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IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

CS(OS) 420/2021

SH. RAJESH SHARMA

S/O LATE SH.MADAN MOHAN SHARMA

R/O 10/25, WARD NO. I, NEAR YOGMAYA MANDIR,

MEHRAULI, NEW DELHI -110030

....PLAINTIFF

(Through: Mr. Gaurav Sharma, Advocate)

Versus

THE SUB-REGISTRAR - V A (HAUZ KHAS)

TEHSIL BUILDING, MEHRAULI,

NEW DELHI -110030 DEFENDANT NO. 1

THE SUB-REGISTRAR- IV

SEELAMPUR,

DELHI -110032

.... DEFENDANT NO. 2

THE SUB-REGISTRAR- VI

THROUGH DIVISIONAL COMMISSIONER

REVENUE DEPARTMENT,

5, SHAM NATH MARG,

DELHI -110054

.... DEFENDANT NO. 3

THE SDM (MEHRAULI)

TEHSIL BUILDING, MEHRAULI,

NEW DELHI -110030

.... DEFENDANT NO. 4

SH. ASHOK KUMAR VATS

S/O LATE SH.HARI NARAIN VATS

R/O 10/6, YOGMAYA MANDIR COMPLEX



2025:DHC:7475



MEHRAULI, NEW DELHI-11 0030

..... DEFENDANT NO. 5

SH. MUKESH KUMAR VATS

S/O LATE SH.HARI NARAIN VATS

R/O 10/8, YOGMAYA MANDIR COMPLEX

MEHRAULI, NEW DELHI-11 0030

..... DEFENDANT NO. 6

SH. DEEPAK VATS

S/ O LATE SH. HARI N ARAIN VATS

R/O 10/5, YOGMAYA MANDIR COMPLEX

MEHRAULI, NEW DELHI-11 0030

.... DEFENDANT NO. 7

SH. PAWAN KUMAR

S/O SH.RAMESH KUMAR

R/O F-146, PREM NAGAR, VILLAGE KIRARI,

NANGLOI, DELHI -110041

.... DEFENDANT NO. 8

SH. DINESH KUMAR

S/O SH.ANGREJ SINGH

R/O VPO DARIYA PUR KALAN

DELHI -110039

.... DEFENDANT NO. 9

SH.RAM NIWAS

S/O SH.ANGREJ SINGH

R/O VPO DARIYA PUR KALAN

DELHI -110039

.... DEFENDANT NO. 10

SH. RAGHU RAI

S/O SH. NAND LAL

R/O3-B, GREEN VIEW APARTMENT

JAIN MANDIR, DADAVADI ROAD

MEHRAULI,

NEW DELHI -110030

.... DEFENDANT NO. 11

SMT. GURMEET SINGH RAI

WI O SH.RAGHU RAI

R/O 3-B, GREEN VIEW APARTMENT

JAIN MANDIR, DADAVADI ROAD



2025:DHC:7475



MEHRAULI, NEW DELHI -110030

.... DEFENDANT NO. 12

MS.AVANI RAI

D/ O SH.RAGHU RAI

R/O 3-B, GREEN VIEW APARTMENT

JAIN MANDIR, DADAVADI ROAD

MEHRAULI, NEW DELHI -110030

.....DEFENDANT NO. 13

MS.PURVI SANGHA RAI

D/O SH.RAGHU RAI

R/O 3-B, GREEN VIEW APARTMENT

JAIN MANDIR, DADAVADI ROAD

MEHRAULI, NEW DELHI -110030

.....DEFENDANT NO. 14

SH.RAJNEESH SEHGAL

S/O SH.JAIDEV RAJ

R/O A-22, INDER PURI

NEW DELHI-110012

....DEFENDANT NO. 15

(Through: *Mr. Raghav Anand and Mr. Shubham Kathuria, Advs for D-11 to 14*

Mr. Aly Mirza, Adv. for D-7.

Mr. R. K. Jain and Mr. Anurodh Kumar, Advs. for D-9& D10.

Mr. Abhishek Sethi, Adv. for D-5)

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Reserved on: 12.08.2025

Pronounced on: 26.08.2025

JUDGMENT

I.A. 18907/2022 (filed on behalf of defendant Nos.11 to 14 under Order VII Rule 11 r/w Section 151 of CPC)

1. The present application is filed by defendants no. 11 to 14, under Order VII Rule 11 of the Code of Civil Procedure, 1908 (*hereinafter*



referred to as CPC) seeking rejection of the plaint on various grounds, being, non-disclosure of cause of action, non-payment of sufficient court fees, and the suit being barred by limitation.

