



2026:DHC:4774-DB



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

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Judgment Reserved on: 12.05.2026

Judgment pronounced on: 29.05.2026

Judgment uploaded on: As per digital signature~

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**FAO (COMM) 137/2026 CM APPL. 31934/2026 CM  
APPL. 31935/2026 CM APPL. 31936/2026**

M/S ILD HOUSING PROJECTS PRIVATE LIMITED  
FORMERLY KNOWN AS INTERNATIONAL LAND  
DEVELOPERS PRIVATE LIMITED

..... Appellant

Versus

ACRES BUILDWELL PRIVATE LIMITED

..... Respondent

**Advocates who appeared in this case**

For the Appellant : Mr. Mohit Arora and Mr. Paras Arora  
Advocates

For the Respondent : Mr. Arav Kapoor, Mr. Nitin Saluja,  
Mr. Mayank Agarwal, Ms. Pranya  
Madan and Mr. Prateek Advocates

**CORAM:**

**HON'BLE MR. JUSTICE DINESH MEHTA**

**HON'BLE MR. JUSTICE VINOD KUMAR**

**JUDGMENT**

**REPORTABLE**

**Per VINOD KUMAR, J.**

1. The present first appeal under Section 13 of the Commercial Courts Act, 2015 read with Order XLIII Rule 1(r)



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of the Code Of Civil Procedure, 1908 (in short “CPC”) is directed against order dated 30.04.2026 passed by learned District Judge, Commercial Court-02, District South, Saket (in short “District Judge”) in CS (COMM) 460/2025.

2. For better comprehension and for the sake of convenience, the respondent would be referred as ‘Plaintiff’ and appellant would also be referred to as ‘Defendant’.

3. Before coming to the submissions of parties, it would be appropriate to briefly state the pleadings before the trial court.

## **PLAINT**

4. As per the pleadings of the plaint, the respondent-plaintiff filed a suit against the appellant-defendant stating that plaintiff is a reputed construction company doing the business of executing civil, contractual and finishing work for prominent developers/builders and government projects. The defendant is engaged in the business of real estate development undertaking numerous residential and commercial projects. The defendant issued a Letter of Intent dated May 14, 2024 in favour of plaintiff awarding the work of completion of civil works of towers at Village Dhunella, Sector-33, Sohna District, Gurugram. It is averred in para 8 and 9 of the plaint that the plaintiff immediately upon issuance of Letter of Intent undertook substantial mobilization at defendant’s project site. In order to execute the assigned civil and structural work of the towers A, B, C and D, the plaintiff arranged, mobilized and



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deployed a wide range of machinery, scaffolding, shuttering, tower hoists, bar cutting machines, monkey lifts, material trolleys, cement mixers, diesel generators and allied equipment essential for high-rise construction from reputed suppliers such as Deasons Traders (scaffolding and shuttering materials), Rohit Engineering Works (Monkey Crane, trolley/lifting machinery), AS Engineering Company (Tower hoists/Material hoist), C-MAC (Passenger Hoist), ACE (Tower Crane Model No.5034), RRA enterprises (Bar cutting, Bar bending and ring making machine), and Ayaan Power Tools (grinder and Hilti hammer machines), amongst others.

5. It was averred in para 10 of the plaint that equipments and materials mobilized by plaintiff were partly owned by plaintiff and partly hired on a monthly rental basis from reputed suppliers. Further the plaintiff procured large quantities of cement shuttering wood, PPGI sheets, MS plates, steel channels and consumables from various vendors.

6. The case of the plaintiff that the terms governing engagement of plaintiff by defendant were crystallized in Letter of Intent dated 14.05.2024 issued by defendant in favour of plaintiff. It provided that the plaintiff would execute civil and contractual works in Towers A, B, C, D and the defendant's project. The Letter of Intent expressly stipulated the mode and timeline of payment, process and certification of Running Account (RA) Bills by Engineer-in-charge/Project Manager Consultant. In para 15 of the plaint, it is averred that



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despite certification of RA bills, the defendant not only withheld the certified payment due under RA-8 (the final bill) but also refused to release the machinery and material belonging to the plaintiff at the site. Accordingly, the plaintiff prayed for recovery of Rs.1,44,54,021.99 being certified dues under RA-8 (final bill), and other rentals more specifically prescribed in prayer clauses along with the interest. The plaintiff also prayed for a mandatory injunction directing the defendant to deliver and handover to the plaintiff the possession of all the machinery, plant, equipments etc. as well as the material as mentioned in the plaint.

