



2025:DHC:8094



\$-

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

**BEFORE**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

+ **CS(OS) 756/2024, I.A. 9301/2013, I.A. 23269/2015, I.A. 24444/2015**

**SMT. POONAM**

**W/O SH. SURJEET SINGH**

**D/O LATE SH. BRAHM PRAKASH**

**PRESENTLY RESIDING AT VILL. SIHI,**

**SECTOR-8, CHAUDHARY MOHALLA,**

**BALLABHGARH, FARIDABAD,**

**HARYANA**

.....Plaintiff

*(Through: Mr. Sudhanshu Tomar, Mr. Ayush Tomar, Mr. Vaibhav Sharma, Mr. Jai Gopal, Mr. Hakikat Rai and Mr. Dhruv Goswami, Advs.)*

Versus

**SH. DHARMENDER**

**SH. RAVINDER**

**SH. RAJESH**

**SH. JAI BHAGWAN**

**ALL SONS OF**

**LATE SH. DHARA SINGH**

**SMT. SUSHILA**

**W/O SH. DHARMENDER**

**SMT. RAJESH BALA**

**W/O SH. RAVINDER**

**SMT. JYOTI**



W/O SH. RAJESH

**SMT. DARSHANA**

W/O SH. JAI BHAGWAN

ALL R/O

KAMPU WALI GALI,  
NEAR MOHALLA TEEN PANA  
VILLAGE 85 P.O. KANJHAWALA,  
NEW DELHI-110081

**SH. KANHA AGGARWAL**

S/O SH. VED PRAKASH AGGARWAL

R/O 36/78, WEST PUNJABI BAGH,  
NEW DELHI

**SH. NARESH CHANDER GARG**

S/O SH. S. S. GARG

R/O 4/71, WEST PUNJABI BAGH  
NEW DELHI

**.....Defendants**

*(Through: Mr. Sandeep Sharma, Sr. Adv with Mr. Hunny Singh and Mr. Ankit Parindiyal, Advs for D-1 to 8. Mr. Sunil Goel, Mr. Himanshu Goel, Mr. Dimple Aggarwal and Ms. Varsha, Advs for D-9 to 10.)*

-----  
%

Reserved on: 01.08.2025

Pronounced on: 12.09.2025  
-----

## **JUDGMENT**

### **Table of Contents**

1. *Factual Matrix*
2. *Submissions of Parties*
3. *Analysis*
  - 3.1 *Parsing the Definitions of “Land” and “Holding” under DLR Act*



3.2 *Contours and Interpretation of Section 50 of the DLR Act*

3.3 *Non-Retrospective Application of Har Naraini Devi and Its Impact on the Present Case*

3.4 *Jurisdiction of Civil Court – Applicability of Bar Under Section 185 of the DLR Act*

**I.A. 24756/2015 and I.A. 38035/2024**

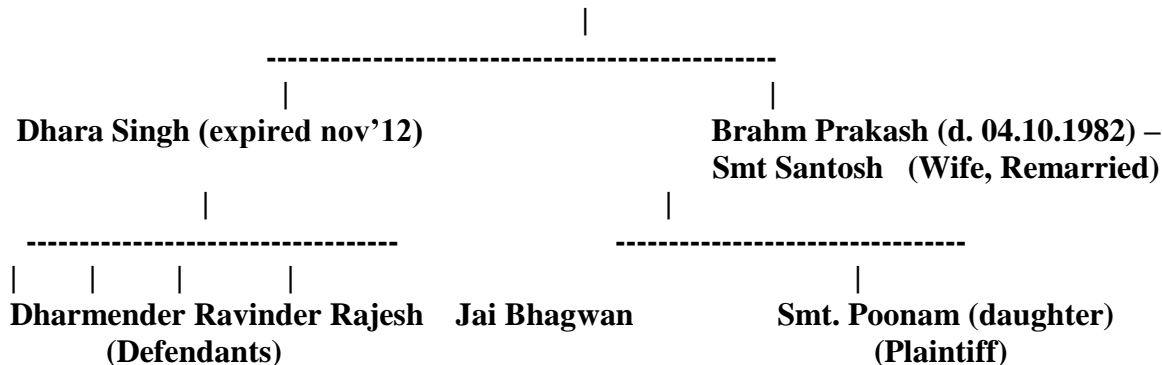
***1.Factual Matrix***

1. There are two applications filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) - the first, I.A. 24756/2015, is filed by defendant Nos. 1 to 8; and the second, I.A. 38035/2024, is filed by defendant Nos 9 and 10. Both applications seek rejection of the plaint primarily on two grounds. Firstly, the suit, insofar as it relates to agricultural lands, is barred by law specifically under Section 50 and Section 185 of the Delhi Land Reforms Act, 1954 (*hereinafter referred as DLR Act*) and Section 83(c) of the Delhi Land Revenue Act, 1954, as the disputes, as such, fall outside the jurisdiction of a Civil Court. Secondly, the suit is barred by limitation under the provisions of the Limitation Act, 1963. Given that the applicants’ interest is confined to specific agricultural lands and considering the statutory bars and jurisdictional limitations, it is submitted that the plaint deserves to be rejected at the threshold.

2. The facts of the case, as set out in the plaint, indicate that the plaintiff’s claim is based on the assertion that late Sh. Kanwal Singh was the owner of both agricultural and residential properties situated in the revenue estate of Village Kanjhawala, Delhi. The plaintiff has outlined the family



**Late Sh. Kanwal Singh**  
(expired on 18.07.1996)



3. According to the plaint, the properties in question consist of agricultural land, plots in the extended Lal Dora Abadi, and plots/houses in the Old Lal Dora Abadi of Village Kanjhawala, Delhi. The properties are as follows:

- i. *Agricultural land measuring 30 Bighas and 12 Biswas out of Khasra No. 63/9 (4-16), 10 (3-05), 11 (4-17), 12 (4-16), 13 (2-08), 19 (2-08), 20 (4-16), 64/16 (2-02) 8b 62/22 Min (1-04) situated in the Revenue Estate of Village Kanjhawala, Delhi.*
- ii. *Agricultural land measuring 23 Bighas & 12 Biswas out of Khasra No. 78/13 (2-04), 14 (3-04), 78/15 (0-08), 17 (4-16), 18 (2-16), 22 (4-00), 23 (3-06), 78/24 (0-03), 24 West (2-04) & 77/11 (0- 11) situated in the Revenue Estate of Village Kanjhawala, Delhi.*
- iii. *Agricultural land measuring 6 Bighas and 9 Biswas out of Khasra No. 78/11 (0-02), 78/12 (0- 13), 78/13 (1-00), 18 (2-00), 78/19(0-04), 22(0- 18), 23 (1-10), 77/11 (0-02), situated in the Revenue Estate of Village Kanjhawala, Delhi.*
- iv. *Three plots situated in the extended Lai Dora Abadi of*



*Village Kanjhawala, Delhi which are as follows:*

- a. A plot having Khasra No. 143/345 measuring 6 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi given for industrial use.*
- b. A plot having Khasra No. 142/154 measuring 1 Bigha and 17 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- c. A plot having Khasra No. 142/North 149 East measuring 5 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- v. Three residential houses built on a plot measuring 500 sq. yds. approximately, situated in Khasra No. 121 and having Plot No. 1106 situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- vi. A residential house having House No. 216, measuring 215 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.*
- vii. A residential house having House No. 668, (New Number and Old House No. 226) measuring 245 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.”*

4. The above description of the land indicates that all the properties/lands were situated in the Old Lal Dora Abadi of Village Kanjhawala, Delhi, and this fact is not disputed. Some of the properties are described as residential houses, while others are agricultural lands or open plots. The implications arising from this aspect shall be dealt with in the latter part of this judgment.

