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

% *Judgment reserved on: 08.10.2026*
*Judgment pronounced on: 27.10.2026*
*Judgment uploaded on: 29.10.2026*

# **CNR No. DLHC010000051995**

\+ **CS(OS) 1459/1995**

YASHNA EXPORTS PVT. LTD.& ORS. .....Plaintiffs

Through: Mr. Sanjeev Sindhwani, Senior Advocate with Mr. Sanjay Dua, Advocates.

versus

RAISINA BHATIA .....Defendant

Through: Mr. Alok Singh, Advocate for Applicant in I.A. 10738/2026
Mr. Praveen Kumar, Advocate, Mr. Suman Raj, Advocate, Mr. Shivam Arora, Advocates for applicant.

**CORAM:**
**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**DR. SWARANA KANTA SHARMA, J.**

**I.A. 10738/2026 (under Order XXIII Rule 3 read with Sections 47 and 151 CPC, seeking declaration that compromise decree dated 20.09.2002 is null and void, and for impleadment and stay of further proceedings in Execution Petition)**

1. By way of this judgment, this Court shall decide the application bearing **I.A. 10738/2026**, filed under Order XXIII Rule 3



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read with Sections 47 and 151 of the Code of Civil Procedure, 1908 [hereafter '**CPC**'], seeking a declaration that the compromise decree dated 20.09.2002 is null, void and *non est*, and also seeking impleadment of the applicant and stay of further proceedings in the Execution Petition.

**THE APPLICANT'S CASE**

2. The present application has been filed by the applicant, Ms. Sangeeta Bhatia, wife of late Sh. Sanjay Bhatia, and daughter-in-law of late Ms. Raisina Bhatia, who was the original defendant in the present suit, i.e., CS(OS) 1459/1995. The applicant is seeking a declaration that the decree dated 20.09.2002, on the basis of which the present suit was disposed of, is null and void and not binding upon her, having been obtained by fraud and without authority.

3. As per the averments made in the application, the present suit was filed by the plaintiffs for specific performance of an alleged Agreement to Sell dated 07.01.1994, allegedly executed by the defendant, Ms. Raisina Bhatia, with respect to her undivided 31.25% share in the property bearing no. 21 & 21A, Tughlak Road, New Delhi. The suit was decreed by this Court in terms of a compromise, *vide* judgment and decree dated 20.09.2002. It is averred that the compromise decree dated 20.09.2002, though passed when Ms. Raisina Bhatia was still alive, is *non est*, having been obtained on the basis of an alleged non-existent registered General Power of Attorney dated 17.09.2002 and a Special Power of Attorney dated 20.09.2002,



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allegedly in favour of one Ms. Veena Suneja. At another place in the application, it is averred that the decree under execution has been obtained on the basis of a non-existent Special Power of Attorney allegedly in favour of Ms. Sunita Suneja. It is further averred that Ms. Raisina Bhatia neither contested any case nor gave any Special Power of Attorney or *vakalatnama* in favour of any person, and that the Special Power of Attorney relied upon for recording the compromise is forged and fabricated, and therefore, the very foundation of the compromise decree is illegal and non-existent in the eyes of law.

4. It is stated that the applicant is one of the legal heirs of Ms. Raisina Bhatia, who expired on 23.07.2011 and was residing with the applicant till her demise, and therefore, the applicant is directly affected by the decree and the subsequent execution proceedings. Ms. Raisina Bhatia was survived by three sons and one daughter, i.e., Sh. Sanjay Bhatia, Sh. Gaurav Bhatia, Sh. Sandeep Bhatia and Ms. Rupika Sagar. Sh. Sanjay Bhatia, the eldest son of late Ms. Raisina Bhatia and the husband of the applicant, expired on 31.12.2016.

5. It is further stated that I.A. 6501/2024 was filed in the present suit by one Sh. Om Prakash Arora for recall/setting aside of the judgment and compromise decree dated 20.09.2002, which was dismissed *vide* judgment dated 29.07.2024. It is stated that the applicant, along with all the legal heirs of Ms. Raisina Bhatia, had been impleaded in CS(OS) 162/2020, titled ***Om Prakash Arora v. Meenakshi Sardana & Ors.***, which pertains to an undivided 6.25%



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share in the same property; *however*, all the legal heirs of late Ms. Raisina Bhatia were deleted from the said suit *vide* order dated 24.02.2026, on the statement made by the present plaintiffs that they had purchased the share of Ms. Raisina Bhatia during her lifetime. It is stated that the applicant engaged her present counsel on 09.03.2026, who enquired about the said case, and that the applicant thereafter filed I.A. 6794/2026 seeking impleadment therein. It is the case of the applicant that it was only on 17.03.2026 that she came to know about the other cases decided or pending in the name of her late mother-in-law, Ms. Raisina Bhatia, as a party, which has led to the filing of the present application.