Factual Matrix

2. The present suit has been instituted by the plaintiff, claiming to be a co-sharer in the property bearing Khasra No.1789(old), 1460(new) situated at Revenue Estate of Village Mehrauli, Tehsil Haus Khas, New Delhi-110030, for declaration that a series of documents alleged to have been illegally executed in respect of the suit property by some of the defendants herein, are null and void. The plaintiff has also sought consequential reliefs of mandatory and permanent injunction in respect of the suit property.

3. The plaintiff claims that he is a co-owner of the suit property, by virtue of two relinquishment deeds executed in his favour; one dated 22.09.2008, executed by Shri Yogesh Sharma, Smt. Ritu Gaur (alias Nitu Sharma), and Ms. Neha Sharma; and the other dated 24.09.2008, executed by one Smt. Shanti Devi (*hereinafter, collectively referred to as the relinquishment deeds*). By virtue of the relinquishment deeds, the plaintiff claims ownership of $5/27^{\text{th}}$ of the suit property.

4. The plaintiff further claims that defendants no. 5 to 7 are co-owners of the suit property, having a collective share of $3/27^{\text{th}}$ of the suit property. However, he claims that defendants no. 5 and 7, executed General Power of Attorney dated 20.09.2013 in favour of defendant no. 15 in respect, not only of their share in the suit property, but also the share of the plaintiff. Subsequent to the same, a series of documents came to be executed by some of the defendants arrayed in the present suit in respect of the said land.



5. The plaintiff claims that he became aware of the documents impugned herein, only upon examining the records in a partition suit in respect of the suit property, bearing no. CS (OS) 3080/ 2020, and that immediately thereafter, he has instituted the present suit challenging the same.

Submissions

6. Learned counsel for the applicant-defendants made the following broad submissions:

- 6.1. That the relinquishment deeds on which the plaintiff rests his claim of being a co-owner of the suit property, do not confer any such title on him. Under the relinquishment deeds, the alleged shares of the releasers in Khasra No. 1475 (new) and 1789 (old) are relinquished in favour of the plaintiff, whereas, the suit property bears Khasra No. 1460 (new) and 1789 (old).
- 6.2. That a report of the SDM, Mehrauli (*hereinafter referred to as Document No. 7*) contradicts the plaintiff's claim of having a right over the suit property. In the said report, the suit land is said to be owned by one Shri Suran Narayan, and defendants no. 5 and 7 are said to be in possession of the same, none of whom have released any right over the same to the plaintiff.
- 6.3. That the plaint does not contain any averment describing how the suit property devolved on the persons who relinquished their alleged shares in the suit property to the plaintiff. Such bald pleadings are contrary to the mandate under Order VI Rule 4 of the CPC, wherein, the plaintiff is mandated to disclose all the material facts, in the plaint.



- 6.4. That the suit is barred by limitation, as the limitation period for challenging the documents which are sought to be declared as null and void, had expired prior to the filing of the suit.
- 6.5. That since all the impugned documents are registered, the plaintiff is deemed to have constructive notice of the same from their date of registration, and hence, any declaration in respect of such documents had to be sought within three years from the date of their registration, under Article 58 of the Schedule to the Limitation Act, 1963 (*hereinafter referred to as the Limitation Act*).
- 6.6. That the plaintiff, by seeking a declaration that he is entitled to possession of the property, is in fact, indirectly seeking possession of the property. Therefore, the plaintiff is liable to pay *ad-valorem* court fees on the value of the suit. However, the plaintiff has paid only a fixed Court fee, and is liable to pay the deficient amount.
7. Learned counsel for defendant no. 7, who supports the applicant-defendants in the instant application, submitted that a standalone relief of declaration of entitlement to possession is barred under Section 34 of the Specific Relief Act, 1964 (*hereinafter referred to as the SRA*). Under the said provision, the Court may grant such a relief, only if accompanied by prayers for such further consequential reliefs as the plaintiff is able to seek in law. Therefore, he submits that the plaintiff should have paid *ad-valorem* court fees for the relief of possession and included a prayer for recovery of possession, for the suit to be maintainable.
8. Learned counsel for the plaintiff opposed the submissions of the applicant-defendants and broadly contended as follows:



8.1 That a perusal of the plaint and the accompanying documents discloses a clear cause of action for the institution of the present suit. The plaint and the accompanying documents contain averments to establish his title over the suit property. Although, no mention of the new Khasra No. 1460 is made in the relinquishment deeds, the old Khasra No. 1789, which corresponds to the old Khasra number of the suit property, is clearly mentioned therein. Therefore, the plaintiff has acquired title over the shares of the releasers in the suit property. Consequently, the plaintiff is entitled to seek the reliefs sought in the present suit.