5. It is stated in the plaint that at the time of the death of Sh. Brahm Prakash, the plaintiff was about 1 year and 4 months old. The plaintiff's mother, Smt. Santosh, is stated to have remarried on 01.01.1983 to Mr.



Mahavir Sangwan, and the plaintiff is currently residing with her husband at Faridabad, Haryana.

6. The plaintiff claims that she used to visit Village Kanjhawala, Delhi, and was assured that her rights, title, and interest in the share of late Sh. Brahm Prakash was intact and would remain protected, and the others were merely caretakers of the entire estate. It is stated that after the demise of the plaintiff's uncle, Sh. Dara Singh, in the year 2012, the attitude of defendants No. 1 to 4 ostensibly changed. The plaintiff then discovered that the entire share of late Sh. Kanwal Singh had been mutated in the name of her uncle, Sh. Dara Singh. Subsequently, on 13.02.2012, Sh. Dara Singh transferred the entire agricultural land by way of registered sale deeds: 23 Bighas and 12 Biswas to defendant No. 9, Sh. Kanha Aggarwal; 6 Bighas and 9 Biswas to defendant No. 10, Sh. Naresh Chander Garg; and the remaining 30 Bighas and 12 Biswas to defendants No. 5 to 8—namely, Smt. Sushila (wife of Sh. Dharmender), Smt. Rajesh Bala (wife of Sh. Ravinder), Smt. Jyoti (wife of Sh. Rajesh), and Smt. Darshana (wife of Sh. Jai Bhagwan).

7. Accordingly, the plaintiff has filed the present civil suit seeking cancellation of the aforementioned sale deeds and a decree of declaration to the effect that she is the rightful successor of late Sh. Kanwal Singh, claiming a one-half share in the entire property. For the sake of clarity, the reliefs prayed for in the present suit are extracted below:

*1. Pass a decree of Declaration and cancellation of:*

*A. the sale deed dated 14.02.2012 bearing registration No. 1994, in Book No. 1, Vol. No. 5181 on pages 96 to 101 with the Sub Registrar- VI, New Delhi as null and void and of no legal consequences upto the extent of 1/2 share and also pass a decree of cancellation of*



- the said document upto the extent of ½ share.*
- B. the sale deed dated 14.02.2012 bearing registration No. 2017, in Book No. 1, Vol. No. 5182 on pages 40 to 45 with the Sub Registrar-VI New Delhi as null and void and of no legal consequences upto the extent of ½ share and also pass a decree of cancellation of the said document upto the extent of ½ share.*
- C. the sale deed dated 14.02.2012 bearing registration No. 2019, in Book No. 1, Vol. No. 5182 on pages 55 to 60 with the Sub Registrar-VI, New Delhi as null and void and of no legal consequences upto the extent of ½ share and also pass a decree of cancellation of the said document upto the extent of ½ share.*
- 2. Pass a decree of declaration to the effect that the plaintiff is the successor of late Sh. Kanwal Singh, have right to succeed to the extent of the ½ share in the agricultural properties as mentioned below:*
- i. Agricultural land measuring 30 Bighas and 12 Biswas out of Khasra No. 63/9 (4-16), 10 (3-05), 11 (4-17), 12 (4-16), 13 (2-08), 19 (2-08), 20 (4-16), 64/16 (2-02) 8b 62/22 Min (1-04) situated in the Revenue Estate of Village Kanjhawala, Delhi.*
  - ii. Agricultural land measuring 23 Bighas & 12 Biswas out of Khasra No. 78/13 (2-04), 14 (3-04), 78/15 (0-08), 17 (4-16), 18 (2-16), 22 (4-00), 23 (3-06), 78/24 (0-03), 24 West (2-04) & 77/11 (0-11) situated in the Revenue Estate of Village Kanjhawala, Delhi.*
  - iii. Agricultural land measuring 6 Bighas and 9 Biswas out of Khasra No. 78/11 (0-02), 78/12 (0-13), 78/13 (1-00), 18 (2-00), 78/19(0-04), 22(0-18), 23 (1-10), 77/11 (0-02), situated in the Revenue Estate of Village Kanjhawala, Delhi.*
- 3. Pass a decree of declaration to the effect that the plaintiff is ½ successor of late Sh. Kanwal Singh, have right to succeed to the extent of the ½ share in the*



*extended Lai Dora Abadi Properties and the Old Lai Dora Abadi Properties as mentioned below:*

- i. Three plots situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi which are as follows:*
    - a. A plot having Khasra No. 143/345 measuring 6 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi given for industrial use.*
    - b. A plot having Khasra No. 142/154 measuring 1 Bigha and 17 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
    - c. A plot having Khasra No. 142/North 149 East measuring 5 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
  - ii. Three residential houses built on a plot measuring 500 sq. yds. approximately, situated in Khasra No. 121 and having Plot No. 1106 situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
  - iii. A residential house having House No. 216, measuring 215 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.*
  - iv. A residential house having House No. 668, (New Number and Old House No. 226) measuring 245 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.”*
- 4. Pass a decree of Partition among the Plaintiff and all the Defendants in respect of the following properties*
- i. Three plots situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi which are as follows:-*
    - a. A plot having Khasra No. 143/345 measuring 6 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi given for industrial use.*
    - b. A plot having Khasra No. 142/154 measuring 1 Bigha and 17 Biswas situated in the*



- extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- c. A plot having Khasra No. 142/North 149 East measuring 5 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi*
- ii. Three residential houses built on a plot measuring 500 sq. yds. approximately, situated in Khasra No. 121 and having Plot No. 1106 situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- iii. A residential house having House No. 216, measuring 215 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.*
- iv. A residential house having House No. 668, (New Number and Old House No. 226) measuring 245 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.*
- 5. Pass a decree of permanent injunction in favour of the Plaintiff and against the Defendants thereby restraining the defendants, their agents, attorney(s) servants, employees, legal heirs, agents, successors, etc. from selling, alienating or parting with any part thereof or creating any third party interest in the following properties:*
- i. Agricultural land measuring 30 Bighas and 12 Biswas out of Khasra No. 63/9 (4-16), 10 (3-05), 11 (4-17), 12 (4-16), 13 (2-08), 19 (2-08), 20 (4-16), 64/16 (2-02) 8b 62/22 Min (1-04) situated in the Revenue Estate of Village Kanjhawala, Delhi.*
- ii. Agricultural land measuring 23 Bighas & 12 Biswas out of Khasra No. 78/13 (2-04), 14 (3-04), 78/15 (0-08), 17 (4-16), 18 (2-16), 22 (4-00), 23 (3-06), 78/24 (0-03), 24 West (2-04) & 77/11 (0-11) situated in the Revenue Estate of Village Kanjhawala, Delhi.*
- iii. Agricultural land measuring 6 Bighas and 9 Biswas out of Khasra No. 78/11 (0-02), 78/12 (0-13), 78/13 (1-00), 18 (2-00), 78/19(0-04), 22(0-*



- 18), 23 (1-10), 77/11 (0-02), situated in the Revenue Estate of Village Kanjhawala, Delhi.
- iv. *Three plots situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi which are as follows:*
- a. *A plot having Khasra No. 143/345 measuring 6 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi given for industrial use.*
- b. *A plot having Khasra No. 142/154 measuring 1 Bigha and 17 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- c. *A plot having Khasra No. 142/North 149 East measuring 5 Biswas situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- v. *Three residential houses built on a plot measuring 500 sq. yds. approximately, situated in Khasra No. 121 and having Plot No. 1106 situated in the extended Lai Dora Abadi of Village Kanjhawala, Delhi.*
- vi. *A residential house having House No. 216, measuring 215 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.*
- vii. *A residential house having House No. 668, (New Number and Old House No. 226) measuring 245 sq. yds., situated in Old Lai Dora Abadi of Village Kanjhawala, Delhi.”*
6. *Award cost and litigation expenses in favour of the plaintiff and against the defendants.”*

## **2. Submissions of Parties**

8. The submissions of Mr. Sandeep Sharma, learned senior counsel appearing on behalf of defendant no. 1 to 8 and Mr. Sunil Goel, learned counsel appearing on behalf of the defendants No. 9 and 10, are as follows:-



8.1. Mr. Goel submits that the suit is barred by law and liable to be dismissed at the threshold. He contends that the plaintiff's father, late Sh. Brahm Prakash, died intestate on 04.10.1982 i.e., prior to the 2005 Amendment to Section 6 of the Hindu Succession Act, 1956 (*hereinafter referred as HSA*). By placing reliance on the judgment of the Supreme Court in ***Har Naraini Devi & Anr. v. Union of India***<sup>1</sup>, Mr. Goel argues that the amended Section 6 does not apply retrospectively. Since the coparcener (plaintiff's father) died before the amendment, the plaintiff, being a granddaughter, cannot assert a coparcenary right under the amended provision.