6. Relying upon the decision of the Hon'ble Supreme Court in ***A.V. Papayya Sastry v. Government of A.P.***: *(2007) 4 SCC 221*, it is stated that it is a settled proposition of law that a judgment or decree obtained by fraud is a nullity and *non est* in the eyes of law, and can be challenged at any stage, including in execution proceedings. It is also stated that the execution proceedings arising out of the said decree are not maintainable against the applicant, inasmuch as she is not a judgment debtor, is in independent possession of the property, and the property sought to be proceeded against does not form part of the estate of the deceased judgment debtor; and that the applicant is a necessary and proper party for complete and effective adjudication of the present dispute, whose rights cannot be adjudicated in her absence.



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7. Accordingly, by way of the present application, the following reliefs have been sought:

> "A) Declare that the Compromise Decree dated 20.09.2002 is null, void and non est, having been obtained by fraud and without authority;
>
> B) Implead the Applicant as a necessary party in the present proceedings;
>
> C) Take on record the objections filed by the Applicant under Section 47 of the CPC;
>
> D) Stay further proceedings in Execution Petition No. 399/2014 during the pendency of the present application;
>
> E) Pass any other order or orders in favor of the Applicant as this Hon'ble Court may deem fit & proper in the facts & circumstances of the present Case."

**SUBMISSIONS BEFORE THE COURT**

8. **The learned senior counsel appearing for the plaintiffs,** while opposing the present application, submits that the compromise decree dated 20.09.2002 was passed in terms of I.A. 8524/2002, which was a joint application filed by the plaintiffs and the defendant Ms. Raisina Bhatia, in the suit for specific performance filed by the plaintiffs. Ms. Raisina Bhatia had appeared before this Court, in person, on 20.09.2002, and had received before this Court itself the balance sale consideration of Rs. 2.24 crores. She had thereafter made a statement, *inter alia*, to the effect that she had thus received the entire sale consideration of Rs. 3.60 crores. The possession and keys of the suit property were also delivered by her to the plaintiffs in the Court itself, and she had prayed for passing of a decree for specific performance as per the settlement arrived at between the



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parties. The learned senior counsel has drawn the attention of this Court to the statement made by Ms. Raisina Bhatia in the Court on 20.09.2002, which has been signed by her as well as by her counsel, and it is stated that the decree dated 20.09.2002 was passed in terms of the settlement and the statements made by the parties.

9. It is further submitted on behalf of the plaintiffs that Ms. Raisina Bhatia passed away on 23.07.2011, i.e., nearly nine years after the passing of the decree, but she had never challenged the decree on any ground, nor had she ever claimed any right in the property in question. It is stated that Ms. Raisina Bhatia was survived by three sons and a daughter, none of whom had challenged the decree, and that the sale consideration has remained with the family. One of the sons of Ms. Raisina Bhatia, i.e., Sh. Sanjay Bhatia, who passed away on 31.12.2016, also never challenged the decree in his lifetime. The present application has been filed by Ms. Sangeeta Bhatia, wife of late Sh. Sanjay Bhatia, after about 24 years of the passing of the compromise decree, is thus manifestly barred by limitation. It is pointed out that, in a stark paradox, the sale consideration continues to be retained by the family of Ms. Raisina Bhatia.

10. The learned senior counsel further argues that the challenge to the decree on the grounds that Ms. Raisina Bhatia had not contested the case, had given no Special Power of Attorney, and had not given any vakalatnama for the case, is based on downright falsehood and is



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contrary to the record. It is stated that Ms. Raisina Bhatia had filed her written statement and also an amended written statement, and had contested the suit from 1995 to 2002; that she had filed her *vakalatnama*, which is on record; that she had herself signed the compromise application and the accompanying affidavit, and not through any Special Power of Attorney or attorney; and that she had personally appeared before the Court on 20.09.2002, had made and signed her statement in terms of the settlement, and had herself received the sale consideration amount.

11. It is also contended on behalf of the plaintiffs that merely by claiming to be a successor-in-interest, the applicant cannot claim a fresh period of limitation or a better right. It is stated that the right which the present applicant seeks to assert was not available, at this stage, even to the original defendant, for want of any ground, reason or cause of action, and also on account of being patently time-barred, and that inheritance does not give rise to a fresh cause of action. In this regard, reliance is placed on the decision of the Hon'ble Supreme Court in ***Imdad Ali v. Keshav Chand****: (2003) 4 SCC 635*, wherein it was held that a person by reason of inheritance or assignment does not derive any better title than his predecessor. He also relies on the decision of this Court in ***Hardeep Singh v. Wasan Singh***: *2019:DHC:4178*, wherein, following the aforesaid judgment, it was held that a successor-in-interest cannot claim rights better than his predecessor.