8.2 That the suit is not barred by limitation as the plaint clearly discloses that the plaintiff became aware of the impugned documents only in 2020, once he examined the records in CS (OS) 3080/2020. He had not been arrayed as a party to the said suit at its inception, and that a subsequent impleadment application filed by the plaintiff herein, is still pending adjudication in the said suit. Thus, the limitation period commenced only in 2020, and the present suit, having been instituted in 2021, cannot be deemed to be barred under the Limitation Act.

8.3 That he has explicitly pleaded that he is in constructive possession of the suit property, being a co-owner. Therefore, the plaintiff is not liable to pay *ad-valorem* court fees for the relief of declaration that he is entitled to joint-possession of the suit property.

9. I have heard learned counsel for the parties and perused the record.

Analysis

10. Having considered the submissions advanced on behalf of the parties, the Court is of the opinion that the fate of the present application, and consequently of the present suit, is contingent upon the adjudication of the



ground of non-disclosure of cause of action. Hence, the same is addressed at the outset.

11. The phrase ‘cause of action’, has been defined in ***P. Ramanatha Aiyar’s Advanced Law Lexicon, 3rd Edition, Volume 1***, as follows:

“‘Cause of action’ has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of the grievance founding the action, not merely the technical cause of action.”

12. The Supreme Court, in its judgment in ***Oil and Natural Gas Commission vs. Utpal Kumar Basu and Ors.***,¹ defined the said phrase as, the facts which the petitioner is bound to prove, in order to entitle him to get the relief sought by him. The relevant portion of the said judgment is extracted below, for reference:

“6. It is well settled that the expression “cause of action” means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court. In Chand Kour v. Partab Singh [ILR (1889) 16 Cal 98, 102 : 15 IA 156] Lord Watson said:

“... the cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the ground set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour.” ”

13. A perusal of the aforementioned authorities indicates that the plaintiff’s purported right over the suit property, which he is required to prove in order to succeed in the instant suit, forms an integral part of the cause of action for the suit. Therefore, if the plaintiff fails to establish, on the basis of the

¹(1994) 4 SCC 711



averments made in the plaint, that he has any right over the suit property, the instant application is liable to succeed, as no cause of action could be deemed to exist in the absence of such right.

14. In the instant case, the basis of the plaintiff's claim is the purported right over the suit property vested in him *vide* the relinquishment deeds. However, a thorough examination of the said relinquishment deeds indicates that they do not relate to the suit property. The suit property, as per the plaint, bears Khasra No. 1460 (new) and 1789 (old), whereas, the relinquishment deeds are in respect of property bearing Khasra No. 1475 (new) and 1789 (old). Such apparent mismatch in the property numbers in the said documents must necessarily operate against the plaintiff, considering that the plaint does not contain any pleading to justify the same. Document No. 7 also contradicts the plaintiff's claim, as it records that the suit property is owned by a person other than the plaintiff or the releasers. Therefore, no right, interest, or title of the plaintiff over the suit property could be ascertained from the plaint and the documents forming part of the plaint. In fact, the document does not suggest any right of the releasers as well, over the subject property, owing to the discrepancy in the property numbers, which would effectively mean that they had no right to relinquish what did not belong to them in the first place.

15. The Supreme Court, in its judgment in ***T. Aravindam v. T.V Satyapal and Another***,² unequivocally held that plaints which do not disclose any cause of action to sue, or which, through clever drafting, contain an illusory cause of action, are to be rejected at the threshold. The relevant extract from the said judgment is reproduced below, for reference.

² 1977 4 SCC 467



"We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now, pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving complaints. The learned Munsif must remember that if on a meaningful-not formal-reading of the complaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Or. VII r. 11 C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever, drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X C.P.C. An activist Judge is the answer to irresponsible law suits. The trial court should insist imperatively on examining the party at the first bearing so that bogus litigation can be shot down at the earliest stage. The Penal Code (Ch. XI) is also resourceful enough to meet such men, and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi "It is dangerous to be too good."

Emphasis supplied

16. In the present case, even if the contents of the complaint are taken to be truthful, the right of the plaintiff over the suit property is not even *prima facie* made out. Consequently, no right to seek any relief with respect to the suit property would sustain. In order to sustain a cause of action, the proof of foundational facts is essential as the edifice of evidence stands on such foundational facts when they are tested during trial. Therefore, the Court is of the opinion that the complaint does not disclose any cause of action for the institution of the present suit.