#### **AVERMENTS IN WRITTEN STATEMENT**

7. In written statement, the defendant admitted issuing of Letter of Intent dated 14.05.2024 and admitted that the contractual relations between the plaintiff and the defendant were governed by aforesaid Letter of Intent but alleged chronic manpower shortage, failure to own commitments, execution of barely 13 to 15 percent contracted work and inability of the plaintiff to maintain work and construction schedules etc. The defendant averred that these machineries were left behind by the plaintiff upon abandoning of work and the same were retained only with a view to secure the recovery of excess advance made by plaintiff. It was averred that owing to continuous non performance and slow progress, the scope and value of work was drastically reduced, rendering a significant portion of mobilization advance excess and recoverable. It was



further averred that plaintiff had deliberately avoided reconciliation of accounts. However defendant denied having obstructed the plaintiff from removing his machinery. In para 32 of reply on merits, it was stated that the plaintiff had executed only 13 percent of the contractual work from June 2024 to June 2025 and RA-1 to RA-7 were fully PMC certified and were paid in entirety (Rs.2,44,75,000/-) against certified amount of Rs.3,00,10,782/-. It was further averred that RA-8 stood certified at Rs.1,21,35,157.18 and that no certified amount remains unpaid. Accordingly, the defendant prayed for dismissal of suit.

### **APPOINTMENT OF RECEIVER**

8. Vide order dated 29.11.2025, learned District Judge on the request of the plaintiff appointed a Receiver to visit the site of project and prepare an inventory of machinery belonging to the plaintiff available at the project site and seal them with a view to protect them.

### **THE IMPUGNED JUDGMENT/ ORDER**

9. Learned District Judge passed impugned order on an application of the plaintiff filed under Order XII Rule 6 read with Order XXXIX Rule 1 and 2, Order XXXIX Rule 10, Order XXVI Rule 9 read with Section 75 and Section 151 of CPC seeking directions for return and demobilization of plaintiff's machinery and material. After hearing the arguments learned District judge took note of the averments in para 10 of



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the written statement wherein it was mentioned that “*defendant has never refused to return machinery or obstructed the plaintiff from removing its equipments from the project site*”. This averment was succeeded by the words “*demobilization of machinery could be carried out in an ordinary manner after conciliation and settlement of account particularly in view of the excess mobilization advanced paid to the plaintiff and the amount recoverable therefrom.*” Learned District Judge duly considered the plea of the defendant that the aforesaid averments should not be termed as admission by the defendant rather the aforesaid statement was a qualified statement which means that the defendant would release the said machinery after settlement of accounts. Learned District Judge noted that there is admission by the defendant that the machinery mobilized by the plaintiff was on project site and there was no dispute on this fact. That being the status, learned District Judge asked the defendant as to whether the defendant would be willing to pay the rental of the machinery lying at the project site under their possession. This question was put in light of the situation that the plaintiff was incurring the rentals for the said machinery without being put to any use by the plaintiff. In para 22 of the impugned judgment learned District Judge noted that the Counsel for the defendant refused to accept this offer. In such situation learned District Judge deemed it fit to decree the suit partly under Order XII Rule 6 CPC directing delivery of machinery and equipments to the plaintiff.



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10. Thereafter in exercise of her powers under Order XXXIX Rule 10 CPC, learned District Judge passed directions to the Local Commissioner to de-seal the machinery lying at the project site and handover the same to the plaintiff.

### **SUBMISSIONS OF THE PARTIES IN THE PRESENT APPEAL**

11. Aggrieved by said part decree under Order XII Rule 6 and directions under order XXXIX Rule 10 CPC vide impugned judgment/order, the present appeal has been filed by the defendant. The challenge is on two grounds; (i) the admission in Written Statement in respect of machineries is not straight rather it is qualified and therefore, a judgment under Order XII Rule 6 CPC should not have been passed (ii) once a judgment under Order XII Rule 6 CPC is passed, it is required that proper decree should have been drawn. Only thereafter the order of delivery of machinery could have been executed provided Decree Holder files an execution petition praying for the execution of the part decree. It is argued that learned District Judge has practically ordered execution of its own decree by taking recourse to Order XXXIX Rule 10 CPC and usurped the execution powers, which only an Executing Court was entitled to exercise.