8.2. It is further submitted that succession opens on the date of the death of the last male holder, not on the date of filing of the suit. In the present case, Sh. Kanwal Singh died in 1996, by which time succession had already occurred under the applicable law, and the plaintiff, being a granddaughter, was not entitled to succeed. Therefore, the plaintiff has no *locus standi* to claim partition of the suit agricultural lands.

8.3. Learned counsel places strong reliance on the statutory scheme of the DLR Act and submits that the lands in question are agricultural in nature, which falls under the exclusive jurisdiction of the Revenue Courts. Reference is made to ***Indu Rani v. Pushpa***<sup>2</sup>, and ***Sumitra v. Ganga Ram***<sup>3</sup>. As per Section 3(13) of the DLR Act, even plots and residential areas forming part of agricultural holdings are included within the term "land,"

---

<sup>1</sup> 2022 SCC OnLine SC 1265

<sup>2</sup> (2022) 6 HCC (Del) 661

<sup>3</sup> 2025 SCC OnLine Del 1207



thereby rendering the present suit non-maintainable before a Civil Court under Section 185 of the DLR Act.

8.4. Mr. Goel submits that his strongest contention is that Section 50 of the DLR Act, which exclusively governs the devolution of bhumidhari rights in agricultural lands in Delhi, does not recognize female lineal descendants, such as granddaughters, as legal heirs. He emphasizes that the plaintiff, being the granddaughter of the deceased bhumidhar and not listed among the heirs recognized under Section 50, has no legal entitlement to the land and stands excluded from the line of succession prescribed under the statute.

8.5. He further submits that the DLR Act provides a complete and exhaustive code for succession in respect of agricultural holdings, which overrides the general law of Hindu Succession.

8.6. The plaintiff's own pleadings, coupled with the revenue records filed by her (notably the "Khatouni Consolidation" at page 99 of the plaintiff's documents), clearly demonstrate that late Sh. Kanwal Singh was the recorded bhumidhar of the agricultural land in question. Following his demise in 1996, the land was duly mutated by the revenue authorities in the name of his sole surviving son, Dhara Singh, in accordance with Section 50 of the DLR Act.

8.7. It is further argued that the provisions of the HSA 1956, particularly relating to coparcenary rights or ancestral property, do not apply to agricultural lands in Delhi, which are governed by the DLR Act, and being a special legislation, it overrides general personal law. The Supreme Court, in *Har Naraini Devi*, upheld the constitutional validity of Section 50 and clarified that the HSA cannot override the succession scheme prescribed under the DLR Act.



8.8. Mr. Goel also submits that the Civil Court has no jurisdiction to try the present suit, as barred under Section 185 of the DLR Act read with Section 9 of the CPC. The Revenue Assistant is the only competent authority to adjudicate rights over agricultural lands in Delhi. It is submitted that Civil Courts cannot entertain or grant relief in respect of agricultural land, and thus, the plaint is liable to be rejected under Order VII Rule 11(d) CPC.

8.9. Additionally, learned counsel submits that the relief of declaration sought in the plaint is also barred under Section 34 of the Specific Relief Act, as the plaintiff has not sought the consequential relief of possession. Despite alleging that defendants are in possession, she has only sought declaration of title. It is well settled that a bare suit for declaration without consequential relief is not maintainable. Reliance is placed on *Vasantha (Dead) through LR v. Rajalakshmi*<sup>4</sup>, and *M.K. Rappai v. John*<sup>5</sup>.

8.10. He further submits that the plaintiff has deliberately evaded the payment of proper Court fees. The land in question measures over 60 bigha (approx. 12 acres), and the plaintiff herself has admitted the market value to be over Rs. 5 crore per acre. Yet, she did not seek recovery of possession, presumably to avoid the *ad valorem* Court fee payable under Section 7(v)(d) of the Court Fees Act, 1870.

8.11. He also points out that the plaintiff fraudulently obtained the status of an indigent person by filing IA 9300/2013 under Order XXXIII CPC and dragged on the suit for over 10 years. The Court ultimately rejected her

---

<sup>4</sup> (2024) 5 SCC 282

<sup>5</sup> (1969) 2 SCC 590



indigency claim on 26.09.2019, and her chamber appeal was dismissed on 18.03.2024. Eventually, the plaintiff paid Rs.5.28 lakh as Court fees on 01.05.2024, confirming she had means all along. Her conduct, Mr. Goel argues, amounts to a fraud upon the Court and warrants rejection of the plaint.

8.12. He further submits that the relief of injunction claimed in prayer 5 is barred under Section 41(h) and (i) of the Specific Relief Act. The plaintiff has an alternative, efficacious remedy before revenue authorities under the DLR Act, and given her conduct, she is not entitled to equitable relief. Moreover, as proceedings are already pending before the revenue authorities (as admitted in para 18 of the plaint), this suit is not maintainable.

8.13. Conclusively, Mr. Goel submits that the suit is hopelessly barred by limitation. The right to sue, if any, accrued to the plaintiff on 18.04.1996 the date of death of late Sh. Kanwal Singh. As per Article 58 of the Limitation Act, 1963, a suit for declaration must be filed within three years from the point when the right to sue first accrues. However, the present suit was filed on 24.05.2013, i.e., more than 17 years later. Thus, on this ground alone, the suit is liable to be dismissed as time-barred.

9. *Per Contra*, the submissions of Mr. Sudhanshu Tomar, learned counsel for the plaintiff are as follows:

9.1. Learned counsel for the plaintiff submits that the entire suit properties are admittedly ancestral in nature, having devolved from the great-grandfather to late Sh. Kanwal Singh, and thereafter to his two sons, late Dhara Singh and late Braham Prakash. The plaintiff, being the daughter of late Braham Prakash, and the defendants No. 1 to 4, being the sons of late Dhara Singh, have jointly inherited these properties as members of a Hindu



Undivided Family (*HUF*). It is further contended that these properties predate the HSA and the DLR Act, and no property was ever purchased by any individual coparcener. Hence, the ancestral nature and character of the suit properties have remained unchanged.

9.2. It is further contended that the cause of action arose in May 2013 when certain portions of these ancestral properties were allegedly alienated through sale deeds executed by late Dhara Singh in February 2012, prior to his demise in November 2012. The said transactions, it is argued, were made without the consent of the plaintiff and are *void ab initio*, especially in the absence of legal necessity or partition.

9.3. Learned counsel has drawn attention to the scheme under the DLR Act and the DLR Act, particularly Section 11 and Rules 6 to 8, which merely lay down the procedure for declaration of bhumidari rights and mutation but do not alter the substantive rights of coparceners under Hindu law. Therefore, the conversion or mutation under the DLR Act does not negate or extinguish the ancestral nature of the land.

