

A.F.R.

Judgment Reserved on 09.02.2026

Judgment Delivered on 24.02.2026

Neutral Citation No. - 2026:AHC:40819

Court No. - 38

Case :- FIRST APPEAL No. – 702 of 2025

Appellant :- Nagar Nigam Ghaziabad And Another

Respondent :- Indra Mohan Sachdev

Counsel for Appellant :- Shreya Gupta

Counsel for Respondent :- Ramesh Kumar Singh, Shivam Yadav,
Vinay Kumar Singh Chandel

Hon'ble Sandeep Jain, J.

(1) The instant appeal has been filed by the defendants under section 96 CPC against the impugned judgment and decree dated 13.5.2025 passed by the court of Civil Judge(Senior Division), Ghaziabad in O.S. No. 960 of 2024 Indra Mohan Sachdev vs. Nagar Nigam Ghaziabad and another whereby, the plaintiff 's suit for mandatory injunction has been decreed.

Plaint case

(2) The plaintiff filed O.S. No. 960 of 2024 against the defendants with the averments that he is the owner in possession of plot no. 9, Anand Industrial Estate, GT Road, Ghaziabad, on the basis of judgment and decree dated 31.5.2022 passed by the Additional Civil Judge (Senior Division) Court No. 4, Ghaziabad in O.S.no.1126 of 2019 Indra Mohan Sachdev vs.Smt. Sushila Mehra. The plaintiff further averred that the above O.S. no.1126 of 2019 was decreed ex-parte and he was declared the owner of the above plot on the basis of adverse possession and it was further decreed by the court that the plaintiff was not to be evicted, except by adopting due procedure of law.

(3) The plaintiff further averred that the judgment and decree passed in O.S.no.1126 of 2019 has attained finality since it has not been challenged by anyone in a court of law, as such it is binding and effective.

(4) It was further averred by the plaintiff that he has deposited tax of the above property amounting to ₹ 28,690/- on 15.6.2022 with the defendant Nagar Nigam Ghaziabad, which was accepted by it without any objection, and thereafter, the plaintiff was regularly making payment of tax.

(5) It was further averred by the plaintiff that since he is the owner in possession of the disputed plot, he was entitled to get his name entered as a owner regarding the disputed plot in the records of Nagar Nigam, Ghaziabad and for doing so, he moved an application dated 13.6.2022 for entering his name in the property register of the Nagar Nigam ,Ghaziabad, which was supported by his affidavit and the certified copy of the judgment dated 31.5.2022 passed by the court in the above mentioned case, and he also personally met the Tax Supdt. and requested him to enter his name in the records of Nagar Nigam ,Ghaziabad but no action was taken by him. It was further averred that he gave a legal notice through his Advocate Parvinder Kumar on 17.9.2022 under section 571 of the Nagar Nigam Act to the defendants, which was also received by them, but even then, his name has not been entered in the property register of the defendant Nagar Nigam, Ghaziabad.

(6) It was further averred by the plaintiff that currently, the above plot is registered as property no. 12/9 poultry house, having PIN no. 31329 and the mobile number [REDACTED] of his security guard Hemant is registered on this property, in the records of the Nigam Ghaziabad. In this backdrop, when the plaintiffs name was not registered as owner in the records of the defendants, the plaintiff was compelled to file the instant suit, for the following relief:-

"By decree of mandatory injunction granted in favour of the plaintiff against the defendants, the Nagar Nigam, Ghaziabad be directed to enter the name of plaintiff as owner of property no. 9, new no. 12/9 Anand Industrial Estate, GT Road, Ghaziabad within a time fixed by the Court."

