

52. This Court is not inclined to accept the arguments of Defendant No.1 that there is vital suppression of facts in the Plaint which would persuade this Court to hold that the plaint, as framed, has to be rejected under Order VII Rule 11 of the CPC. I.A. No. 46525/2024 is, therefore, dismissed.

53. The Suit is decreed in terms of Prayer Clause (a) of I.A. 398/2025 filed under Order XIII-A of CPC.

54. Let the decree sheet for possession be prepared accordingly.

55. List before the Ld. Joint Registrar on 15.09.2025 for further proceedings.

SUBRAMONIUM PRASAD, J

SEPTEMBER 01, 2025
RJ