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12. The learned senior counsel appearing for the plaintiffs also argues that the reliance placed by the applicant on Section 44 of the Transfer of Property Act, 1882 [hereafter '**TPA**'] and on the decision in ***Dorab Cawasji Warden v. Coomi Sorab Warden***: (1990) 2 SCC 117, is also misconceived, for the following reasons:

(i) There is no undivided joint family living in the property, which is a pre-requisite for invoking Section 44 of the TPA. It has already been held in the present suit itself, *vide* judgment dated 29.07.2024 (paragraph 31), that the whole suit property contains four bungalows and an independent bungalow was in possession of Ms. Raisina Bhatia, who, having an independent possession of a part of the suit property, cannot be said to be in a joint undivided household with the other legal heirs and co-owners of the suit property; and again in paragraph 33, that there is no common occupation and there cannot be any disruption of the undivided household which is protected under Section 44 of the TPA.

(ii) A similar argument based on the judgment in ***Dorab Cawasji Warden*** (*supra*), raised earlier by one Sh. Om Prakash Arora, was rejected in paragraph 34 of the aforesaid judgment.

(iii) It is an admitted fact that a part of the property is on rent and has been in possession of the tenants, as noted in paragraph 19 of the aforesaid judgment. There being a tenant in the property already, the application of Section 44 of the TPA is ruled out, since the provision pre-supposes a family dwelling house, and the letting out of a part of



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the property negates the character of the property as a dwelling house belonging to an undivided family.

(iv) The recourse to Section 44 of the TPA, if at all, was available to the other co-owners/co-sharers, and not to Ms. Raisina Bhatia or her successors, as she had herself delivered possession in the Court.

(v) The applicant has herself not shown whether she is, or ever was, dwelling in the suit property. Rather, in the affidavit filed with the present application, her address is at Vasant Kunj, and not at the suit property. The applicant thus cannot claim the suit property to be a dwelling house so as to invoke Section 44 of the TPA.

13. **The learned counsel appearing for the applicant**, on the other hand, argues that the suit property, i.e., 21 & 21A, Tughlak Road, New Delhi, had devolved by decree dated 13.01.1975 upon four sisters, including Ms. Raisina Bhatia, the predecessor-in-interest of the applicant, at 25% each, which later became 31.25% upon the intestate death of Ms. Prem Madden on 11.01.1988. It is argued that the suit property has never been partitioned by metes and bounds and has remained a dwelling house of an undivided family, and that a suit for partition filed in the year 2020 is pending as CS(OS) 162/2020. It is stated that the applicant, being the widow of late Sh. Sanjay Bhatia, son of the defendant late Ms. Raisina Bhatia, who was a co-owner, is by intestate succession deemed to be in joint possession. It is argued that the plaintiffs had filed a suit for specific performance of the Agreement to Sell dated 07.01.1994, and not a suit for partition; that



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prayer (c) of paragraph 46 of the plaint had sought actual vacant possession only of the portion of 1540 sq. yds. in the defendant's own possession, and only symbolical possession of the rest, which was held by tenants (the Statesman and Play House School); however, the compromise decree purports to hand over "actual, physical and vacant possession" of the entire 31.25% share, including the tenanted portion, which is a relief never prayed for. It is stated that the applicant was never arrayed as a party, and thus never had any knowledge of the proceedings.

14. It is further argued that the decree in question is null and void, as it has been passed in the teeth of Section 44 of the TPA and Section 23 of the Indian Contract Act, 1872. It is argued that a decree, even by consent, cannot grant relief beyond the pleadings and the prayer, and that a decree in excess of jurisdiction is a nullity, open to challenge in execution, placing reliance on ***Trojan & Co. v. Nagappa Chettiar****: AIR 1953 SC 235*, ***Bachhaj Nahar v. Nilima Mandal****: (2008) 17 SCC 491*, ***Kiran Singh v. Chaman Paswan****: AIR 1954 SC 340*, and ***Dhurandhar Prasad Singh v. Jai Prakash University****: (2001) 6 SCC 534*; and that clause (v) of the compromise goes beyond prayer (c) of the plaint and is void to that extent. It is further argued that the decree is *non est*, being based on a compromise which is unlawful, being in the teeth of Section 44 of the TPA, which provides that a transferee of a share in a dwelling house of an undivided family, who is not a member of the family, cannot claim joint possession or common enjoyment, and his only remedy is



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partition, as held in ***Dorab Cawasji Warden*** (*supra*), ***Ghantesher Ghosh v. Madan Mohan Ghosh****: (1996) 11 SCC 44*6, and ***Sidheshwar Mukherjee v. Bhubneshwar Prasad****: AIR 1953 SC 487.* It is contended that the expression "undivided family" is not confined to a Hindu joint family, and that the letting out of a part of the house or the absence of some members does not alter its character.