Case of the defendants

(7) The defendants filed the written statement before the trial court in which they denied the plaint averments. It was averred that in O.S. no. 1126 of 2019, Nagar Nigam Ghaziabad was not impleaded as a party to the suit, hence the defendants are not aware of the correct facts of that case. It was further averred that in Miscellaneous Case No. 29 of 2022 Indra Mohan Sachdev vs. Nagar Nigam, Ghaziabad, which was pending before Additional Civil Judge (Senior Division) Court No. 4 Ghaziabad, Nagar Nigam, Ghaziabad was impleaded as a party, in which it came to know that Smt. Sushila Mehra has died on 02.04.1996 in Heritage Medical Centre,Hyderabad, Andhra Pradesh, whose death certificate was provided to it by the owner of Muraga Khana, which was issued by Municipal Corporation, Hyderabad. It was further averred that mutation in the records of the Nagar Nigam is made according to the legal provisions. It was averred that the

plaintiff has concealed the facts of Miscellaneous Case no. 29 of 2022. It was further averred that the plaintiff has filed the suit on wrong facts by concealing the true facts. It was further averred that the plaintiff had obtained the decree in O.S. no.1126 of 2019 by concealing true facts.

(8) It was further averred that when an objection was filed by Nagar Nigam, Ghaziabad in Miscellaneous Case no. 29 of 2022 then, the plaintiff absented himself and in his absence, the case was dismissed on 21.2.2023. The plaintiff's suit was barred by res-judicata and also under Order 7 Rule 11 CPC. It was further averred that previously litigation took place in Delhi High Court between Nandkishore Mehra and Sushila Mehra which was O.S. no. 339 of 1992, in which Nandkishore Mehra was declared as the owner of the disputed property. It was further averred that currently the disputed plot is registered as Muraga Khana, in its property records. Sushila Mehra was not recorded as a owner of the above property. With these submissions, it was prayed that the suit be dismissed with special costs under Section 35-A CPC.

Issues framed and evidence on record

(9) On the basis of the pleadings of the parties, the following issues were framed by the trial court:-

(i) Whether on the basis of plaint averments, the plaintiff is entitled to get the decree of mandatory injunction, for getting his name registered as owner of the disputed property no. 9, new no.12/9 Anand Industrial Estate, GT Road, Ghaziabad in the property register of the defendant ?

(ii) Whether the plaintiff's suit is under valued ?

(iii) Whether the court fee paid by the plaintiff is insufficient ?

(iv) Whether the suit is barred under Order 7 Rule 11 CPC ?

(v) Whether defendants are entitled to special costs of ₹50,000/- under Section 35-A CPC from the plaintiff ?

(vi) To what relief the plaintiff is entitled ?

(10) In documentary evidence the plaintiff has filed the certified copy of the decree dated 31.5.2022 , copy of the notice dated 13.6.2022 given to Nagar Nigam, Ghaziabad, copy of legal notice, receipt of house tax deposited with the Nagar Nigam Ghaziabad ,etc. The defendants have filed the copy of the death certificate of Sushila

Mehra, plaint of suit no.339 of 1992 Nandkishore Mehra vs. Sushila Mehra, written statement of Sushila Mehra filed in suit no. 339 of 1992, substitution application moved by Nandkishore Mehra in suit No. 339 of 1992, ex-parte judgment of the High Court of Delhi in suit no. 339 of 1992 dated 7.5.1999.

(11) Before the trial court, the plaintiff Indra Mohan Sachdev examined himself as PW-1 and his son Tarun Sachdev as PW-2. On behalf of defendants, Kailash Chand was examined as DW-1.

(12) The plaintiff Inder Mohan Sachdev PW-1 in his cross-examination deposed that his father obtained the disputed plot on a rental of Rs.450/- per month, and after the death of his father, he continued to deposit the rent. He paid the rent till the year 1996 to Sushila Mehra , and thereafter, he stopped making payment because his possession became adverse, on the disputed property. He admitted that after the year 1996 he did not meet Sushila Mehra . He feigned ignorance that Sushila Mehra died in the year 1996. He also feigned ignorance that the legal heir of Sushila Mehra has filed an application for setting aside the ex-parte decree, which was pending for disposal.

(13) The plaintiffs son Tarun Sachdev PW-2 in his cross examination deposed that he deposits the house tax of the disputed property with Nagar Nigam, Ghaziabad. He admitted that currently, the house tax is deposited in favour of Muraga Khana, since he is its owner.

