

(Equivalent Citation:- 2012(128) DRJ 545, 2012(2) ILR(Del) 467, 2012(2) AD(Delhi) 97)

187 (2012) Delhi Law Times 164

Delhi High Court

Valmiki J. Mehta, J.

P.E. LYALL—Appellant

versus

BALWANT SINGH—Respondent

RFA No. 35/2002 and RFA No. 197 of 2002—Decided on 3.1.2012

(i) Benami Ownership of Property — Ingredients — Discussed.

[\[Para 8\]](#)

Case referred:

Jaydayal Poddar v. Smt. Bibi Hazara and Ors., AIR 1974 SC [\[Para 8\]](#)
171. (Relied)

(ii) Benami Transactions (Prohibition) Act, 1988 — Section 4(2) — Suit for possession and injunction — Benami ownership of property — Permissibility to raise defence — Defence of Benami taken after passing of Act will not be allowed by virtue of Section 4(2) of Act — Act will not apply when suit has already been filed before passing of Act taking up the plea that property was held as Benami — Appellant tried to show that respondent had no earnings and was of a very young age having just taken employment, though, on this very basis it cannot be said that automatically property will become Benami inasmuch as it is possible that father can be said to have gifted monies to respondent and therefore property was purchased in the name of respondent — Once the plea of bar of defence of Benami was raised by respondent, Trial Court ought to have, instead of deciding issue on merits, disposed of suit on account of bar to taking of defence in written statement of the property Benami in view of Section 4(2) of Act — Decrees for possession and injunction in favour of respondent sustained.

[\[Paras 7, 8, 9, 10\]](#)

Cases referred:

1. *Mithilesh Kumari & Anr. v. Prem Behari Khare*, AIR 1989 SC [\[Para 5\]](#)
1247. (Referred)

2. *R. Rajagopal Reddy v. P. Chandrasekharan*, II (1996) CLT 241 [\[Para 5\]](#)
(SC). (Relied)

3. *Jaydayal Poddar v. Smt. Bibi Hazara and Ors.*, AIR 1974 SC [\[Para 8\]](#)
171. (Relied)

Result : Appeal dismissed.

Counsel for the Parties:

For the Appellant : *Ms. Richa Kapoor, Advocate.*

For the Respondent : *Mr. R.M. Sinha, Advocate.*