15. It is also argued on behalf of the applicant that Order XXIII Rule 3 of the CPC requires the Court to be satisfied that a compromise is lawful, as held in ***Banwari Lal v. Chando Devi***: *(1993) 1 SCC 581* and ***Pushpa Devi Bhagat v. Rajinder Singh***: *(2006) 5 SCC 566*, and that clause (v) of the compromise, whose object was to place a company, a stranger to the family, in joint possession of a family dwelling house in the teeth of Section 44 of the TPA, is void under Section 23 of the Indian Contract Act, 1872, and no lawful decree can rest on it. It is contended that the remedy against such a decree is to challenge it by way of a recall application, as held in ***Pushpa Devi Bhagat*** (*supra*), ***Navratan Lal Sharma v. Radha Mohan Sharma****: 2024 INSC 970,* and ***Geeta Bai v. K. Arjun Singh****: SLP (Civil) No(s).20008-20010/2026*. By way of an additional affidavit, reliance has also been placed on the decision of the Hon'ble Supreme Court in ***Krishna Kumar Ojha v. Jitendra Chaudhary****: 2026 SCC OnLine SC 1255*, to contend that a compromise decree cannot be sustained unless the party affected had given express authority to the person signing on his or her behalf, and that mere delay, even of decades, cannot be invoked to perpetuate an



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illegality.

16. It is further argued that the judgment dated 29.07.2024 passed in I.A. 6501/2024 is distinguishable on facts and does not apply to the present application, since the application of Sh. Om Prakash Arora was dismissed on the ground that he was a stranger and an outside purchaser of a 6.25% share, who was admittedly not in possession of any part of the suit property. It is contended that the status of the applicant differs materially, since (a) she is a family member and a co-owner by inheritance, deemed to be in joint possession, and Section 44 of the TPA shields her, as its disability operates upon the stranger-transferee, and the reasoning which defeated Sh. Om Prakash Arora, i.e., that no family member had come forward, is absent in the present case; (b) she was not a party and was never served, and the observations regarding "four bungalows", "independent possession" and "no common occupation" were made for a limited purpose and do not bind her, the dwelling house remaining undivided with CS(OS) 162/2020 pending; and (c) the additional ground that the decree exceeds prayer (c) of the plaint was neither raised by, nor available to, Sh. Om Prakash Arora, who claimed a different share from a different co-owner.

17. It is also argued by the learned counsel for the applicant that the applicant was never served in the suit or in the execution proceedings; that her husband, late Sh. Sanjay Bhatia, whom the decree holders had treated as a legal heir, expired on 31.12.2016, and



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thus a dead person was "served" by publication in the year 2018; and that the amended memo of parties of the year 2023 omits the applicant and gives her address as C-9/9331 instead of C-9/9330, Vasant Kunj. It is submitted that the applicant first learnt of the decree in March, 2026 and moved promptly, and that time runs from the date of discovery under Section 17(1) of the Limitation Act, 1963, read with Article 137 thereof. It is further argued that EX.APPL.(OS) 900/2014, which was allowed on 16.02.2024 (condoning one day's delay in re-filing EX.P. 399/2014), does not bind the applicant, who was not before the Court, and that on the decree holders own chronology, the execution petition returned on 18.09.2014 was re-filed on 09.10.2014, returned again, and finally re-filed on 03.11.2014, after the expiry of twelve years under Article 136 of the Limitation Act, 1963. It is argued that an illegality does not become legal by lapse of time. Lastly, it is submitted that the judgments relied upon by the decree holders/plaintiffs are not applicable to the facts of the present case, as the applicant is not claiming a better right than her predecessor, and is only bringing to the notice of this Court the fraud and illegality perpetrated by the decree holders over the last three decades.

18. This Court has **heard** arguments addressed on behalf of both the parties, and has perused the material available on record.

**ANALYSIS & FINDINGS**

19. In the present case, the record of the captioned-suit reveals that



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Ms. Raisina Bhatia had engaged a counsel by executing the *vakalatnama* dated 01.10.1995 in favour of Dr. Surat Singh & Associates, Advocates, which, *inter alia*, also authorised her counsel to compromise the case. She had filed her written statement dated 13.10.1995 and had contested the suit for about seven years, during which period issues were also framed on 09.08.2001. On 13.09.2002, the learned counsels for both the parties informed the learned Joint Registrar that the compromise between the parties had been finalised. Thereafter, a joint application under Order XXIII Rule 3 read with Section 151 of CPC dated 18.09.2002, i.e., I.A. 8524/2002, was filed, which bears the signatures of Ms. Raisina Bhatia herself as well as of her counsel, and is supported by her own affidavit, attested by the Oath Commissioner of this Court.

20. Pertinently, on 20.09.2002, Ms. Raisina Bhatia appeared before this Court in person, and her statement was recorded on solemn affirmation. The said statement, which bears her signature as well as the endorsement of her counsel, Ms. Mamta Rani, Advocate for the defendant, reads as under:

> "STATEMENT OF SMT. RAISINA BHATIA WIFE OF LATE SHRI BRIJ RAJ NARAIN BHATIA AGED 59 YEARS, RESIDENT OF 21-A, TUGHLAK LANE/TUGHLAK ROAD, NEW DELHI ON S.A.
>
> I am the Defendant in the present suit, which was instituted by the Plaintiffs praying for a decree for specific performance of the Agreement to sell dated 7.1.1994 for the property involved in the suit, which is 31.25% share in 21, Tughlak Road, New Delhi.