9.4. Reliance is placed on the judgment of this Court in ***Yoginder Singh & Anr. v. Sumit Gahlot & Ors***<sup>6</sup>, which according to him, dealt with substantially similar facts and upheld the rights of a daughter to seek partition in ancestral properties. The said judgment attained finality upon dismissal of the Special Leave Petition by the Supreme Court in SLP (C) No. 25079/2018 dated 08.05.2019. It is submitted that the present case is squarely covered by the ratio of the said judgment, and therefore, the plaintiff is entitled to maintain the present suit.

---

<sup>6</sup> 2018 SCC OnLine Del 9315



9.5. On the other hand, it is submitted that the reliance placed by the defendants No. 9 and 10 on the judgment in *Har Naraini Devi* is misplaced, as that case pertained to the constitutional validity of Section 50(a) of the DLR Act and involved the existence of male heirs. In contrast, the present plaintiff is the sole daughter of a predeceased son, and her rights under the HSA cannot be curtailed on the basis of the aforementioned decision, which is clearly distinguishable on facts.

9.6. Mr. Tomar further contends that mutation entries are only administrative in nature and cannot confer or extinguish ownership rights. In support, reliance is placed on the judgment of the Supreme Court in *Smt. Sawarni v. Smt. Inder Kaur & Ors.*<sup>7</sup>.

9.7. Moreover, he submitted that the civil Court is competent to try and decide the present suit. Reliance is placed on the Division Bench judgment of this Court in *Mansa Ram v. Tilak & Anr.* [RFA (OS) No. 12/2012], wherein the Court held that civil Courts are empowered to declare sale deeds relating to agricultural lands null and void in cases of fraud or misrepresentation. The contention of the defendants that the civil Court lacks jurisdiction under Section 185 of the DLR Act is, therefore, untenable.

9.8. It is further argued that the DLR Act, by its own definition under Sections 3(11-a) and 3(13), applies only to land used for agricultural, horticultural, or animal husbandry purposes. Properties situated in Abadi or extended Abadi (commonly referred to as Lal Dora and extended Lal Dora) do not fall within the scope of "holdings" under the Act and hence, succession in such properties is governed by personal law, as clarified in Rule 5(4) of the DLR, Act.



9.9. It is submitted that the judgments in *Subhadara v. Surender Singh*<sup>8</sup> and *Sumitra*, which hold that Abadi lands are covered by the DLR Act, are *per incuriam* as they failed to consider the specific provisions and definitions in the Act and the Rules.

9.10. The plaintiff also relies on the judgment of this Court in *Raj Kishore Tyagi v. Radhey Shyam & Ors.*<sup>9</sup>, which clearly distinguished between extended Abadi lands and agricultural holdings.

9.11. Mr. Tomar also relies on the judgment of the Supreme Court in *Harpal Singh v. Ashok Kumar & Anr.*<sup>10</sup>, wherein it was held that if the land has ceased to be agricultural, the bar under Section 185 of the DLR Act does not apply, and civil Courts would have jurisdiction.

9.12. Conclusively, Mr. Tomar, submitted that the present suit is fully maintainable, the bar under the DLR Act is not attracted, and the plaintiff, being a Class I heir under the HSA, has an enforceable right to seek partition of the ancestral properties. The judgment in *Yoginder Singh v. Sumit Gahlot*”, which has attained finality, along with other binding precedents including *Harpal Singh, Mansa Ram, Kamal v. Rajender Pal, Raj Kishore Tyagi*, and *Smt. Sawami*, supports the case of the plaintiff.

### 3. Analysis

10. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

---

<sup>7</sup> AIR 1996 SC 2823

<sup>8</sup> 2016 SCC OnLine Del 1927

<sup>9</sup> 149 (2008) DLT 754

<sup>10</sup> (2018) 11 SCC 113



11. Before proceeding to the analysis of the facts of the case, it is important to briefly discuss the scope of Order VII Rule 11 of CPC. At this stage, while deciding an application under Order VII Rule 11 CPC, the Court is required to examine only the averments made in the plaint. The scope of such an application is limited solely to determine whether, on the basis of the plaint as it stands, a cause of action is disclosed or if the suit is barred by any law. No reference can be made to the written statement or any defence raised, as the assessment must be confined strictly to the pleadings of the plaintiffs.

12. This Court in ***Meena Vohra v. Master Hosts (P) Ltd.***<sup>11</sup>, had an occasion to discuss the underlying object of Order VII Rule 11 CPC and held as under:

*“11. The real object of Order VII Rule 11 CPC is to keep out irresponsible lawsuits from the Courts and it provides for an independent remedy for the defendant no.1/applicant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The Supreme Court in Sopan Sukhdeo Sable v. Asstt. Charity Commr.<sup>9</sup>, held as under:*

*“17. .. The real object of Order 7 Rule 11 of the Code is to keep out of Courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the Courts by resorting to which and by a searching examination of the party, in case the Court is prima facie of the view that the suit is an abuse of the process of the Court, in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.*

\*\*\*

*20....Rule 11 of Order 7 lays down an independent remedy made available to the defendant no.1/applicant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express*

---

<sup>11</sup> 2025 SCC OnLine Del 1758



*terms about the filing of a written statement. Instead, the word “shall” is used, clearly implying thereby that it casts a duty on the Court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant no.1/applicant. In any event, rejection of the plaint under Rule 11 does not preclude the plaintiff/non-applicants from presenting a fresh plaint in terms of Rule 13.””*

13. Furthermore, in ***Hardesh Ores (P) Ltd. v. Hede & Co.***<sup>12</sup>, the Supreme Court has held that it is not permissible to cull out a sentence or a passage and to read it in isolation in an inquiry under Order VII Rule 11 CPC. It is the substance and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the Court cannot embark upon an enquiry whether the allegations are true in fact. Therefore, a roving inquiry akin to appreciation of evidence is not contemplated at the stage of Order VII Rule 11 of the CPC.

### **3.1 Parsing the Definitions of “Land” and “Holding” under DLR Act**

14. The distinction between “land” and “holding” under the DLR Act is central to the determination of jurisdiction in matters of partition and succession.

15. Section 3(11a) defines “holding” as under:

*“11a) “holding” means-*

*(a) in respect of-*

*(i) Bhumidar or Asami; or*

*(ii) tenant or sub-tenant under the Punjab Tenancy Act, 1587, or the Agra Tenancy Act, 1901; or*

*(iii). lessee under the Bhoodan Yagna Act, 1955, a parcel or parcels of land held under one tenure, lease, engagement or grant; and*

*(b) in respect of proprietors, a parcel or parcels of land held as sir or khud-kasht”*

---

<sup>12</sup> (2007) 5 SCC 614



While “Sir” is not defined within the Act itself, it is understood from analogous provisions in the U.P. Land Revenue Act, 1901 to mean the land that is cultivated personally by the proprietor. “Khudkasht,” as defined under Section 3(12A), refers to land cultivated by the owner himself or through servants or hired labour. Thus, a “holding” under the DLR Act refers specifically to agricultural land held and cultivated by a Bhumidhar or Asami as part of a tenure.

16. In contrast, the term “land” as defined under Section 3(13) is broader in scope, as reproduced under:

*“3(13) “land” except in sections 23 and 24, means land held or occupied for purposes connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes-*  
*(a) buildings appurtenant thereto, '*  
*(b) village abadis,*  
*(c) grovelands,*  
*(d) lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation, but does not include- land occupied by buildings in belts of areas adjacent to Delhi town and New Delhi town, which the Chief Commissioner may by a notification in the official Gazette declare as an acquisition thereto”*

Thus, it includes not only agricultural land but also land used for purposes ancillary to agriculture such as pastures, village sites, Abadi lands, and even land used for residential or commercial purposes in certain contexts.