(14) Kailash Chand DW-1 deposed in examination-in-chief that the disputed property is recorded as Muraga Khana in the property records of the Nagar Nigam, Ghaziabad, whereas, in O.S.no.1126 of 2019, no such order was passed by the court to record the name of plaintiff as owner of Muraga Khana, as such, the plaintiff must prove on what basis he is claiming ownership of Muraga Khana.

Reasoning of the trial court

(15) The trial court on the basis of decree dated 31.5.2022 passed in O.S. no.1126 of 2019 concluded that plaintiff was the owner in possession of the disputed property, which has not been set-aside by any competent court, which was not challenged by the defendants before the appellate court, as such, the defendants were bound to obey the decree passed in that suit. It was further concluded that the alleged death certificate of Sushila Mehra was not proved in accordance with law, as such, it was inadmissible. It was further concluded that the defendants should have verified the death of Sushila Mehra, but they have not done so. It was further concluded that since the defendants were realising the tax of the disputed property, as such, they cannot refute the ownership of plaintiff in the disputed property. It was

further concluded that the plaintiff was regularly paying the tax of the disputed property, being its owner. The trial court rejected all the documentary evidence of the defendants on the ground that it was photo copy, and in the absence of corroborative evidence, it was inadmissible in evidence.

(16) The trial court blindly relying on the decree dated 31.5.2022 has rejected all the objections of the defendants, and has accordingly, decreed the suit by impugned judgment dated 13.5.2025, which has been challenged by the defendants by filing the instant appeal under section 96 CPC.

Submissions of the learned counsel of the parties

(17) Ms.Shreya Gupta learned counsel for the defendant-appellants submitted that the ex- parte decree dated 31.5.2022 was obtained by the plaintiff in O.S. no. 1126 of 2019 by suppressing true and material facts from the court , which was obtained against dead defendant Sushila Mehra, as such, the decree was a nullity, which was not binding on any person, leave alone defendants, but still, the trial court has overlooked this fact deliberately and has passed the impugned decree, which is unsustainable, illegal and on the basis of which no right, title and interest in the disputed property has accrued in favour of the plaintiff.

(18) Learned counsel further submitted that the trial court was not right in rejecting the documentary evidence of the defendants, which was part of the judicial record of the High Court of Delhi, which could have been verified and which also included the copy of the death certificate of Sushila Mehra, which was admissible in evidence, but even that document was ignored by the trial court, which is the height of perversity.

(19) She further submitted that on the basis of payment of house tax, a person cannot be presumed to be the owner of the disputed property, as such, merely on this ground that the house tax payment made earlier by the plaintiff was accepted by the defendants, is not a ground to grant any relief to the plaintiff.

(20) It was further submitted that plaintiff averred in O.S.no. 1126 of 2019 that previously Sushila Mehra was the owner of the disputed property but from the documentary evidence submitted by the defendants, it was proved that she was not the registered owner in the property record of the Nagar Nigam Ghaziabad, and this property was registered as Muraga Khana.

(21) She further submitted that as per the oral evidence of plaintiff, he

was a tenant of the disputed property, who acquired ownership of it on the basis of adverse possession, which was legally impermissible. She submitted that the plaintiff could never have acquired ownership of the disputed property, on the basis of adverse possession, but this fact was overlooked by the trial court, which insisted for compliance of the decree, which was a nullity.

(22) She further submitted that under no circumstances the suit could have been decreed in favour of the plaintiff and the trial court has certainly, for extraneous considerations, decreed the suit illegally against all legal provisions. With these submissions, it was prayed that the appeal be allowed and the impugned judgment and decree be set aside and further disciplinary proceedings be also initiated against the trial judge for passing such perverse order.

(23) In support of her submission, learned counsel has relied upon the case law of the Apex Court titled ***Vikram Bhalchandra Ghongade vs. The State of Maharashtra and others 2025 SCC OnLine SC 2360.***

(24) Shri Shivam Yadav learned counsel for the plaintiff respondent very fairly admitted that Sushila Mehra has died on 2.4.1996, as such, the decree passed against her in O.S. no.1126 of 2019 was a nullity, on the basis of which, the plaintiff has not acquired any right title and interest in the disputed property. It was further submitted that the plaintiff was not aware of the death of Sushila Mehra, as such, no fraud was committed by him on the court.