12. On the contrary, learned Counsel for respondent-plaintiff argued that there is no dispute that machinery belongs to the plaintiff and no contractual authority is accorded to the appellant-defendant to withhold the machinery in any of the



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terms and conditions of the Letter of Intent. Further, the plaintiff was incurring huge losses in terms of rentals because of withholding of the machineries by the defendant and that is the reason learned District Judge put a proposal to the defendant as to whether they were ready to pay the rentals of the machineries. This proposal was declined by the defendant without any justified reason.

13. It is argued by learned Counsel for the respondent-plaintiff that in para 23 of the impugned order, learned District Judge has noted that it is not in dispute that machineries/equipments belong to the plaintiff. The plaintiff had placed on record the bills of these machineries/equipments. The defendant has nowhere stated that machineries/equipments do not belong to the plaintiff and has also not denied that the documents had been placed along with the suit. Learned District Judge noted that machinery/equipments are subject to depreciation and decay and keeping them lying under seal and custody of court will not serve anybody's purpose. It is argued that in light of this observation, learned District Judge proceeded to direct the delivery of the machinery/equipments to the plaintiff in exercise of her powers under Order XXXIX Rule 10 CPC. Regarding the scope of order under Order XXXIX Rule 10 CPC, learned Counsel for the respondent-plaintiff had drawn our attention to para 13 and 14 of the impugned judgment-order which discusses the power



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of court to deliver a thing which a party admits belong to the another party.

## **ANALYSIS AND OUR VIEW**

14. We have considered the submissions of the parties. The first part of the challenge is to the judgment passed under Order 12 Rule 6 CPC. Argument of appellant-defendant is that the averments in Written Statement regarding withholding of machinery are conditional and therefore the trial court erred in passing a decree under Order XII Rule 6 CPC. This issue was raised before the learned District Judge, who dealt with it appropriately by referring to the admission of defendant in Written Statement. More specifically in para 12 on merits, where defendant writes *“at no point did defendant refused return of machinery – the defendant only sought reconciliation and adjustment of account in accordance with the contract”*. Learned District Judge took note of the reply in para 20 of Written Statement where defendant writes *“that it was denied that defendant ever refused access to plaintiff for mobilization or removal of its property”*. For our satisfaction we have perused the trial court record to find out as to what are the admissions of the defendant-appellant in written statement. Perusal of the plaint and written statement discloses following admissions:



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- (i) The obligations between the parties in respect of the work at the project site are governed by Letter of Intent dated 14.05.2024.
- (ii) Pursuant to the aforesaid Letter of Intent, the plaintiff mobilized machineries/equipments at the project site.
- (iii) Letter of Intent does not authorize the defendant to withhold the machinery till finalization of any dispute regarding the contract.
- (iv) Though there is dispute about the RA-8 bill, there is no dispute as to whom the machineries/equipments belong. Needless to say, the same belong to the plaintiff. Therefore, the admission is clear and unambiguous and the same cannot be termed as conditional.

15. In view of the aforesaid clear and unambiguous admissions, there remains no doubt that the plaintiff is entitled to release his machinery and therefore in exercise of power under Order XII Rule 6 CPC, the Trial court rightly partly decreed the prayer made in the plaint for issuing mandatory injunction for release of the machineries/equipments. Needless to say, the monetary claims including the claim for RA-8 bill would remain subject matter of the trial. Therefore, we find no infirmity in the impugned judgment passing a part decree under Order XII Rule 6 CPC on the basis of admissions.



16. Now we take up the issue as to whether learned District Judge was empowered to order delivery of the machines/equipments under Order XXXIX Rule 10 CPC or not. In other words, the issue is whether the Trial Court should have first prepared the decree and thereafter the plaintiff should have filed execution petition for getting the machinery released and only then the trial court should have issued direction for release of machinery/equipments. The answer to this question lies in the language of Order XXXIX Rule 10 CPC itself. The same is reproduced as under:

*“10. Deposit of money, etc., in Court. – Where the subject-matter of a suit is money or some other thing capable of delivery and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court.”*

17. Learned District Judge specifically quoted this provision to hold that the court had power to pass an order of delivery of machinery/equipments in this case to the plaintiff. The reason for passing such a direction has been dealt with by the learned District Judge in para 22 of the impugned judgment/order, which is reproduced as under:

*“22. During the course of argument the Court asked Ld. Counsel for defendant if the defendant would be willing to pay the rental of the machinery lying at his premises as the plaintiff cannot be made to pay the rental for the machinery which continues to be lying in the property of defendant and is not being used by the plaintiff. Ld. Counsel for the defendant stated that defendant cannot be*



