



2025:DHC:8458



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

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Date of Decision: 22.09.2025

+ **CM(M) 1882/2025**

ANJU GUPTA

....Petitioner

Through: Mr. Shiv Charan and Mr. Imran
Khan, Advs.

versus

SMT. NEETA VARMANI & ORS.

....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. This matter has been received on transfer from the Roster Bench.

CM Appl. 60243/2025/Exemption]

2. Allowed, subject to just exceptions.

3. The Application stands disposed of.

CM(M) 1882/2025

4. The present Petition has been filed under Article 227 of the Constitution of India, 1950 of the seeking direction to the learned Trial Court to dispose of the Application under VII Rule 10 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"].

4.1 None appears for the Respondents despite advance service.

5. Learned Counsel for the Petitioner submits that a challenge has also been made to the order dated 15.07.2025 passed by the learned Trial Court, which lists that matter for Plaintiff's evidence on 23.09.2025 prior to a decision on maintainability. He submits that a suit for declaration,



permanent and mandatory injunction and for recovery of monies was filed by the Respondent/Plaintiff. He further submits that the Respondents/Plaintiffs did not correctly value the suit for each of these reliefs sought for in plaint.

5.1 Learned Counsel for the Petitioner further submits that on 17.04.2023, the Petitioner/Defendant had filed an Application under Order VII Rule 10 of the CPC [hereinafter referred to as “the Application”] setting out that the relief as sought in the suit, if properly calculated, would amount to be over Rs. 4.27 crores and thus, the plaint could not be entertained being barred by the pecuniary jurisdiction of the learned Trial Court.

5.2 Learned Counsel for the Petitioner seeks to rely upon paragraph 3 of the Application in this behalf which is set out below:

“3. That the total valuation of the suit is Rs. 4,27,50,260/- (Four Crore Twenty Seven Lacs, Fifty thousand, Two Hundred, Sixty Only). The details are mention as under:

A.	Relief of possession	Rs. 2,00,00,000/-
B.	Relief of Declaration	Rs. 28,50,000/-
C.	Relief of injunction	Rs. 260/-
D.	Relief of recovery	Rs. 1,99,00,000/-
	Total	Rs. 4,27,50,260/-”

5.3 Learned Counsel for the Petitioner submits that although this Application has been pending for two and a half years and a Reply has also been filed by the Respondent/Plaintiff, the Application has not been taken up for hearing and disposal by the learned Trial Court. He submits that leading of evidence in this matter would be an exercise in futility if the Court decides that the plaint is barred by the pecuniary jurisdiction of the



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Court.

6. The record reflects that the Application filed by the Petitioner/Defendant No. 3 was listed on 17.04.2023 and thereafter, the order dated 23.01.2024 records that the reply to the Application has already been filed. It is apposite to set out the orders dated 17.04.2023 and 23.01.2024 passed by the learned Trial Court below:

“Order dated 17.04.2023

Affidavit of plaintiff and one more witness is filed alongwith list of witness. The list was to be filed within 15 days from the date of settlement of issues and even in the list of witnesses the purpose of examination of the witness mentioned at Sr. No. 3, 6, 7 and 8 is not mentioned. Copy of the affidavits are supplied to the counsels appearing for the opposite parties.

The counsel for the defendants stated that the advance copy of the affidavits was not supplied to them despite directions. The counsel for the plaintiff stated that the witnesses did not contact for preparation of their affidavits so advance copy could not be supplied This is the second opportunity to the plaintiff for their evidence and considering the facts, last opportunity is granted to the plaintiff for evidence.

List of witness and application under Order 7 Rule 10 CPC is filed on behalf of defendant no. 3. Copy of the same is supplied. Counsel for the plaintiff wants to file the reply of the application. List of witness is beyond time.

Put up for reply and arguments on the application and PE on 12.09.2023.

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Order dated 23.01.2024

Fresh Vakalatnama filed on behalf of defendant no. 1. Same is taken on record.

Reply to the application under Order VII Rule 10 read with Section 151 CPC is filed. Copy supplied.

Put up with connected case on 25.04.2024.”

[Emphasis supplied]

6.1 Learned Counsel for the Petitioner has also taken the Court through the subsequent orders passed by the learned Trial Court as appearing in the paper book to submit that, the Application has not been listed for hearing



thereafter.