(25) I have heard the learned counsel of both the sides and perused the record of the trial court.

Precedents applicable

(26) The Apex Court in the case of ***Vikram Bhalchandra Ghongade*** (supra), while considering the situation where the defendant appellants died during the pendency of appeal, whose legal heirs were not substituted on record, concluded that since the appeal decided after the death of appellants was a nullity, as such, the decree of the trial court in favour of plaintiff was executable. The relevant paras of the judgment are as under:-

“10. Having heard the appellant-in-person as well as the learned counsel for the respondents, we are of the view that the executing Court erred in dismissing the execution petition as not maintainable. The decree passed by the first appellate Court having been passed in an appeal, where both the appellants had expired prior to the appeal

being heard, its decree in favour of dead persons was a nullity. The decree passed by the trial Court, therefore, is liable to be executed.

11. It is not in dispute that the suit filed by the predecessors of the appellant was decreed on 14.08.2006. The trial Court declared the original plaintiffs as owners of the suit land that had been allotted to Mr. Arjun Thakre. The plaintiffs were held entitled to receive possession of the said lands. The subsequent allotment of the same land in favour of defendant Nos. 3 to 5 was held to be illegal. The defendant No. 3 did not choose to challenge this decree. It is only the defendant Nos. 4 and 5, who preferred an appeal under Section 96 of the Code. During pendency of that appeal, the defendant No. 4 expired on 27.10.2006, while the defendant No. 5 expired on 20.09.2010. The record indicates that the appeal was heard on 28.09.2010. As per the provisions of Order XXII Rule 6 of the Code, if a party expires between the conclusion of hearing and pronouncement of the judgment, the same does not result in abatement of such proceedings and the judgment on being pronounced, would have the same force and effect as if it had been pronounced before the death of such party took place. In view of the fact that the defendant Nos. 4 and 5 had died prior to the appeal being heard on 28.09.2010, it is evident that the proceedings in the said appeal are not saved by the provisions of Order XXII Rule 6 of the Code. In effect, the appeal was decided notwithstanding the death of both the appellants, who had preferred the appeal.

*12. According to the executing Court, since the appeal was decided on 20.10.2010, which was prior to expiry of a period of ninety days from the death of defendant No. 5 on 20.09.2010, the appeal could not have been disposed of as abated. It is correct that the abatement of a proceeding cannot take place prior to expiry of the prescribed period of limitation of ninety days under Article 120 of the Limitation Act, 1963 for bringing on record the legal heirs. Notwithstanding this position, the fact remains that prior to the appeal being heard and thereafter decided, both the appellants who had filed the said appeal were no more. The judgment pronounced in the first appeal on 20.10.2010 was, thus, in favour of the parties who were no more alive. The said adjudication, therefore, amounted to a nullity and the same did not have the force of law. This position is not in doubt and we may only refer to the decisions in *Rajendra Prasad v. Khirodhar Mahto* 1994 Supp(3) SCC 314 and *Amba Bai v. Gopal* 2001 INSC 263 in this regard. The appellant, therefore, is justified in contending that the decree passed by the first appellate Court was a nullity as it was passed in favour of the appealing*

parties, who had expired prior to the appeal being heard and decided. As a result, the only decree that could be enforced was the one passed by the trial Court on 14.08.2006.

13. In our view, therefore, the appellant is justified in seeking execution of the decree passed by the trial Court on the premise that the decree passed by the first appellate Court was a nullity having been passed in favour of dead persons. We are fortified in this view by the decision in Bibi Rahmani Khatoon v. Harkoo Gope (1981) 3 SCC 173, wherein it was held as under:

“If a party to a proceeding either in the trial Court of any appeal or revision dies and the right to sue survives or a claim has to be answered, the heirs and legal representatives of the deceased party would have to be substituted and failure to do so would result in abatement of proceedings. Now, if the party to a suit dies and the abatement takes place, the suit would abate. If a party to an appeal or revision dies and either the appeal or revision abates, it will have no impact on the judgment, decree or order against which the appeal or revision is preferred. In fact, such judgment, decree or order under appeal or revision would become final.”