17. Consequently, while all “holdings” could be construed to be a part of “land”, but not all “land” would qualify as a “holding”. This distinction is not merely semantic but has significant legal implications, particularly in the context of jurisdiction under Section 185 read with Schedule I of the DLR Act.



18. Serial No. 11 of Schedule I of the Act specifies that a suit for the partition of a “holding” shall lie before the Revenue Assistant. The use of the word “holding” instead of “land” in this entry indicates legislative intent to restrict the jurisdiction of the Revenue Authorities to disputes concerning agricultural holdings. If the legislature had intended to extend this jurisdiction to non-agricultural lands, such as residential plots or lands within Lal Dora or Extended Lal Dora areas, it would have used the broader term “land”. The choice of the word “holding”, as opposed to “land”, reflects a deliberate and significant limitation qua the designated forum for seeking partition of agricultural holdings.

19. This interpretation has been judicially recognized in various decisions. In **Raj Kishore Tyagi**, the Court has affirmed that while “land” situated within the Lal Dora or Extended Lal Dora may fall within the definition of “land” under Section 3(13), such “land” does not qualify as a “holding” under Section 3(11a) unless it is shown to be used for agricultural purposes. Therefore, residential or commercial land situated in the Abadi area even if within village boundaries is not a “holding” unless agricultural activity is carried out thereon.

20. Further, the Supreme Court, in **Harpal Singh v. Ashok Kumar & Anr.**, had an occasion to consider Section 185(1) of the DLR Act. The Court re-emphasised that where the land is no longer used for any purpose contemplated under the DLR Act and has been built upon, it ceases to be agricultural land. Once agricultural land loses its essential character and is converted into unauthorized colonies by division into plots, disputes between plot holders cannot be adjudicated by the Revenue Authorities, and such matters fall within the jurisdiction of the Civil Court. Consequently, the



bar under Section 185 of DLR Act would not be attracted in such circumstances.

21. While reaffirming the said position, the Supreme Court had taken note of the decision in the case of *Ram Lubhaya Kapoor Vs. J. R. Chawla*<sup>13</sup>, *Narain Singh and Anr v. Financial Commissioner*<sup>14</sup>, *Nilima Gupta and Ors. v. Yogesh Saroha and Ors*<sup>15</sup>, and *Anand J. Datwani v. Ms. Geeti Bhagat Datwani and Ors.*<sup>16</sup>

22. A similar legal position emerges from the decision in *Gyanender Singh v. Narain Singh & Ors*<sup>17</sup>, wherein the Court unequivocally held that once “land” is no longer part of the “holding” of a bhumidar, it cannot be the subject matter of a partition suit under Section 55 of the DLR Act. As a result, such “land” would not fall under Serial No. 11 of Schedule I of the Act, and thus, the bar under Section 185 would not apply, thereby allowing jurisdiction of the Civil Court to try and decide the partition suit. In *Gyanendra Singh*, the Court categorically observed that even if the area falling in village abadi falls in the broad definition of “land” under Section 3(13) of DLR Act, the same would not be a subject matter of partition in accordance with Section 55 of the Act unless it qualifies as “holding” under Section 3(11a) of the Act.

23. Furthermore, the decisions in *Indu Rani* and *Naresh Kumar* pertain specifically to “holdings”. The legal position laid down therein regarding Section 50 of the DLR Act, especially in the context of succession to bhumidari rights as contrasted with the HSA, remains well settled. In *Indu*

---

<sup>13</sup> 1986 SCC Online Del 131

<sup>14</sup> (2008) SCC OnLine Del 806

<sup>15</sup> 2008 SCC Online Del 1333

<sup>16</sup> 2013 SCC OnLine Del 1706



**Rani**, paragraph 10 makes it clear that the partition involved was of the “holding” of the plaintiff’s father, to the exclusion of the plaintiff. The relevant extract from paragraph 10 is as follows:

*10. A perusal of Section 50 of the DLR Act set out above shows that the provisions with regard to succession of the interest of a bhumidar is quite different from the provisions of the Hindu Succession Act, 1956. As per the rule of succession under Section 50, the male lineal descendants take priority over other categories. Therefore, in terms of Section 50 of the DLR Act, the male children of the plaintiff's father i.e. Raghvinder Mann and late Shri Priyavarat Mann would have interest in the father's holdings to the exclusion of the plaintiff.*

24. Likewise, paragraph 6.6 of the decision in **Naresh Kumar** indicates that in the said case, the rights of inheritance in agricultural land were being considered. The relevant portion of paragraph 6.6 is extracted below:

*6.6 The facts arising for consideration in the present matter are identical with the facts considered by Supreme Court in **Har Naraini Devi** (supra). In the present case, as well, Sh. Jug Lal died on 25.10.1986. The inheritance to the said agricultural land opened on this date and the land devolved upon his two sons [Sh. Saroop Singh and Sh. Tadbir Singh] as per Section 50(a) of the DLR Act. Thus, the rights of inheritance in favour of Sh. Saroop Singh and Sh. Tadbir Singh had already accrued and crystallised on 25.10.1986, prior to the deletion of Section 4(2) of the Act of 1956 on 09.09.2005. Therefore, no rights of inheritance in the said agricultural land developed upon late Smt. Raj Bala on 25.10.1986 or upon the deletion of Section 4(2) of the Act of 1956 on 09.09.2005.*

25. Further, Rule 5(4) of the DLR Rules provides that where the property does not constitute a “holding,” succession shall be governed not by the DLR Act but by the personal law applicable to the parties. This reinforces the proposition that the DLR Act’s succession and partition provisions,

---

<sup>17</sup> 2012 SCC OnLine Del 1842



including the jurisdiction of Revenue Courts, apply only to “holdings” and not to all types of land generally.

26. In conclusion, the term “holding” under the DLR Act is a specific and narrower category within the broader definition of “land”. The jurisdiction of the Revenue Assistant in matters such as partition, as listed under Schedule I, is confined to disputes relating to “holdings,” i.e., agricultural land held and cultivated by a Bhumidhar or Asami. Residential properties situated within the Lal Dora or Extended Lal Dora, not being agricultural holdings, fall outside the scope of this jurisdiction and inheritance claims qua the same must be adjudicated by the civil Courts.

### **3.2 Contours and Interpretation of Section 50 of the DLR Act**

27. At the outset, it may be relevant to set out Section 50 of the DLR Act. Section 50 of the DLR Act is set out below:

“50. *General order of succession from males.*— Subject to the provisions of Sections 48 and 52, when a bumidhar or Asami being a male dies, his interest in his holding shall devolve in accordance with the order of the succession given below :

(a) male lineal descendants in the male line of the descent :

Provided that no member of this class shall inherit if any male descendant between him and the deceased is alive:

Provided further that the son or sons of a predeceased son howsoever low shall inherit the share which would have devolved upon the deceased if he had been then alive:

(b) widow;

(c) father;

(d) mother, being a widow;

(e) step mother, being a widow;

(f) father's father;

(g) father's mother, being a widow;

(h) widow of a male lineal descendant in the male line of descent;

(i) unmarried daughter;

(j) brother being the son of same father as the deceased;



- (k) unmarried sister;
- (l) brother's son, the brother having been a son of the same father as the deceased;
- (m) father's father's son;
- (n) brother's son's son;
- (o) father's father's son's son; and
- (p) daughter's son.”

28. A plain reading of Section 50 makes it abundantly clear that the scheme of succession under the DLR Act significantly diverges from the HSA. The DLR Act prioritises male lineal descendants in the male line of descent, effectively restricting succession within the agnatic male lineage, as opposed to the broader class of heirs under the HSA. Thus, when a male Bhumidhar dies, his interest in the holding does not devolve equally among Class I heirs but follows a strict male-line hierarchy as specified under Section 50.