7. A perusal of the plaint reflects that a suit was filed for declaration, permanent and mandatory injunction and for recovery of Rs. 1.99 crore by the Respondents/Plaintiffs. Paragraph 2 of the plaint sets out that the Plaintiff is filing a suit for declaration of the gift deed as null and void as well as for possession, permanent and mandatory injunction or in alternative a money decree for Rs. 2,72,00,000/-. The plaint further sets out that although the Plaintiff is entitled to the sum of Rs. 2,70,00,000/- which is inclusive of principal and interest, however, the Plaintiff is reducing her claim to an amount of Rs. 1,99,00,000/- along with interest.

7.1 In addition, the plaint sets out that the value of the suit for the purposes of possession is Rs. 2 crore and for the declaration is Rs.28,50,000/- which is value of the gift deed. It is apposite to reproduce the relevant paragraphs of the plaint and prayers in the plaint below:

“2. That the plaintiff is filing the present civil suit for declaration of gift deed 14.10.2011 registered with Sub-Registrar, VI- A, with registration no. 14802, Book No. I, Vol No. 3761 on pages 69-77 registered on 14.10.2011 as null & void as well as for suit for possession, permanent and mandatory injunction or in alternative a money decree for Rs. 2,72,00,000/- (Rupee Two Crore Seventy Two Lacs Only) against all the defendants jointly and severally.

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22. That under these circumstances plaintiff has no other option but to file the present civil suit for declaration of gift deed dated 14.10.2011 registered with Sub-Registrar, VI-A, with registration No. 14802, Book No. I, Vol No. 3761 on pages 69-77 registered on 14.10.2011 as null and void and also for possession as the plaintiff is lawful owner of the suit property by virtue of sale deed dated 28.10.20014 and permanent and mandatory injunction restraining the defendants for creating further third party rights in the suit property and also for mesne profit @ Rs. 50.000/- per month which is the fair market rent prevailing at the time of filing the present suit, in alternative suit for recovery for sum of Rs. 2.70 Crore against all the defendants jointly and severally.



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26. That although Plaintiff is entitled of a some of Rs.2,70,00,000/-(Rupee Two Crore Seventy Lacs only) which includes principal Rs. 2 Crores plus interest over Rs.2 Crores from the 28/10/14 to till date however **plaintiff is reducing her claim to an amount of Rs. 1,99,00,000/-(Rupee One Crore Ninety Nine lacs only) and the Plaintiff also entitled for interest @ 18% interest per annum** from the date of filing of the suit till the date of realization.

27. That the value of the suit for the **purpose possession is Rs.2 Crore, value for the purpose of the declaration is Rs.28,50,000/-which is the value of the** Gift Deed dated 14.10.2011, for the **purpose of permanent and mandatory injunction the suit is valued at Rs.260/- and for the purpose of recovery of money the suit is valued Rs. 1,99,00,000/-(Rupee One Crore Ninety Nine lacs only)** and appropriate ad-valorem Court fees of has been paid on the present plaint.

Prayers

A. Pass **a decree of declaration declaring the Gift Deed dated 14.10.2011** registered with Sub-Registrar, VI-A, with registration No. 14802, Book No. I, Vol. No. 3761 on pages 69-77 registered on 14.10.2011 as null and void; and

B. **Pass a decree of possession with regard to property bearing No. F-148.** First Floor, Phase I, Ashok Vihar, New Delhi in favour of plaintiff and against the defendant no. 2 and 3; and,

C. **Decree of permanent and mandatory injunction thereby restraining** the defendants, their agents, successors etc. from creating any third party right, title and interest in the property No. F-148. First Floor, Phase I. Ashok Vihar, New Delhi; or in alternative;

D. **Pass money decree for a sum of Rs. 1.99 Crore** in favour of the plaintiff and against the defendants jointly as well as severally along with future and pendente lite interest @ 18% per annum from the daze of the institution of the suit till its realization.

E. To award the cost of the suit in favour of the plaintiff company and against the defendants.

F. Pass any other further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of this present case in favour of plaintiff.”

[Emphasis supplied]

8. It is no longer *res integra* that an issue *qua* jurisdiction or



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maintainability should be decided by the Court in the first instance. Given that the issue of valuation has been raised averring a lack of pecuniary jurisdiction of this Court by the Petitioner, it was incumbent upon the learned Trial Court to decide the Application first.

9. The Petition is accordingly allowed. The learned Trial Court is accordingly requested to, in the first instance, decide the Application under Order VII Rule 10 of the CPC filed by the Petitioner/Defendant No. 3.

10. It is clarified that this order is not to be construed as an opinion on the merits of the case. All rights and contentions of the parties are left open to be agitated before the learned Trial Court.

11. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 22, 2025/r