*made to pay the rental as it has to recover money from the plaintiff.*

*The defendant thus wants to hold on the machinery/equipment but not pay the rental and is trying to compel the plaintiff to keep paying the rental while the machinery/equipment remains lying at the premises of defendant with neither party actually using them. It is thus a clearly loss loss situation for both the parties. I am unable to understand as why the defendant would insist on keeping the rented machinery which it is not using and which cannot be sold by plaintiff or defendant for recovery of any money from either side, it being the property of a third party. The machinery/equipment which the plaintiff has taken on rent and with respect to which the plaintiff has placed the documents on record, can thus not be allowed to be retained by the defendant under any circumstance, whatsoever.”*

18. While fully agreeing with the aforesaid view of the trial court, we would like to elaborate on the scope of power of a civil court under Order XXXIX Rule 10 CPC. Indisputably it is not a case of bailment under Indian Contract Act, 1872. Here we would like to refer to a judgment of Division Bench of our own High Court, namely, **Nokia Technologies OY vs. Guangdong Oppo Mobile Telecommunications Corp. Ltd. and Ors. MANU/DE/4140/2023 (a judgment dated 03.07.2023)**, in which the Division Bench was considering as to whether the test applicable for passing a judgment under Order XII Rule 6 CPC can be imported into Order XXXIX Rule 10 CPC. The relevant paras of the judgment are reproduced as under:

*“64. This Court is of the view that the impugned judgment incorrectly holds that the scope of Nokia's application under Order XXXIX Rule 10 is narrower than under Order XII Rule 6 CPC.*



65. This is because Order XII CPC deals with "Admissions" whereas Order XXXIX CPC deals with "Temporary Injunctions and Interlocutory Orders". The language of Order XII Rule 6 CPC requires an "admission of fact", whereas Order XXXIX Rule 10 CPC only requires a party to admit that money is due to other party. Further, the Court is entitled under Order XII Rule 6 CPC to pass a judgment on admission as the Legislature itself conceptualized Order XII Rule 6 CPC to be applicable on an admission "of fact" where no further trial is required by the court to deliver its judgment, whereas the Court is entitled under Order XXXIX Rule 10 CPC to pass interim orders.

66. The said admission though sufficient for an interim deposit order under Order XXXIX Rule 10 CPC, is further subject to the outcome of trial. Thus, as Order XXXIX Rule 10 CPC has been enacted for passing interim orders pending the final outcome of the suit only, the threshold for admissions necessarily has to be different than that under Order XII Rule 6 CPC.

67. Had the scope been narrower, or even identical, then the Legislature in its wisdom, would not have enacted two separate provisions of law to cater to two different situations.

68. The Division Bench of the High Court of Bombay in *Rajul Manoj Shah vs. Navin Umarshi Shah (supra)* has rightly held that the threshold of admission required for applicability of the two provisions is different and applying a strict standard of Order XII Rule 6 CPC would make the existence of Order XXXIX Rule 10 CPC otiose. This Court is also in agreement with the view of the Bombay High Court in *Rajul Manoj Shah vs. Navin Umarshi Shah (supra)* to the extent it disagrees with the ratio of the judgment of the learned Single Judge of this Court in *Harish Ramchandani vs. Manu Ramchandani (supra)* and holds that the test applicable for passing a judgment on admission under Order XII Rule 6 cannot be imported in Order XXXIX Rule 10 CPC which empowers the Court to pass an interim order. The relevant portion of the judgment in *Rajul Manoj Shah (supra)* is reproduced hereinbelow:-

22. .... The power under Rule 10 of Order XXXIX



is a power to pass an interim order pending suit. But the power under Rule 6 of Order XII is a drastic power of passing a decree on admission without conducting trial. The standards applicable to a provision conferring power to pass a decree on admission cannot be applied to Rule 10 of Order XXXIX which empowers the Court to pass an interim order. Therefore, in our view, the test applicable for passing the judgment on admission under Rule 6 of Order XII of the said Code cannot be imported in Rule 10 of Order XXXIX...

69. This Court is further of the opinion that the judgment of the Supreme Court in *Karan Kapoor v. Madhuri Kumar (supra)* does not hold that the test of Order XII Rule 6 CPC has to be applied while deciding an application under Order XXXIX Rule 10 CPC.

.....

70. ....

71. ....

72. ....

In any event, court can exercise powers under Section 151 CPC read with Order XII Rule 6 or Order XXXIX Rule 10 CPC may not be applicable for purpose of doing justice.