These observations though made in the context of abatement of proceedings, the same position would arise when the appellant/s expires prior to hearing of the appeal, which is subsequently allowed without the legal heirs being brought on record. In the case in hand, the judgment in favour of the deceased appellants would be a nullity in the absence of the legal heirs being brought on record and the judgment of the trial Court would be the one that would govern the rights of the parties. Hence, the decree passed by the trial Court would revive for being executed.

14. The execution proceedings herein could not have been dismissed on the ground that the decree passed by the trial Court was superseded by the decree passed by the first appellate Court and was modified. Since the decree of the first appellate Court was a nullity, the plaintiffs were entitled to execute the decree passed by the trial Court. It is well settled that if a decree is a nullity, its invalidity can be set up whenever and wherever it is sought to be enforced, even at the stage of execution as held in Kiran Singh v. Chaman Paswan 1954 INSC 45.”

(27) The Apex Court in the case of **Ashok Transport Agency vs.**

Awadhesh Kumar and another (1998) 5 SCC 567, while considering a case, where suit was instituted against a dead person and the decree was also passed against a dead person held that, the decree was nullity which could not be executed.

(28) The Apex Court in the case of ***Brij Narayan Shukla (Deceased) through LR's vs. Sudesh Kumar alias Suresh Kumar (Deceased) through LR's and others (2024) 2 SCC 590***, while considering a case where tenant was inducted into the tenancy prior to the year 1944, who was claiming ownership on the basis of adverse possession but the disputed sale deed was executed in his favour only in the year 1966, in such circumstances, it was held that since the possession of the tenant was permissive against the landlords, no question arises of them claiming any adverse possession.

(29) The Apex Court in the case of ***Commissioner, Bruhath Bangalore Mahanagara Palike and Another vs Faraula Khan and Another 2021 SCC OnLine SC 3633 (By 3 Judges)***, held as under:-

“2.It is well settled that mutation entries do not by themselves confer title which has to be established independently in a declaratory suit.”

(30) The Apex Court in the case of ***P. Kishore Kumar vs. Vittal K.Patkar (2024) 13 SCC 553*** has held that revenue records are not documents of title, mere mutation of revenue records would not divest the real title owners of a land of their right, title and interest in the land. It was further held that mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value on title. All it does is entitle the person in whose favour mutation is done to pay the land revenue in question and the mutation entry in the revenue record is only for the fiscal purpose.

(31) The Apex Court in the case of ***State of Punjab and Others vs Bhagwantpal Singh alias Bhagwant Singh (Deceased) through LR's (2024) 15 SCC 139***, held as under:-

“27. ...In the present case, merely because the name of the plaintiff continued in the revenue records (jamabandis), it would not confer any title upon him. Revenue records (jamabandis) are only entries for the purpose of realising tax by the Municipal Corporations or land revenue by Gram Sabhas. The plaintiff having failed to claim relief of declaration, the suit itself would not be maintainable.....”

Conclusion by this Court

Analysis of decree passed in O.S.no.1126 of 2019

(32) From the perusal of the earlier judgment of the trial Court dated 31.5.2022 passed in O.S. no.1126 of 2019 Indra Mohan Sachdev vs.Smt. Sushila Mehra it appears that it was filed by the plaintiff for the relief of declaration and permanent injunction with the averments that his father Parmanand was a licensee in the disputed property from 07.07.1969 for monthly rent of ₹ 450/-, which was refused by the defendant in the year 1990, and since then the plaintiff proclaimed himself to be the owner in possession of the disputed property. He claimed that the defendant since the year 1969 never gave him any legal notice to vacate the disputed premises, since then, his possession was open, hostile and continuous and as such, he has acquired ownership of the disputed property by adverse possession. The plaintiff further claimed that since the year 1991 he is regularly depositing house tax and water tax with Nagar Nigam, Ghaziabad. The plaintiff admitted that previously the defendant had filed P.A.Case No. 64 of 1984 Sushila Mehra vs.Indra Mohan under Section 21 of UP Act No. 13 of 1972, which was dismissed on 7.1.1989, an appeal no. 42 of 1989 was preferred by Sushila Mehra against him, which was also dismissed. Plaintiff claimed that some anti social elements came to his disputed property on 25.9.2019 and threatened him to forcibly evict, as such, the plaintiff filed the suit for declaration that he be declared the owner in possession of the disputed property on the basis of adverse possession and further, by decree of permanent injunction granted in his favour, against the defendant, the defendant be restrained from interfering in this peaceful possession.

