

Cr Rev / 35/2025

Rakesh Kumar Singla Anr Vs. Ramona Gomes

24.05.2025

Present: Sh. R.R. Sarwal, Ld. Counsel for revisionist.

Sh. Ramesh Kumar, Ld. Counsel for respondent no.1
and 2 along with respondent no.1 and 2.

TCR received.

Ld. Counsel for revisionist submits that the ingredients of cheating U/s 420 IPC (new section 318 (4) of BNS) are satisfied in the present case. He further submits that the Sale Deed which was entered into between the appellant and the respondent i.e. dated 06.10.2023, at para no.4 clearly mentions that *the vendor has delivered the peaceful physical vacant possession of the above-mentioned property under sale along with all its rights of ownership and also delivered all the previous documents of the above said property to the vendees at the time of execution and registration of Sale Deed*. Even after the said clause, peaceful physical vacant possession of one room at the ground floor has not been handed over to the revisionist. He further submits that at the time of registration of the Sale Deed, it was an understanding between the parties that one room on the ground floor wherein some articles of the respondent were lying, shall be handed over later but the peaceful physical vacant possession of the said room, still has not been received till date despite taking the entire consideration amount which was due towards the Sale Deed. He further submits that there was clear intention to deceive right from the beginning as the respondent never intended to hand over peaceful physical vacant possession of the room. Therefore, the ingredients of cheating are satisfied in this case. He further submits

that although the civil suit for Injunction, Possession and Mesne Profits is pending in the court of Ld. DJ, he has the remedy under criminal law also which is independent of the civil suit which revisionist is pursuing.

Ld. Counsel for respondent submits that his first argument is that the Ld. Counsel for revisionist has not pointed out any discrepancy in the impugned order which in fact is a detailed and reasoned order. It is further submitted that Ld. Counsel for revisionist has also not pointed out any illegality and perversity in the said order and as per the submission, the impugned order has been passed after considering the legal position, document and all the materials available on record. He further submits that the matter is pending in Ld. Civil Court which is already ceased with the matter. It is further submitted that filing of the criminal complaint on the same set of facts, is nothing but the strategy to arm twist the respondent. He further submits that there is proper registered Sale Deed on record wherein it is clearly mentioned that peaceful physical vacant possession of the property has already been given and if the same has not been given, the remedy lies before the Ld. Civil Court which the revisionist is pursuing. He further submits that whatsoever issues related to the Sale Deed be it Sale Consideration, Possession or any other ancillary issues, are to be decided by the Ld. Civil Court and the instant Court is not a proper forum.

Put up for orders on 26.05.2025.

(ASHISH RASTOGI)
ASJ-05/East District
Karkardooma Courts
Delhi /24.05.2025