

Ramesh Chand vs Satya Bhushan & Anr on 12 March, 2025

Author: Jyoti Singh

Bench: Jyoti Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI
RFA 3/2020
RAMESH CHAND

Through: Mr. Rajat Manchanda
Tagra, Advocates.

SATYA BHUSHAN & ANR

Through: Ms. Shalini Kapoor,
Bhambri, Mr. Karan Bhambri,
Saxena, Mr. Udit Bhatiani and
Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

OR

% 12.03.2025

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.
3. This is an application preferred on behalf of the Review Petitioner seeking condonation of delay of 347 days in filing the review petition.
4. Issue notice.
5. Ms. Shalini Kapoor, learned counsel accepts notice on behalf of Respondent No. 1.
6. For the reasons stated in the application, the same is allowed. Delay of 347 days in filing the review petition is condoned.
7. Application stands disposed of.

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 11/04/2025 at 21:15:41 REVIEW PET. 100/2025 and CM APPL. 11366/2025

8. This review petition is preferred on behalf of the Appellant/Review Petitioner against the judgment dated 29.11.2023 by which the present appeal was dismissed.

9. Issue notice.

10. Ms. Shalini Kapoor, learned counsel accepts notice on behalf of Respondent No. 1.

11. This Regular First Appeal was preferred by Review Petitioner challenging judgment and decree dated 05.09.2019 passed by learned Additional District Judge in suit bearing CS No. 75294/2016 titled 'Ramesh Chand v. Satya Bhushan and Another', whereby suit for partition, rendition of accounts and injunction filed by the Plaintiff was dismissed. By judgment dated 29.11.2023, this Court dismissed the appeal upholding the judgment and decree dated 05.09.2019. From the petition, it is reflected that Plaintiff preferred a Special Leave Petition being SLP (Civil) Diary No. 12024/2024, which was dismissed by the Supreme Court on 09.08.2024, observing that no ground was made out to interfere with the judgment of this Court. After dismissal of the SLP, Plaintiff has preferred the present review petition. Appellant herein was the Plaintiff before the Trial Court while Respondents were the Defendants and parties are hereinafter referred to by their litigating status before the Trial Court.

12. From a plain reading of the review petition, the grounds seeking review are: (a) this Court erroneously observed that the stamp papers bearing a date of purchase subsequent to registration of Power of Attorney in favour of Plaintiff raises a suspicion regarding the genuineness and authenticity of the documents, by inadvertently noting the date on stamp This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 11/04/2025 at 21:15:41 paper of certified copy as the date of purchase of the executed stamp paper documents and hence arrived at a wrong conclusion inasmuch as the date on the stamp papers i.e. 18.06.1998 is a subsequent date; (b) DDA executed the Conveyance Deed in favour of Defendant No. 1 on the basis of GPA forged by him and the original was neither in the records of the DDA nor produced in Court; (c) Defendant No. 1 in his cross-examination stated that original GPA was with Defendant No. 2, however, on summoning the document from Defendant No. 2 he stated that only a copy was retained and originals were never taken from the parties and thus the Court failed to appreciate that Plaintiff was the only one in whose favour GPA was executed by erstwhile owner; (d) this Court erred in upholding the view of the Trial Court that the suit was barred by Benami Transactions (Prohibition) Act, 1988 ('Benami Act') solely on the basis that the suit was filed on 21.07.2005 i.e. after coming into operation of the said Act and that GPA and SPA did not mention any consideration having passed to Sh. Kuldeep Rai albeit no evidence was led on this aspect and therefore, no opportunity was provided to the Plaintiff to lead his defence; (e) this Court failed to appreciate that the application filed by the Plaintiff under Section 45 of the Indian Evidence Act, 1872 seeking expert opinion on the authenticity of GPA and SPA registered at Sub-Registrar's office as also GPA/Agreement to Sell/Receipt as produced by Defendant No. 1 was wrongly dismissed by the Trial Court without realising that the same was necessary to arrive at the correct conclusion; (f) this Court

failed to appreciate that witness from PNB Bank, Lawrence Road had deliberately stated that father of the parties i.e. Shri Wazir Chand had no account with the Bank whereas the bank statement Mark-A and copies of the cheques issued from the said account clearly This is a digitally signed order.

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13. In light of the aforesaid submissions, learned counsel for the Review Petitioner seeks review of judgment dated 29.11.2023 and submits that if the Court had correctly taken into account all these issues, the judgment under review would not have been passed.