(33) Service on the defendant Sushila Mehra was deemed sufficient on 16.12.2021 and when she failed to appear and submit her written statement before the trial court, then by order dated 28.3.2022, suit was proceeded ex-parte against her and finally decreed ex-parte on 31.5.2022. The trial court concluded that since plaintiff was in continuous possession of the disputed property since 1990, he was entitled to be declared owner in possession of the disputed property by adverse possession.

Proceedings of this suit

(34) It is very much apparent that the trial court has relied on the earlier ex-parte decree passed in O.S. no.1126 of 2019, for decreeing the plaintiff's instant suit.

(35) The defendants/appellants filed the copy of death certificate of Sushila Mehra and the photo copy of documents related to suit no. 339 of 1992 Nand Kishore Mehra vs. Sushila Mehra, which disclosed during the pendency of the above suit, she died on 02.4.1996, and for bringing her legal heir on record substitution application was filed by

her husband Nand Kishore Mehra in the above suit which was allowed, and ultimately the suit was also decreed ex-parte by the High Court of Delhi on 7.5.1999.

(36) The trial court has rejected the photo copy of the death certificate of Sushila Mehra on the ground that it was inadmissible in evidence, forgetting that on the basis of that certificate, substitution has already been effected in the suit No. 339 of 1992 and the suit has also been decided. It is pertinent to mention here that death and birth certificates are never filed in the original because they always remain with the person concerned or his/her legal heirs, and in a judicial or quasi-judicial proceeding, only a true copy of them is filed. It is further pertinent to mention here that the defendants being the 3rd parties, could never have benefitted from filing the false death certificate of Sushila Mehra. In view of this, there was no justifiable reason for the trial court to ignore the copy of the death certificate of Sushila Mehra.

(37) It is further apparent that after the passing of the above ex-parte decree dated 31.5.2022 in O.S.no. 1126 of 2019, Miscellaneous Case No. 13 of 2023 has already been filed by Amod Mehra, being the legal heir of deceased Sushila Mehra under Order 9 Rule 13 CPC for setting aside the above ex-parte decree, on the ground that Sushila Mehra died on 2.4.1996, before the filing of the suit, which was proved from the death certificate issued on 4.4.1996 by Municipal Corporation of Hyderabad, a copy of which was filed by the defendants in the instant suit before the trial court, which was ignored on the ground of being photo copy, being inadmissible in evidence. The question is whether the defendants are claiming ownership of the disputed property, which is certainly not, then what would the defendants gain by claiming that Sushila Mehra has died on 02.04.1996? Sushila Mehra being dead or alive, the defendants are not going to acquire / inherit the ownership of the disputed property, as such, there was no justifiable reason to doubt the copy of the death certificate of Sushila Mehra submitted by the defendants.

(38) It is apparent that O.S. no.1126 of 2019 was filed in the year 2019, which was decided on 31.5.2022, but much prior to the filing and decision of the suit, Sushila Mehra had previously died on 2.4.1996, as such, applying the ratio laid down by the Apex Court in the cases ***Vikram Bhalchandra Ghongade*** (supra) and ***Ashok Transport Agency*** (supra), the decree passed in O.S.no.1126 of 2019 was a nullity, which did not confer any right title or interest in the disputed property in the plaintiff and as such, wherever and whenever the decree was sought to be enforced by the plaintiff, it could have been resisted by the defendants on the ground of being a nullity, which does not act as res-judicata, in any manner whatsoever.