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During the pendency of the aforesaid suit, **I have arrived at a settlement with the Plaintiffs in terms of which the suit property would be sold to the Plaintiffs for a sale consideration of Rs.3.60 crores.** A sum of Rs.36 lacs towards part payment was received in the year 1994 from the Plaintiffs. Subsequently, I also received an amount of Rs. one crore by a pay order dated 17.9.2002. I have also received a sum of Rs.1,49,493/- through a pay order dated 17.9.2002 towards part sale consideration of the aforesaid property. In terms of the settlement arrived at it was also agreed to that I would also receive an amount of Rs.2.24 crores in Court today as set out in the application, which is filed under Order 23 Rule 3 of the Code of Civil Procedure and **after going through the same and satisfied myself, I have put my signatures on the application.** My advocate has also signed the said application. In support of the contentions made in the application, I have also sworn an affidavit, which is annexed to the application. **I pray that a decree in terms of the settlement be passed in favour of the Plaintiffs decreeing the suit for specific performance of the agreement to sell as the property already stands sold to the Plaintiffs. I also deliver the possession of the suit property effective from today.** However, I or my nominee may be allowed to take goods, which are lying in the suit premises within seven days from today.

**I have now received three pay orders** bearing No.689408 for an amount of Rs.40,50,000/- drawn on Citi Bank; No.000188 for an amount of Rs.95,10,000/- and No.000186 for an amount of Rs.88,40,000/- drawn on Standard Chartered Bank **total amounting to Rs.2,24,00,000/- which are received by me.**

I undertake that I would execute the remaining documents in terms of the settlement arrived at."

(Emphasis added)

21. Upon recording the statements of the parties, this Court (Dr. Mukundakam Sharma, J.) had passed the following order on 20.09.2002:

"The present suit is instituted by the Plaintiffs against the Defendant seeking for a decree of specific performance,



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injunction and mesne profits/damages and also for delivery of possession of the suit property to the Plaintiffs. The suit was filed in respect of the 31.25% in the property bearing No.21, Tughlak Lane/Road, New Delhi on the basis of the agreement to sell dated 7.1.1994. The Defendant entered appearance but during the pendency of the suit, the parties have arrived at an amicable settlement out of court in terms of which a joint application has been filed under Order 23 Rule 3 CPC.

**I have gone through the averments made in the said application and the terms and conditions of the settlement arrived at between the parties and I find the same to be bona fide and lawful.** The averments made in the application are supported by affidavits filed on behalf of the Plaintiffs and also by the Defendant. **The joint application is also signed by the counsel appearing for the parties as also by the parties.** The said application is marked Ex.C-1. **Three pay orders for an amount of Rs.2.24 crores stand paid today in court and key of the suit premises has also been handed over to Mr. K.L. Suneja by the Defendant Smt. Raisina Bhatia in the Court. Possession of the suit property also is handed over to the Plaintiffs, which is accepted by Plaintiff No.4 on behalf of the Plaintiffs.** However, it is made clear that the Defendant or her nominees shall be permitted to take out the goods from the suit premises within seven days from today and no obstruction or impediment shall be created by the Plaintiffs or by any of their servants or agents.

In terms of the aforesaid observations/directions and the settlement arrived at between the parties, the suit stands decreed in terms of the settlement arrived at between the parties. However, in the facts and circumstances of the present suit, the parties are left to bear their own costs.

The joint application exhibit C-1 shall form part of the decree. The parties shall be bound by this order."

(Emphasis added)

22. Thus, it is evident from the record that the defendant in the present suit, Ms. Raisina Bhatia, had herself appeared before this Court and had given her statement on oath regarding the sale of her share to the plaintiffs. Her statement bears her signature as well as the



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endorsement of her counsel. She had further received an amount of Rs. 2.24 crores before this Court itself, the remaining sale consideration having been received by her earlier, thereby receiving the entire sale consideration of Rs. 3.60 crores. She had also handed over the keys and possession of the suit premises in the Court. Clearly, the compromise decree was passed only after the concerned Bench of this Court had gone through the terms of the settlement and had recorded satisfaction that the same was *bona fide* and lawful, and that the joint application had been signed by the parties themselves as well as by their counsel. The own statement of the defendant Ms. Raisina Bhatia records that she had put her signatures on the compromise application "after going through the same and satisfied myself", which leaves no manner of doubt that the settlement was entered into by her voluntarily and with full knowledge of its terms.