73. In any event, this Court is of the view that in exercise of its inherent power under Section 151 CPC as an interim measure, it can pass a pro-tem order for balancing the equities with a view to aid a party.

74. ....

75. ....

76. A learned Single Judge of this Court in *Sanjay Gupta vs. Cottage Industries Exposition Ltd., MANU/DE/0044/2008* quoted with approval the decision in *Surjit Singh vs. H.N. Pahilaj, MANU/DE/1189/1996*, wherein it was held that every Court is constituted for the purpose of doing justice according to law and must be



*deemed to possess by virtue of Section 151 CPC, as a necessary corollary and as inherent in its very constitution, all such powers as may be necessary to do the right and to undo a wrong in the course of the administration of justice. In the said case, it was further held that in appropriate cases, the Court can exercise powers under Section 151 CPC where Order XII Rule 6 or Order XXXIX Rule 10 CPC may not be applicable for the purpose of doing justice or to prevent abuse of the process of the Court.*

*77. A Division Bench of the High Court of Bombay (Nagpur) in Chandrakant Shankarrao Deshmukh vs. Haribhau Tukaramji Kathane & Ors., MANU/MH/0519/1982 has also held that whereas the principle and provisions of Section 151 CPC can be exercised and utilised in aid and in furtherance of the provisions expressly made in the CPC, they cannot be employed as against the said provisions.*

*78. Consequently, a combined result of Section 151, Order XII Rule 6, Order XXXIX Rule 10 CPC is that the Courts have the power to pass orders for deposit of money pending decision in a suit, if the facts so warrant. Section 151 CPC can be called in aid to cover cases which are analogous to these principles but may not be directly covered by the express words in the Code.”*

19. The perusal of the aforesaid judgment would show that Order XII Rule 6 CPC and Order XXXIX Rule 10 CPC sometimes may be overlapping as both the provisions play on ‘admission’ but their applicability works in different domains. Order XXXIX deals with temporary injunction and interlocutory orders which may be passed during pendency of a suit. Therefore, if a suit is partly decreed and on remaining issues, the trial is pending, a civil court would have full power to exercise power under Order XXXIX Rule 10 CPC to direct delivery of a thing to the appropriate party. There may be situations where there is no part decree on admissions under



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Order XII Rule 6 CPC, still a civil court has power to deliver a thing to another party in the given conspectus of facts. As an example, we may envisage a situation in which there a dispute about the truck load of bananas withheld by a party. A civil court would be fully entitled to pass an order under Order XXXIX Rule 10 CPC to direct its delivery to a party lest such huge quantity of bananas gets rotten and becomes unsalable and unfit for human consumption. Similar is the situation here in which the machinery/equipments are lying at the project site since October 2025 giving no earning to the plaintiff and are of no benefit to the defendant and are also depreciating. Therefore, learned District Judge took a right decision by passing the order of release of the machineries/equipments to the plaintiff who either owned the same or arranged the same on rentals. In the present case, the machines and equipments were already in control of the court as the same had been seized by its order. This situation warranted that these machines and equipments should be released at the earliest to the entitled party.

20. To our mind, there may be situations which do not strictly fall under Order XXXIX Rule 10 CPC or Order XII Rule 6 CPC but if interest of justice demands, appropriate order for delivery of a property should be passed or an interim measure should be ordered. In **Nokia Technologies OY (Supra)**, the coordinate Bench of this Court clearly held that in such situation, the civil court is not powerless and in



appropriate cases it can pass a *pro tem* order for balancing the equities in exercising of its inherent powers under Section 151 CPC with a view to aid a party.

## CONCLUSION

21. The conclusion is that a direction under Order XXXIX Rule 10 CPC is not dependent upon passing a part decree under Order XII Rule 6 CPC. In the given facts of the present case, the trial court could have passed an order under Order XXXIX Rule 10 CPC for delivery of machines even without passing a part decree under Order XII Rule 6 CPC. Therefore, non preparation of a part decree under Order XII Rule 6 CPC and non filing of execution petition for executing the said decree are not the factors to be taken in account while considering validity of a direction passed under Order XXXIX Rule 10 CPC. When there is necessity or urgency, a civil court can order release of an article from one's custody to another's custody. Therefore, we find no substance in the argument that instead of passing a direction under Order XXXIX Rule 10 CPC, the court should have waited for the filing of an execution petition by the plaintiff.