29. Clause (a) of Section 50 is the operative provision that governs the initial stage of devolution, stating that the interest shall devolve upon the male lineal descendants in the male line of descent. This category includes sons, grandsons, great-grandsons, and so forth but only through the male line. The implication is straightforward: succession, in the first instance, is confined strictly to agnatic male heirs.

30. The first proviso to clause (a) introduces a further condition:

*“no member of this class shall inherit if any male descendant between him and the deceased is alive.”*

This proviso clearly establishes a principle of proximity. It creates a bar on inheritance by remoter male descendants if a nearer male descendant exists. For instance, a grandson cannot inherit if the son of the deceased (his father) is alive. Succession, thus, flows only through immediate male descendants,



preventing “leapfrogging” generations and maintaining the continuity of possession within the direct male line.

31. The second proviso provides a limited exception to this rule, stating:

*“the son or sons of a pre-deceased son howsoever low shall inherit the share which would have devolved upon the deceased if he had been then alive.”*

This provision ensures that the branch of a predeceased son is not disinherited merely due to the prior death of their father. Thus, the grandson or great-grandson (howsoever low) of the deceased Bhumidhar will be entitled to succeed in place of their predeceased father, as if the father were alive. This creates a legal fiction preserving the right of representation through the male line, again reinforcing the male-line principle embedded in the DLR Act.

32. The cumulative effect of clause (a) and its two provisos is that succession under Section 50 of the DLR Act is exclusively reserved for male descendants, strictly in the male line, with succession rights determined by proximity and representation. It is unequivocally clear that if any male lineal descendant in the direct male line of descent is surviving, he alone would succeed to the estate of the deceased. The right of succession in favour of other heirs such as the widow (clause (b)), father, mother (being a widow), and others listed in subsequent clauses of Section 50 of the DLR Act, would arise only in the absence of such male lineal descendants.

33. In the instant case, as already noted, late Sh. Kanwal Singh had two sons Sh. Dhara Singh and Sh. Brahm Prakash. Sh. Brahm Prakash predeceased his father, having died on 04.10.1982, whereas Sh. Kanwal Singh passed away in the year 1996. At the time of his death, his surviving son, Sh. Dhara Singh, who was a male lineal descendant in the main line of



descent, was alive and remained so until his own death in 2012. In such circumstances, in terms of Section 50(a) of the DLR Act, the bhumidhari rights of late Sh. Kanwal Singh would devolve upon Sh. Dhara Singh. Any alternative interpretation would run contrary to the clear statutory mandate of Section 50(a), which prioritizes male lineal descendants in the main line of succession.

34. The argument put forth by the learned counsel for the plaintiff that in the event of a predeceased son, succession would shift to other heirs such as the widow, father, or unmarried daughter, does not hold legal ground in the facts of the present case. Such an interpretation might be plausible only where no male lineal descendant survives the bhumidhar. However, that is not the situation here. Since Sh. Dhara Singh, a male lineal descendant, survived late Sh. Kanwal Singh, succession would vest in him alone. The situation could have been different in case the pre-deceased father of the plaintiff had left behind any male descendant (grandson) to inherit the bhumidari rights.

35. Hence, based on a *prima facie* assessment, the properties listed at serial numbers (i), (ii), and (iii), unequivocally being agricultural lands situated within the revenue estate of Village Kanjhawala, Delhi, fall squarely within the definition of a “holding” as delineated under the DLR Act. Consequently, the devolution of rights pertaining to these lands shall be exclusively governed by the succession framework established under Section 50 of the DLR Act. Given the statutory provisions and the factual circumstances, particularly the existence of Sh. Dhara Singh, a male lineal descendant in the male line of descent, the succession to these holdings is conclusively vested in his favor. It is important to reiterate that this is only a



*prima facie* view, that too *qua* agricultural lands which constitute only a part of the suit property, and remains subject to other issues involved in the matter. As will be explained in the following paragraphs, the suit cannot be partially rejected; therefore, conclusive findings on this issue are unwarranted.

### **3.3 Non-Retrospective Application of Har Naraini Devi and Its Impact on the Present Case**

36. A reference may now be made to the judgment in ***Har Naraini Devi***, which has been relied upon by both parties. This decision is significant in the context of the legislative amendments to the HSA, in particular, the deletion of sub-section (2) of Section 4, whereby the earlier exclusion of agricultural land from the purview of the Act was removed. The Court held that the rights of inheritance shall be governed as per the prevailing law as on the date of death, which took place in 1997, and any subsequent legislative measure shall not reopen the same. The Court also upheld the constitutional validity of Section 50 of the DLR Act.

37. In ***Har Naraini Devi***, where the Supreme Court was seized with the constitutional validity of Section 50 of the DLR Act, upholding the constitutional validity of Section 50 of the DLR Act, the Supreme Court made the following observations:

*“24. Till 2005, to be specific 9-9-2005, when the Hindu Succession (Amendment) Act of 2005 was enacted, the aforesaid provision remained on the statute. It is not in dispute that the property in question is agricultural property, and therefore, in 1997 at the time when Mukhtiyar Singh died, the devolution of interest (inheritance) would be determinable on the said date, in accordance with the law existing at that time. In 1997, Section 4(2) of the 1956 Act, was very much on the statute, its subsequent deletion would not have any impact on the rights of inheritance, which had already accrued and crystallised, prior to the*



amendment. Therefore, on facts deletion of Section 4(2) of the 1956 Act would not help the appellants.

\*\*\*

*The argument advanced by the learned counsel for the appellants is that the applicability of amendment in Section 6 and the deletion of Section 4(2) from the 1956 Act would have retrospective effect, which is also of no help to the appellants. Once we are holding that succession in the present case with respect to the property in question is governed by the 1954 Act, any amendment even if it has a retrospective effect in the 1956 Act will have no bearing or impact on the provisions of succession governed by the 1954 Act. Moreover, this Court in the judgment of Vineeta Sharma case [Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1] has given retrospective application only to Section 6 of the 1956 Act as amended in 2005. There is no declaration regarding deletion of Section 4(2) being retrospective. This argument, therefore, also fails.”*

38. A specific plea was raised before the Supreme Court in **Har Naraini Devi** as to whether, in light of the judgment in **Vineeta Sharma v. Rakesh Sharma**<sup>18</sup>, the repeal of sub-section (2) of Section 4 of the HSA would relate back. In **Har Naraini Devi**, as noted in para 24 set out above, the father died in 1997, when sub-section (2) of Section 4 of the Hindu Succession Act was part of the statute. Since, the succession had opened prior to 9-9-2005, the Supreme Court held that the rights of lineal descendants under Section 50 stood crystallised and would be unaffected by the subsequent deletion of sub-section (2) of Section 4 of the HSA. It was further observed that the observations in the **Vineeta Sharma** with regard to retrospective application were only applicable to Section 6 of the HSA as amended in 2005, and not in respect of sub-section (2) of Section 4 of the HSA.

39. The present case is squarely covered by the aforesaid dicta of **Har Naraini Devi**. In the present case, Sh. Kanwal Singh expired in 1996, when

---

<sup>18</sup> (2020) 9 SCC 1



sub-section (2) of Section 4 of the Hindu Succession Act was still in existence. Undoubtedly, the devolution of interest in respect of the suit land would be determinable in accordance with the law prevailing at the time of the death of the grandfather of the plaintiff, and at the relevant point of time, the agricultural holdings in question were solely governed by the DLR Act. Therefore, the rule of succession in terms of Section 50 of the DLR Act, would prevail in the present case and the brothers of the plaintiff would acquire an interest in the bhumidari rights of their father insofar as the agricultural holdings are concerned. The subsequent deletion of sub-section (2) of Section 4 of the Hindu Succession Act would not affect the same.