23. In the above background, this Court is of the view that the law with regard to the binding nature of a compromise decree is well settled. In ***Pushpa Devi Bhagat v. Rajinder Singh*** (*supra*), the Hon'ble Supreme Court has held as under:

> "12. The position that emerges from the amended provisions of Order 23 can be summed up thus:
>
> xxx xxx xxx
>
> (iv) **A consent decree operates as an estoppel and is valid and binding unless it is set aside by the court which passed the consent decree**, by an order on an application under the proviso to Rule 3 Order 23.
>
> Therefore, the only remedy available to a party to a consent decree to avoid such consent decree, is to approach the court which recorded the compromise and made a decree in terms of



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> it, and establish that there was no compromise. In that event, the court which recorded the compromise will itself consider and decide the question as to whether there was a valid compromise or not. This is so because a consent decree is nothing but contract between parties superimposed with the seal of approval of the court. **The validity of a consent decree depends wholly on the validity of the agreement or compromise on which it is made.** ..."
>
> (Emphasis supplied)

24. In the present case, as noted above, the compromise was entered into by Ms. Raisina Bhatia voluntarily, was signed by her personally, was affirmed by her on oath before this Court, and was recorded by this Court after due satisfaction. In such circumstances, this Court is of the considered opinion that the applicant has no right to contest the compromise decree. The applicant has not claimed any right independent of Ms. Raisina Bhatia, and claims only as one of her legal heirs, being her daughter-in-law. It is the claim of the applicant that Ms. Raisina Bhatia was living with her till her demise. Even if this is presumed to be true, the fact that Ms. Raisina Bhatia was living with the applicant till her demise would not confer upon the applicant any right to claim the property or to challenge the settlement, when Ms. Raisina Bhatia had herself appeared before this Court and entered into a voluntary compromise, which was recorded by this Court. A legal heir steps into the shoes of the deceased, and cannot claim any right better than the one which the deceased herself possessed. In this regard, the Hon'ble Supreme Court in ***Imdad Ali v. Keshav Chand*** (*supra*) has held as under:



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> "14. ……A successor-in-interest of a tenant holds his tenancy right subject to rights and obligations of his predecessor. He does not and cannot claim a higher right than his predecessor. **It is now well-settled that a person by reason of inheritance or assignment does not derive any better title than his predecessor**, and, thus, the right which the original tenant did not possess cannot be passed on to his successor."
>
> (Emphasis added)

25. This Court also finds that the averments of the applicant that Ms. Raisina Bhatia neither contested any case nor gave any *vakalatnama* or Special Power of Attorney, and that the compromise decree was obtained on the basis of a forged or non-existent General or Special Power of Attorney in favour of Ms. Veena Suneja or Ms. Sunita Suneja, are unmerited. It is material to note that the compromise was not recorded on the basis of any power of attorney; it was signed by Ms. Raisina Bhatia herself and was affirmed by her personally before this Court. The General Power of Attorney and the Special Power of Attorney referred to in clauses (vii) and (viii) of the compromise application were instruments executed by Ms. Raisina Bhatia herself in favour of the nominee of the plaintiffs, as part of the settlement, to facilitate the execution and registration of the sale deed and the mutation of the property, and a copy of the General Power of Attorney was annexed to the joint application itself. These instruments were thus a consequence of the compromise, and not its foundation. Further, the present application filed by the applicant does not disclose any particulars of the alleged fraud. It is settled law that a plea of fraud must be pleaded with full particulars, and general



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allegations, however strongly worded, do not amount to an averment of fraud [Ref: ***Bishundeo Narain v. Seogeni Rai***: *AIR 1951 SC 280*]. While there can be no quarrel with the proposition laid down in ***A.V. Papayya Sastry*** (*supra*) that a decree obtained by playing fraud on the Court is a nullity, the said principle can come to the aid of a litigant only when fraud is shown to exist. In the present case, the record of this Court itself belies the allegation of fraud.

26. Another important aspect of the matter is that none of the legal heirs of Ms. Raisina Bhatia have ever challenged the settlement. Ms. Raisina Bhatia herself never challenged the settlement during her lifetime, though she lived for nearly nine years after the passing of the decree. Her son, Sh. Sanjay Bhatia, who was the husband of the applicant, lived for more than fourteen years after the decree, i.e., till 31.12.2016, and he too never challenged the same. None of the other legal heirs of Ms. Raisina Bhatia have challenged the settlement either. In these circumstances, the applicant, who is the daughter-in-law of Ms. Raisina Bhatia, cannot be permitted to challenge the settlement now, after about 24 years, when her own husband, who was the son of Ms. Raisina Bhatia, never chose to challenge it.