14. Ms. Shalini Kapoor, learned counsel appearing for Defendant No. 1 submits that the judgment of this Court was challenged by the Plaintiff before the Supreme Court and the SLP was dismissed on 09.08.2024 as the Supreme Court found no ground to interfere in the same. After dismissal of the SLP, it is not open to the Plaintiff to seek a review of the judgment. Without prejudice, it is submitted that Plaintiff is seeking to re-argue the matter as if he is arguing an appeal for the first time. The scope of review is extremely limited and the Plaintiff is required to point out an error apparent on the face of the record, which he has failed to do. The grounds urged in the review petition are in the nature of appeal and moreover, each one of This is a digitally signed order.

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15. Heard learned counsels for the parties.

16. Learned counsel for Defendant No. 1 is right in her submission that once the Supreme Court has dismissed the SLP against the judgment under review, Plaintiff cannot re-argue the matter challenging the judgment of the Trial Court as if this was a Regular First Appeal. Learned counsel is also right in her submission that the scope of review is extremely limited and review Petitioner must point out error apparent on the face of the record and cannot in the garb of a review argue the matter as an appeal. [Ref.: S. Nagaraj and Others v. State of Karnataka and Another, 1993 Supp (4) SCC 595; Lily Thomas and Others v. Union of India and Others, (2000) 6 SCC 224; T.C. Basappa v.

T. Nagappa and Another, (1954) 1 SCC 905; M/s. Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167; and S. Madhusudhan Reddy v. V. Narayana Reddy and Others, 2022 SCC OnLine SC 1034.]

17. From the grounds in the review petition which are reiterated during the course of hearing by learned counsel for the Plaintiff, it is evident that an attempt is made to reopen the matter and argue the same as an appeal, which is impermissible within the scope of a review petition. Each of the grounds raised by the Plaintiff were considered by this Court and the judgment of the Trial Court was examined on the touchstone of the applicable law and the evidence led by the parties and cannot be re-agitated.

18. After an elaborate hearing, this Court came to a conclusion that Plaintiff was unable to establish his joint ownership to the suit property and as per settled law, Plaintiff in a suit for title and possession can succeed only This is a digitally signed order.

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19. Evidence also showed that the Will and the receipt of payment in favour of Defendant No. 1 were registered documents and the consideration actually passed from Defendant No. 1 to Sh. Kuldeep Rai towards purchase of the property. Significantly, Plaintiff never claimed that these documents were not executed by Sh. Kuldeep Rai. Moreover, Court also noted that the Agreement to Sell was executed on 22.08.1985 whereas compulsory This is a digitally signed order.

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20. As for the allegation that Conveyance Deed was executed by DDA on the basis of forged and fabricated documents produced by Defendant No. 1, this Court noted that the onus to prove the allegations was on the Plaintiff, which onus he failed to discharge as no evidence was led, oral or documentary. It was also noticed that DDA's official deposed that the Conveyance Deed, which was an exhibited document was in order as per DDA record and he did not question its authenticity or genuineness. Reference was made to the judgment in *Smriti Debbarma (Dead) Through Legal Representative v. Prabha Ranjan Debbarma and Others*, 2023 SCC OnLine SC 9, wherein the Supreme Court held that wherever party asserts existence of a particular state of things to claim relief, it must so establish and this is also the mandate of Section 101 of the Indian Evidence Act, 1872.

21. Court also considered at length the effect of Power of Attorneys (GPA and SPA) stated to be executed in favour of the Plaintiff. It is noted in the judgment that Trial Court rendered two separate findings on this aspect i.e. one factual and the other in law. On the factual aspect, Trial Court noted that certified copies of GPA and SPA were executed on stamp papers bearing the date of purchase by Kuldeep Rai as 18.06.1998 on the backside of the stamp papers but there was no date of execution of the documents as the relevant columns on the third and last page were blank albeit there was some handwritten endorsement that they were registered on 22.08.1985. Trial This is a digitally signed order.

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22. Most importantly, this Court found that the Plaintiff had initially pleaded in the plaint that Kuldeep Rai had transferred all his rights, title and interest in the suit property by executing documents and Plaintiff and Defendant No. 1 had paid Rs.47,000/- and had become joint owners but there is no detail of the exact amount contributed or the manner and mode of contribution was not mentioned. After Defendant No. 1 filed written statement denying the factum of payment by the Plaintiff, for the first time in replication, Plaintiff mentioned that he contributed Rs.25,000/-. To support this plea, it was averred that he and his wife kept their savings with This is a digitally signed order.

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23. For all the aforesaid reasons, the review petition is dismissed being bereft of merit.

JYOTI SINGH, J MARCH 12, 2025/shivam This is a digitally signed order.

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