(39) The plaintiff has himself averred and proved that the disputed property is recorded as Muraga Khana in the property records of Nagar Nigam, Ghaziabad, whereas it should be in the name of Sushila Mehra . The plaintiff 's name can only be entered in the property register if the previous owner was Sushila Mehra , which was not proved from the documentary evidence submitted by the plaintiff before the trial court. The extract of the property ledger as well as, the house tax/water tax/Sewer tax bill only disclose that the disputed property is Muraga Khana. Who is the owner of Muraga Khana is not mentioned in the above documents, as such, even on the basis of the ex-parte decree passed in O.S.no. 1126 of 2019, plaintiffs name could not have been entered as the owner in possession of the above property, but the trial court has deliberately overlooked this fact.

(40) It is further apparent that the plaintiff has filed house tax receipts of the disputed property in order to prove that he is regularly paying the house tax and other taxes of the disputed property to the Nagar Nigam, Ghaziabad being the owner, and on the basis of these receipts, he has tried to prove his ownership of the disputed property.

(41) It is well settled that merely on the basis of payment of house tax of the disputed property, neither any one acquire its ownership nor can proclaim to be its owner, and merely on the basis that the person is recorded as owner in the property register of Municipal Corporation, does not become the owner of the disputed property. Such person has to prove his/her ownership in accordance with law.

(42) It is apparent that the plaintiff's father Parmanand took the disputed property on rental from Sushila Mehra in the year 1969, and according to the plaintiff till the year 1996 he paid rent to Sushila Mehra, but thereafter, since he became owner due to adverse possession, he did not pay any rent to Sushila Mehra . It is pertinent to note that it was Sushila Mehra who gave possession of the disputed property to the plaintiff's father, which was never handed back to Sushila Mehra or her legal heirs, as such, the plaintiff was not entitled to claim ownership of disputed property on the basis of adverse possession, but still, original suit no.1126 of 2019 was filed and decreed on this ground by the trial court on 31.5.2022. It is well settled that once having entered the disputed property as a tenant, the tenant is not entitled to claim its ownership on the basis of adverse possession, because the tenant is bound to hand over the vacant possession of the disputed property to the landlord/owner and he cannot deny the title of his landlord in the disputed property.

(43) It is apparent that the trial court has in total disregard of the legal provisions and evidence on record, has decreed the plaintiff 's suit by

impugned judgment , merely on the basis of earlier decree dated 31.5.2022 passed in O.S. no.1126 of 2019, which was a nullity, which conferred no right title or interest in the plaintiff regarding the disputed property, but still the trial court has relied on this void decree, to grant relief to the plaintiff, which is inexplicable and legally unsustainable.

Conduct of the trial Judge

(44) The reason assigned by the trial court for ignoring the death certificate of Sushila Mehra is shocking, perverse and tainted with extraneous considerations. The trial court purposely in order to cause illegal gain to the plaintiff has ignored it, which needs to be deprecated. The conduct of the trial Judge is not above board, who has either due to extraneous reasons or due to lack of competence, has passed the impugned decree, which cannot be legally justified in any manner whatsoever. It is a case of deliberate judicial misconduct, which renders the integrity of the Judge doubtful. This is a case which shocks the conscience of this Court that how could a Judge act in this manner, in order to cause wrongful gain to the plaintiff. The facts of the case speak for themselves, the blatant manner in which law has been flouted and justice has been denied. It is a case of daylight judicial murder.

(45) Accordingly, the appeal has got merit and is liable to be allowed.

(46) **The appeal is hereby allowed.** Consequently, the impugned judgment and decree dated 13.5.2025 is set aside. Plaintiffs original suit no. 960 of 2024 stands dismissed with costs throughout.

(47) Office is directed to place this file before the Hon'ble the Chief Justice for taking appropriate action on the administrative side against Trial Judge Shri Jasveer Singh Yadav, the then Civil Judge (Senior Division), Ghaziabad for passing such blatant, dishonest and illegal order.

Order Date:- 24.02.2026
Jitendra/Himanshu/Mayank

(Sandeep Jain, J.)