17. As far as the question of sufficiency of the court fees paid by the plaintiff is concerned, the Court is of the opinion that the same need not be gone into, in light of the finding that the complaint does not demonstrate any right of the plaintiff over the suit property. The defendants' primary contention on this aspect is *qua* the relief prayed by the plaintiff for



declaration that he is entitled to joint-possession of the suit property. It is not hard to see through the prayer, which seems to have been cleverly drafted to seek possession of the suit property without having to pay the requisite *ad-valorem* Court fees. Although, the plaintiff claims to be in possession of the suit property constructively through the other co-owners, however, his claim of constructive possession collapses in view of the finding that the plaintiff has failed to establish that he is a co-sharer in the suit property. Since the plaint does not disclose any other mode through which the plaintiff claims right of joint-possession of the suit property, the Court is of the opinion that the plaintiff, by seeking such a declaration, is seeking declaration of a non-existent right.

18. Since the relief being considered herein does not find any basis in the pleadings in the plaint, the question of sufficiency of court fees need not be gone into. However, it is apposite to note that attempts of litigants to bypass the payment of *ad-valorem* court fees, by clever drafting of the plaint, ought to be discouraged and looked down upon. The clean-hands doctrine which requires parties to come to Court with clean hands for equitable reliefs, must be extended even to cases such as the present one when a party seeks to create a camouflage in order to achieve a certain end. The Court is duty-bound to nip frivolous litigation in the bud as judicial time is, after all, public's time.

19. The third ground on which the plaint is sought to be rejected is that the suit is barred by limitation. In the plaint, the plaintiff avers that he became aware of the impugned documents only in 2020, when he inspected the records in another suit relating to the suit property. Since, at this stage, only the averments in the plaint are to be considered, there is no reason for



this Court to disbelieve the aforesaid averment. Therefore, for the purpose of the present application, the limitation period for seeking declaration in respect of the impugned documents, could be said to have commenced only in 2020 in terms of Article 58 of the Schedule to the Limitation Act. There appears to be no patent bar of limitation in the present case which could be held against the plaintiff in a summary manner in exercise of the power under Order VII Rule 11. The contention with respect to limitation is, at best, triable in nature.

20. To buttress the contention of limitation, it is averred on behalf of the applicant-defendants that, since the impugned documents are registered, the plaintiff was deemed to have constructive notice of the same as on the date of their registration. This Court is of the view that the said contention does not hold merit in the factual matrix of the case. Under Explanation I of Section 3 of the Transfer of Property Act, 1882, such a presumption of constructive notice of any compulsorily registrable document, operates only against persons acquiring any interest in the said property. In the present case, however, since the plaintiff has not established the existence of any interest in the suit property, he cannot be deemed to have constructive notice of the impugned documents. Therefore, in the factual backdrop of this case, the question of limitation would have required evidence to be led during the course of trial. However, in light of the finding of the Court that the plaint does not disclose any cause of action for the institution of the present suit, this ground of challenge is rendered infructuous.

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.

22. Intended to avoid multiplicity of proceedings and uncertainty of rights, Section 34 of the SRA enjoins the plaintiff to pray for such other consequential reliefs, apart from mere declaration of title, as he is entitled to seek. The aforesaid provision is reproduced below, for reference:

“34. Discretion of court as to declaration of status or right.—Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Explanation.—A trustee of property is a “person interested to deny” a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.”

23. Pertinently, objections under the proviso to 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.***³ 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 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

³ 2022 INSC 380



by holding that the plaintiff has only sought declaratory reliefs and no further consequential reliefs.”

24. Such objections are better suited for adjudication at the time of final disposal of the suit, since defects under Section 34 of the SRA can be cured by way of amendment of the plaint to include the necessary consequential reliefs, as long as the amendment is made within the limitation period for seeking such further relief. Reference in this regard can be made to the decision of the Supreme Court in *Venkatarama v. Doureradjaperumal (D) Thr. LRs.*⁴

Conclusion

25. In light of the foregoing discussion, the Court is of the opinion that the plaint is liable to be rejected under Order VII Rule 11(a) of the CPC, since it fails to disclose any cause of action for the institution of the present suit. Accordingly, the plaint stands rejected.

CS(OS) 420/2021 & I.A. 11357/2021

26. In view of the order passed in I.A. 18907/2022, the main suit and the pending application do not survive. Accordingly, the suit, along with the pending application, stands dismissed.

27. No order as to costs.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

AUGUST 26, 2025/aks

⁴ 2014 (14) SCC 502