27. A similar situation arose before the Hon'ble Supreme Court in ***Manjunath Tirakappa Malagi v. Gurusiddappa Tirakappa Malagi***: *2025 INSC 517*, wherein the sons of a party to a consent decree had sought to assail the same. Rejecting the challenge, the Hon'ble Supreme Court observed that the father of the appellants, who was



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the party to the consent decree, never did so, and rather admitted the consent decree and never questioned its validity. It was further observed that if the father had no grievance against the consent decree, how could the appellants therein be allowed to challenge the same at a later stage. The said observations apply with full force to the present case. For reference, the relevant observations are extracted hereunder:

> "12. ……Thus, even if we accept the contention of the appellants that their father was coerced by his brothers and father (appellants' grandfather) to enter into a compromise, which led to the passing of the consent decree, a fresh suit is still not a valid remedy. In that situation, the appellants' father should have 9 filed a recall application before the Court that had passed the decree. The appellants' father has never done so! Moreover, he had admitted the consent decree and never questioned its validity.
>
> 13. Additionally, the appellants' argument that the suit property is not a joint family property but was purchased by their grandmother in the name of the appellants' father and that he is now trying to deprive the appellants from the suit property as their relations have turned sour, is of no help to them. This is because if the appellants' grandmother had purchased the suit property in the name of the appellants' father, and it is not a part of the ancestral property then in that case it would be the property of the appellants' father as of now, since he is alive, and he is at full liberty to dispose of the same as per his wishes. Be that as it may, if the father of the appellants has no grievance against the consent decree, then we are unable to understand how the appellants can be allowed to challenge it."

28. Even otherwise, the right to apply, if any, to set aside the compromise accrued to Ms. Raisina Bhatia on 20.09.2002 itself, when she was present before this Court with full knowledge of the compromise and the decree. The period of three years prescribed



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under Article 137 of the Limitation Act, 1963 began to run against her from that date. The expression 'applicant' under Section 2(a) of the Limitation Act, 1963 includes "any person from or through whom an applicant derives his right to apply", and Section 9 thereof provides that once time has begun to run, no subsequent disability or inability to make an application stops it. Thus, succession does not furnish a fresh starting point of limitation to the applicant. Nor can the applicant take the benefit of Section 17 of the Limitation Act, 1963, since Ms. Raisina Bhatia was herself the author of the compromise, and there was no fraud which was concealed from her and which was required to be discovered. It is also not without significance that the entire sale consideration of Rs. 3.60 crores received by Ms. Raisina Bhatia has neither been refunded nor offered to be refunded; the applicant cannot be permitted to approbate and reprobate, by retaining the benefit of the compromise on the one hand and seeking to avoid it on the other [Ref: ***R.N. Gosain v. Yashpal Dhir****: (1992) 4 SCC 683*].

29. The learned counsel appearing for the applicant has also placed reliance on the decision of the Hon'ble Supreme Court in ***Krishna Kumar Ojha v. Jitendra Chaudhary*** (*supra*), to contend that a compromise decree can be reopened even after a lapse of several decades. However, this Court is of the opinion that the said decision is of no help to the applicant. In that case, the compromise in a partition suit had not been signed by the party concerned (defendant no. 5), whose consent had been recorded only through his counsel,



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without any express authorisation, and his legal heirs had alleged that the decree had been obtained by fraud and without his consent. The Hon'ble Supreme Court held that, in the absence of the signature of the party and of any express authority in favour of his counsel, the voluntary consent mandated by Order XXIII Rule 3 of CPC was not established and the compromise was contrary to law; and it was in those peculiar facts that the delay of about 25 years was not permitted to defeat the challenge. The Hon'ble Supreme Court itself observed that "It is not in all cases that such large delay can be set aside." *In the present case*, no such ground can be seen. Ms. Raisina Bhatia had herself signed the compromise, sworn an affidavit in support thereof, personally appeared before this Court, made a statement on oath, and received the sale consideration before this Court. There is neither any absence of consent, nor any want of authority, nor any material even remotely suggesting fraud. Therefore, the said decision cannot be pressed into service to reopen a compromise decree after about 24 years.

30. The contention of the applicant that the compromise is unlawful being in the teeth of Section 44 of the TPA is also without merit. Section 44 of the TPA does not prohibit a co-owner from transferring his or her share in a dwelling house; its second paragraph merely provides that a transferee who is not a member of the family shall not be entitled to joint possession or common enjoyment of a dwelling house belonging to an undivided family, and relegates such a transferee to the remedy of partition. The provision is a shield in the



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hands of the other members of the family who have not parted with their share, to prevent the intrusion of a stranger into the family residence, as is also evident from the decision in ***Dorab Cawasji Warden*** (*supra*), wherein the suit had been filed by the non-transferring co-owner. Such a protection cannot be invoked by the transferor herself, who has voluntarily delivered possession after receiving the entire sale consideration, or by those claiming through her. Ms. Raisina Bhatia had herself delivered possession of the suit premises to the plaintiffs in the Court. Further, as per the plaint, she was in actual and exclusive possession of a distinct portion of about 1540 sq. yds. of the suit property, other portions being in the occupation of tenants. This Court, in its judgment dated 29.07.2024, has also found that an independent bungalow was in her possession and that there was no common occupation. The applicant also has placed no material on record to show that she ever resided in the suit property, her own address, as well as the address of Ms. Raisina Bhatia as recorded in her death certificate filed by the applicant, being at C-9/9330, Vasant Kunj, New Delhi. The compromise, therefore, cannot be termed as void under Section 23 of the Indian Contract Act, 1872, or as 'unlawful' within the meaning of the Explanation to Order XXIII Rule 3 of CPC.