22. We would like to add here that entire purpose of Order XXXIX CPC is to take care of the immediate needs, necessities and urgencies. These provisions cast a responsibility upon the civil courts to act with alacrity and rise to the occasion to protect the properties and proprietary rights



of the litigants. Yes, in anxiety to recover outstanding dues, sometimes a party may resort to the tactics of withholding the machinery of the other party, but such anxiety cannot be allowed to result in depletion of the value and condition of the property. It should not be forgotten that the vehicles, the machineries and equipments are national wealth. These may belong to an individual or a company but at the same time these are assets of the nation and society and keeping them in operation is necessary for national economy, societal needs and development projects. Similarly, the eatables and consumables including medicines and food items must be released as soon as possible, otherwise same would result in national wastage.

23. In conclusion, we hold as under:

(i) Though Order XII Rule 6 CPC as well as Order XXXIX Rule 10 CPC spring out from admission of a fact by a party, both work in different spheres.

(ii) A civil court can pass an order of delivery of a thing to another in cases covered under Order XXXIX Rule 10 CPC independent of any judgment/ decree under Order XII Rule 6 CPC.

(iii) At the time of passing an order of delivery of an article to a party under Order XXXIX Rule 10 CPC, the court can take measures for getting such order complied with, if so required in view of specific facts and



circumstances of the case considering the urgency or necessity.

(iv) There may be situations where a case may not fall within four corners of Order XXXIX Rule 10 CPC in the sense that there may not be any admission on the part of the opposite party. In such situation as held in **Nokia Technologies OY (Supra)**, the court is not powerless, rather it can use its power under Section 151 CPC and in exercise of its inherent powers, can pass appropriate directions or interim measures and can get it executed also without following the procedure under Order XXI CPC, like in the example of huge quantity of bananas cited above, which is likely to be wasted soon if immediate order is not passed.

(v) If the contract between the parties contains clauses of custody, control, seizure etc., of machinery etc., the court will give effect to the same as far as possible, but if there is no such clause or the clause is vague, the court can look into the facts and circumstances of the case and pass a best option order in interest of justice under Section 151 CPC ensuring that machinery is put to best use.

(vi) In suitable cases, the civil courts should seek security from the person to whom such delivery of article is being made.

(vii) If a vehicle, machinery is owned by one party and is hypothecated to another party, the court can pass an



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order of delivery to the owner or to the party to whom such vehicle is hypothecated and can take proper security from any of them to protect the interest of the owner or the party to whom such vehicle, machineries have been hypothecated.

(viii) Thus the scope of application of Order XXXIX Rule 10 CPC is broader than Order XII Rule 6 CPC. Further, the scope of inherent powers of the court under Section 151 CPC for delivery of an article during the pendency of a suit is further more wider than that under Order XXXIX Rule 10 CPC. However, these powers should be exercised with due caution and circumspection.

24. Accordingly, we are of the considered opinion that learned District Judge has judiciously exercised her powers under Order XXXIX Rule 10 CPC.

25. At this juncture, we would like to point out that the plaintiff had filed an omnibus application under Order XII Rule 6 CPC, Order XXXIX Rule 10 CPC and other provisions of CPC before the trial court. In our opinion, the plaintiff should have filed two separate applications, one application under Order XII Rule 6 CPC and the second application under Order XXXIX Rule 10 CPC. This could have enabled learned District Judge to pass the judgment on admission and part decree under Order XII Rule 6 CPC and a separate order under Order XXXIX Rule 10 CPC. The difference between



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‘judgment’ and ‘order’ is that a ‘judgment’ partly or finally determines the rights of parties whereas an ‘order’ is any other adjudication which is not a ‘decree’. We refer to Section 2(9) and (14) of CPC which define “judgment” and “order”. Learned District Judge has decided an application under Order XII Rule 6 CPC and application under Order XXXIX Rule 10 CPC under the heading “order”, which is not correct. At the cost of repetition, a ‘judgment’ and ‘decree’ is passed under Order XII Rule 6 CPC whereas a direction under Order XXXIX Rule 10 CPC would be termed as ‘order’. As learned District Judge has passed a judgment under Order XII Rule 6 CPC partly decreeing the suit, she shall draw a formal decree in accordance with Section 33 read with Order XX CPC.

26. Needless to say, we find no infirmity in the impugned judgment and order. The appeal is dismissed.

27. Pending applications are also disposed of.

**VINOD KUMAR, J**

**DINESH MEHTA, J**

**MAY 29, 2026**

*V/B*