**3.4 Jurisdiction of Civil Court – Applicability of Bar Under Section 185 of the DLR Act**

40. Further, moving on to the jurisdictional objection raised by the defendants, it has been contended that Section 185 of the DLR Act specifically bars the jurisdiction of Civil Courts in matters governed by the Act.

41. It would be apposite to refer to sections 185 and 186 of the DLR Act.

***“Section 185 - Cognizance of suits, etc., under this Act***

- (1) Except as provided by or under this Act no Court other than a Court mentioned in column 7 of Schedule I shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), take cognizance of any suit, application, or proceedings mentioned in column 3 thereof.*
- (2) Except as hereinafter provided no appeal shall lie from an order passed under any of the proceedings mentioned in column 3 of the Schedule aforesaid.*
- (3) An appeal shall lie from the final order passed by a Court mentioned in column 3 to the Court or authority mentioned in column 8 thereof.*
- (4) A second appeal shall lie from the final order passed in an appeal under sub-section (3) to the authority, if any, mentioned against it in column 9 of the Schedule aforesaid.*



***Section 186 - Procedure when question of title is raised***

*(1) Notwithstanding anything contained in section 185, if in any suit or proceedings in column 3 of Schedule I, a question is raised regarding the title of any party to the land which is the subject-matter of the suit or proceeding and such question is directly and substantially in issue the Court shall, unless the question has already been decided by a competent Court, frame an issue on the question of the title and submit the record to the competent civil Court for the decision of that issue only.*

*Explanation A plea regarding the title to the land which is clearly untenable and intended solely to oust the jurisdiction of the revenue Court shall not be deemed to raise a question regarding the title to the land within the meaning of this section.*

*(2) The civil Court, after reframing the issue, if necessary, shall decide such issue only and return the record together with its finding thereon to the revenue Court which submitted it.*

*(3) The revenue Court shall then proceed to decide the suit, accepting the finding of the civil Court on the issue referred to it.*

*(4) An appeal from a decree of a revenue Court in a suit or proceeding in which an issue regarding title has been decided by a civil Court under sub-section (2) shall lie to the civil Court which having regard to the valuation of the suit has jurisdiction to hear appeal from the Court to which the issue of title has been referred.”*

42. From a plain reading of the above provisions, it is evident that Section 185 bars the jurisdiction of Civil Courts only in respect of suits, applications, or proceedings explicitly mentioned in Column 3 of Schedule I of the Act. This bar is not general or overarching but limited to matters for which exclusive jurisdiction has been vested in the Revenue Authorities. Section 186 serves as a supplementary mechanism, allowing title disputes arising in revenue proceedings to be referred to the civil Court, which is empowered to adjudicate only on such issue.

43. Schedule I of the DLR Act designates specific forums of original jurisdiction such as the Revenue Assistant, Deputy Commissioner, and



Tehsildar in Column 7, with corresponding appellate authorities outlined therein. Column 2 refers to the enabling sections of the Act, while Column 3 describes the specific suits, applications, or proceedings that fall within the jurisdiction of these forums. Notably, while Schedule I comprehensively lists a variety of proceedings, the list could not be termed as exhaustive and a variety of civil rights could be seen to be outside the purview of the enlisted subject matters. Therefore, for the jurisdictional bar under Section 185 to be invoked, the remedy sought must be one specifically provided for within the scheme of the DLR Act. In its absence, such as where the relief claimed is not available before the Revenue Courts, the bar does not apply and the Civil Courts retain jurisdiction. It is a settled principle that the jurisdiction of Civil Courts is made out, unless it is expressly barred.

44. Moreover, learned counsel for the defendants has referred to a decision of the Division Bench of this Court in *Visa Agro Industries Pvt. Ltd. v. Charan Singh*<sup>19</sup>, wherein the issue was whether a suit relating to title could be filed before a Civil Court or whether it must be first brought before the Revenue Court and referred under Section 186. In that case, the plaintiffs were seeking to declare sale deeds as null and void on the ground that the executants were deceased at the time of execution, thus raising an issue of fraud and invalidity of documents, which a Revenue Court is not competent to adjudicate under Section 185. The Court held that in such circumstances, the Civil Court had jurisdiction to decide the matter directly, and the bar under Section 185 did not apply. This judgment affirms the principle that where civil consequences arise or where the relief sought is not covered

---

<sup>19</sup> 2015 SCC OnLine 10366



under the subject matters listed in Schedule I, Civil Courts retain jurisdiction.

45. Pertinently, the defendants (Nos. 9 and 10) have relied on the decision in *Subhadhra v. Vijender Singh*, wherein a declaration of bhumidhari rights was sought by the plaintiff, and the Court held that such declarations must be pursued before the Revenue Assistant under Item 4 of Schedule I, since the DLR Act provided the remedy to the exclusion of Civil Courts. The plaint in the said matter was rejected under Order VII Rule 11 of CPC. However, the trajectory of the said case needs to be understood in greater detail, as the same would reveal that the position of law relied upon in the said decision is consistent with the one being declared in the present case.

46. Moreover, in paragraph 26 of *Subhadhra*, the Court initially observed that any Lal Dora plot, whether in the old or extended abadi, falls within the ambit of “land” under Section 3(13) of the Act, and thus, the DLR Act would apply to Lal Dora plots as well. Although this paragraph seems to mistakenly refer to Section 3(12), however, the context makes it clear. Crucially, the Court in *Subhadhra* firstly did not address the distinction between “land” and “holding” under Sections 3(13) and 3(11A) of DLR Act, respectively. Later, a review petition was preferred by the appellant/plaintiff therein and in the subsequent decision passed in review, the distinction was duly acknowledged by the Court, however, relief was denied on peculiar merits of the case. In review, registered as Review Petition No. 380/2016, the Court acknowledged the distinction between the statutory concepts of “holding” and “lands” under the DLR Act and confined the meaning of the former to cultivable agricultural lands only. It acknowledged that the jurisdiction of Revenue Authorities under the DLR Act pertains to



declaratory suits/applications pertaining to agricultural holdings, thereby meaning that suits pertaining to non-agricultural lands falling in the Lal Dora Abadi could be entertained by the Civil Courts. However, on facts, the prayer of the petitioner therein was turned down as there was no averment in the plaint that any of the subject properties therein were non-agricultural in nature. In para 8, the Court noted that:

*“8. ...There is no averment in the plaint of the revisionist/petitioner that the land falling in the extended Abadi area is a non-agricultural land. In that view of the matter, the revisionist/petitioner cannot claim that the two plots of land falling in the Lal Dora area namely Khasra no.239(1-3), 267(0-19) in village Iradat Nagar @ Naya Bas, Delhi, do not fall in the category of “holding” as defined under Section 3(13) of the Delhi Land Reforms Act, 1954.”*

The Court clarified the same in para 11, and observed thus:

*“11. The judgments cited by the revisionist/petitioner are with respect to the non-agricultural land falling in extended Abadi/Lal Dora area which is not the assertion of the revisionist/petitioner. The plaint can be rejected under Order VII Rule 11 of the CPC where from the statement in the plaint, it would appear that the suit is barred by any law.”*

47. The underlying basis of the factual finding in **Subhadra** is the conspicuous absence of any averment that the subject property was non-agricultural and thus, it was deemed to be an agricultural holding, thereby attracting the jurisdiction of revenue authorities. However, on law, the final decision passed in review acknowledges that the applicability of Section 50 of DLR Act is confined to agricultural “holdings” and not to the broader category of “lands” under Section 3(13) of DLR Act. In fact, interestingly, in the review of **Subhadra**, the Court also relied upon the decision in



*Gyanender Singh*<sup>20</sup> to arrive at the aforesaid position of law, thereby leaving no doubt. Thus, the decision relied upon by the defendants herein furthers the proposition of law advanced hereinabove, rather than disturbing it.