31. Similarly, the contention that the decree travels beyond prayer (c) of the plaint is also misconceived. Order XXIII Rule 3 of CPC itself mandates that the Court shall pass a decree in accordance with a lawful compromise "whether or not the subject-matter of the



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agreement, compromise or satisfaction is the same as the subject-matter of the suit". The principle that a Court cannot grant relief beyond the pleadings governs the adjudication of a contested suit, and not a decree founded on the agreement of the parties themselves. In any event, clause (v) of the compromise, which refers to delivery of possession "as agreed upon *vide* the terms of the agreement to sell dated 7th January, 1994", is to be read along with clause (vi), which refers to "the said portion", clause (ix), which requires the tenants, namely the Statesman and Play House School, to "attorn to the plaintiffs", and clause (x), which refers to "the portion of which the defendant has agreed to give physical and vacant possession". Read as a whole, the compromise provided for actual physical possession only of the portion in the occupation of Ms. Raisina Bhatia, and for attornment of the tenants in respect of the tenanted portions, which is entirely consistent with prayer (c) of the plaint. The decisions in ***Kiran Singh*** (supra) and ***Dhurandhar Prasad Singh*** (supra) deal with decrees suffering from an inherent lack of jurisdiction, which is not the case here.

32. This Court is also of the view that the reliance placed by the applicant on ***Geeta Bai v. K. Arjun Singh*** (*supra*) is also misplaced. In that case, a compromise decree had been passed in a suit for partition of coparcenary property without impleading a daughter who had an independent share in the property and was a necessary party, and it was in those circumstances that the decree passed behind her back and that of her legal heirs was held to be a nullity. In the present



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case, the suit was one for specific performance of an agreement to sell executed by Ms. Raisina Bhatia in respect of her own share; she was herself the defendant, she contested the suit and thereafter compromised it, and the applicant claims only through her. The decree was, therefore, not passed behind the back of the person through whom the applicant claims. It is also well settled that in a suit for specific performance of a contract for sale, the necessary parties are the parties to the contract or their legal representatives [Ref: ***Kasturi v. Iyyamperumal****: (2005) 6 SCC 733*].

33. In view of the foregoing discussion, since no right as claimed by the applicant has accrued in her favour, the applicant can neither seek impleadment nor challenge the compromise decree in the execution proceedings on the ground that the decree is null, void and *non est*. Even otherwise, the present suit stood disposed of by the decree dated 20.09.2002, and there is no pending *lis* in the suit in which the applicant can be impleaded. As regards the objections under Section 47 of CPC, it is noted that the applicant has also filed EX.APPL.(OS) 578/2026 and EX.APPL.(OS) 579/2026 in EX.P. 399/2014, which are pending before the learned Executing Court. The contentions regarding service upon the legal representatives of the judgment debtor, the order dated 16.02.2024 condoning the delay in re-filing the execution petition, and the alleged bar of limitation under Article 136 of the Limitation Act, 1963, pertain to the execution of the decree and do not touch upon its validity, and are matters for the learned Executing Court. However, it is well settled



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that a Court executing a decree cannot go behind the decree, and "between the parties or their representatives it must take the decree according to its tenor" [Ref: ***Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman****: (1970) 1 SCC 670*]. Since this Court, being the Court which recorded the compromise, has found the compromise to be lawful and the decree to be valid and binding, the plea that the decree is null and void cannot be re-agitated by the applicant under the garb of objections under Section 47 of CPC. Consequently, the prayer for stay of further proceedings in EX.P. 399/2014 also does not survive.

**CONCLUSION**

34. To conclude, Ms. Raisina Bhatia had herself appeared before this Court, made a statement on oath, received the sale consideration before this Court and delivered possession of the suit property, and the compromise decree dated 20.09.2002 was passed after the learned Judge recorded his satisfaction that the settlement was bona fide and lawful. The applicant, who claims only as a legal heir of Ms. Raisina Bhatia, cannot claim any right better than her. Neither Ms. Raisina Bhatia during her lifetime, nor her son, i.e., the husband of the applicant, nor any of her other legal heirs, ever challenged the settlement, and the applicant cannot be permitted to do so after about 24 years. The decision in ***Krishna Kumar Ojha*** (*supra*) does not come to the aid of the applicant, and her other contentions are also devoid of merit.



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35. In view of the above, the present application stands **dismissed**.

36. It is, however, clarified that EX.APPL.(OS) 578/2026 and EX.APPL.(OS) 579/2026, pending in EX.P. 399/2014, shall be considered by the learned Executing Court in accordance with law, in light of the findings returned hereinabove insofar as the validity of the compromise decree dated 20.09.2002 is concerned.

37. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**OCTOBER 27, 2026/zp**
*TS*



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