48. Applying this legal position to the facts at hand, it is noteworthy that the plaintiff has categorically averred that some properties forming part of the suit property fall in extended Lal Dora Abadi and bear residential (non-agricultural) character. In such a scenario, the onus lies on defendants to establish that the suit property constitutes a “holding” as per Section 3(11a). However, they have failed to do so. The properties are situated in the Extended Lal Dora Abadi and are also forming residential character. No evidence has been led to show that they are being cultivated or held as agricultural tenancies. Consequently, prima facie, the present dispute does not wholly relate to a “holding” and therefore does not fall within the jurisdiction of the Revenue Authorities under Section 185 and Schedule I. Having said that, it must be reiterated that in the present application under Order VII Rule 11 of CPC, the Court is expected to take the version of the plaintiff on its face value and the defendants’ opportunity to rebut the same by leading cogent evidence is yet to arrive, as counter version cannot be accepted at this stage, if at all there is any. As per the plaint, the jurisdiction of the Civil Court is not ousted, more so because the residential character of certain properties stands admitted.

49. In the facts of the present case, it is admitted that the suit properties mentioned at serial no (v), (vi) and (vii) of para 2 of the plaint are located in

---

<sup>20</sup> In Review Petition No. 380/2016 in RSA No. 259/2015 titled as *Subhadra v. Vijender Singh*, the Court has referred to the quoted extract of *Gyanender Singh v. Narain Singh* in paragraph no. 7 as RFA No. 459/2005. However, the RFA in *Gyanendra Singh* was registered as RFA No. 497/2005, and the incorrect registration number mentioned in paragraph 7 appears to be a clerical mistake.



the Extended Lal Dora Abadi and are non-agricultural residential lands. The plaintiff seeks partition of this property amongst legal heirs, and the defendants have contested this on the ground that the Civil Court lacks jurisdiction under Section 185 of the DLR Act. However, as discussed above, the suit is not only for partition of a “holding,” but also includes “lands” other than “holdings”. Therefore, it falls outside the scope of Section 185 of DLR Act.

50. Therefore, the issue of jurisdiction is decided in favour of the plaintiff. The civil suit for partition of residential/non-agricultural Abadi land in Extended Lal Dora is clearly maintainable. The defendants' objection under Section 185 of the DLR Act is rejected.

51. For the clarity of reasoning, it must be noted that merely because some properties qualify as agricultural holdings, the prayer sought herein cannot be acceded to. For it is a settled principle of law that there cannot be any partial rejection of the plaint under Order VII Rule 11 of the CPC. Either the plaint has to be rejected as a whole or there can be no rejection at all. In this regard reference may be made to the judgment of the Supreme Court in *Madhav Prasad Aggarwal v. Axis Bank Limited*<sup>21</sup> and *Roop Lal Sathi v. Nachhattar Singh Gill*<sup>22</sup>, which has been followed in *Dr. Ramesh Chander Munjal v. Dr. Suraj Munjal*<sup>23</sup>.

52. The above proposition of law is also reiterated by the Supreme Court in its recent decision in *Central Bank of India v. Prabha Jain*<sup>24</sup>, which held as follows:

---

<sup>21</sup> (2019) 7 SCC 158

<sup>22</sup> 1982 (3) SCC 487

<sup>23</sup> 2022 SCC OnLine Del 1045

<sup>24</sup> (2025) 4 SCC 38



*“23. Even if we would have been persuaded to take the view that the third relief is barred by Section 17(3) of the SARFAESI Act, still the plaint must survive because there cannot be a partial rejection of the plaint under Order 7 Rule 11CPC. **Hence, even if one relief survives, the plaint cannot be rejected under Order 7 Rule 11CPC.** In the case on hand, the first and second reliefs as prayed for are clearly not barred by Section 34 of the SARFAESI Act and are within the civil Court's jurisdiction. Hence, the plaint cannot be rejected under Order 7 Rule 11CPC.*

*24. If the civil Court is of the view that one relief (say relief A) is not barred by law but is of the view that relief B is barred by law, the civil Court must not make any observations to the effect that relief B is barred by law and must leave that issue undecided in an Order 7 Rule 11 application. **This is because if the civil Court cannot reject a plaint partially, then by the same logic, it ought not to make any adverse observations against relief B.**”*

53. Additionally, the defendants also contend that the suit is not maintainable under Section 34 of the Specific Relief Act, as the plaintiff has not sought possession. However, this is a suit for partition, which inherently includes a claim for possession.

54. Pertinently, objections under Section 34 of the SRA are to be decided at the time of final adjudication of the suit. Reference can be made to the decision of the Supreme Court in *M/s Frost International Limited v. M/s Milan Developers and Builders (P) Limited & Anr*<sup>25</sup>. The relevant portion of the said decision reads as under:

*“The proviso to Section 34 states that no court can make any declaration where the plaintiff, being able to seek further relief than mere declaration of title, omits to do so. The said question will have to be considered at the time of final adjudication of the suit as the question of granting further relief or consequential relief would arise only if the court grants a declaration. If the plaintiff is unsuccessful in seeking the main relief of declaration, then, the question of granting any further relief would not arise at all. Therefore, omission on the part*

---

<sup>25</sup> 2022 INSC 380



*of the plaintiff in praying for further consequential relief, would become relevant only at the time of final adjudication of the suit. Hence, in view of the above, the plaint cannot be rejected at this stage by holding that the plaintiff has only sought declaratory reliefs and no further consequential reliefs.”*

55. Furthermore, a suit should not be dismissed merely on account of curable defects, such as the omission to make a specific prayer for possession, without affording the plaintiff an adequate opportunity to amend the plaint. Such procedural objections are more appropriately considered at the stage of final disposal, as defects under Section 34 of the Specific Relief Act can be rectified by amending the plaint to include the necessary consequential reliefs provided such amendment is made within the prescribed limitation period. In this context, reference may be made to the decision of the Supreme Court in *Venkataraja v. Doureradjaperumal (D) Thr. LRs.*<sup>26</sup>

56. A similar view has recently been taken by this Court in **CS(OS) 420/202**, titled *Sh. Rajesh Sharma v. The Sub-Registrar - V A (Hauz Khas)*. The relevant portion of the judgment is reproduced below for reference:

*“21. As far as the objection under Section 34 of the SRA, in respect of the prayer for declaration that the plaintiff is entitled to joint possession of the suit property, is concerned, it is suffice to note that the same cannot be a ground for rejection of the plaint.”*

57. Since the bar of limitation has also been pleaded in the present application, suffice to note that the question of limitation in the present case appears to be a mixed question of law and fact. The plaintiff has averred that she was kept under dark on the basis of assurances given by the other heirs



2025:DHC:8094



and she discovered the factum of transfer of the subject property only when the mutation took place in 2012. Be that as it may, without expressing any opinion on the same, I may only note that the issue is fact intensive, and not of a nature that could be adjudicated patently, in a summary manner.

58. In light of the above discussion, it could neither be observed that the plaintiff's claim is entirely bereft of any cause of action nor that the jurisdiction of Civil Court is barred for all the subject properties. Thus, a case for rejection of plaint is not made out. Needless to state, any observations made herein are only for the purpose of deciding the present application and would have no bearing on the final adjudication of the suit.

59. Accordingly, the instant applications stand disposed of.

**CS(OS) 756/2024, I.A. 9301/2013, I.A. 23269/2015, I.A. 24444/2015**

Let the matter be listed before the concerned Joint Registrar for taking up necessary steps in accordance with extant rules on 04.11.2025.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

**SEPTEMBER 12, 2025**

---

<sup>26</sup> 2014 (14) SCC 502