



2025:DHC:10935-DB



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

Date of decision: 02.12.2025

+ FAO(OS) 12/2025

POONAM GILL

.....Appellant

Through: Mr. Pankaj Vivek, Mr. Tarun
Kumar & Mr. Naveen Malik,
Adv.

versus

MRS NIRDOSH GILL & ORS.

.....Respondents

Through: Mr. Avinash Sharma, Ms.
Akanksha Kapoor & Mr.
Devendra Pandey, Adv. for
Respondent No. 1 & 3.
Ms. Sakshi Arora & Mr. Vicky
Kumar, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (ORAL)

ANIL KSHETARPAL, J.

1. The present Appeal is being filed against the **Order dated 16.12.2024¹** passed by Ld. Single Judge of this Court in CS(OS) 1000/2024 titled "*Poonam Gill versus Mrs. Nirdosh Gill & Ors.*", whereby the learned Single Judge directed registration of the suit in respect of certain suit properties but declined to register the suit in respect of the remaining properties, insofar as it pertained to property Nos. 2, 3, 4, 5, and 15, as enumerated in the plaint.

¹ Impugned Order



2. The parties herein shall be referred to in the same rank as they are arrayed in the original suit.
3. In order to comprehend the issues involved in the present case, relevant facts in brief are required to be noticed.
4. Plaintiff, Ms. Poonam Gill, is the daughter of late Sh. Jaswant Singh Gill. Defendant No. 1, Mrs. Nirdosh Gill, is the widow of late Sh. Jaswant Singh Gill, whereas Defendant Nos. 2 and 3 are his sons.
5. Plaintiff instituted a suit for partition, rendition of accounts and recovery, while praying for the following reliefs:

“It is therefore most respectfully prayed that in the interest of justice, this Hon'ble Court may kindly be pleased to:
Preliminary decree for partition thereby declaring the 1/4th share each of plaintiff and defendants in the following suit properties:

Sl. No.	Property Details
1	Second Floor and Mezzanine in Property No. E-31, Hauz Khas Market, New Delhi, measuring around 1800 sq. ft.
2	SSDM Mahabir Hospital, Opp. Khalsa College Veterinary Hospital, Ram Tirath Road, Amritsar, Punjab.
3	1/883, Circular Road, Opp. Medical College, Beauty Avenue, Phase 3, Amritsar - 143001.
4	1800 sq. yds. of land in Vallah, Sultanwind, Distt. Amritsar, Punjab (as per details to be furnished by the defendants).
5	A 250 sq. yard plot in Phagwara, Punjab (as per details to be furnished by defendants).
6	25% share in a partnership firm named “Lovely View Hostel,” which owned a residential immovable property used as a hostel in the vicinity of Lovely Professional University, Phagwara, Punjab (as per details to be furnished by the defendants).

And any other property which may be disclosed in this suit;
and

- a. Pass a final decree of partition by metes and bounds by separating the 1/4th share of the plaintiff in the suit properties (movable and immovable); and
- b. Pass a decree in favor of the Plaintiff and against the defendants for the rendition of accounts of the amount received by defendant no. 3 from the sale proceeds received



from the sale of Agricultural land in Village Rakh Jhita, Amritsar; and

c. Pass a Final decree in favor of the plaintiff and against the defendants, thereby calling upon the defendants to render a truthful account of the profit/loss and income of the businesses of the coparcenary; and

d. Pass a decree of recovery in favour of the plaintiff in the sum of moneys found due upon rendition of accounts by the defendants; and e. Grant any other/further orders in favor of the plaintiff in accordance with the law.”

6. In substance, it is the case of the Plaintiff that late Sh. Jaswant Singh Gill inherited 6 acres of ancestral agricultural land in Village Jagdev Khurd, Tehsil Ajnala, District Amritsar, Punjab, which constituted the nucleus of the coparcenary. According to the Plaintiff, all 15 properties listed in para 20 of the plaint were purchased from the proceeds generated by the sale of this coparcenary land.

7. Some of the said properties were purchased in the name of late Sh. Jaswant Singh Gill, whereas some of the properties were in the name of Defendant No. 1, mother of the Plaintiff.

8. The Plaintiff further asserts that late Shri Jaswant Singh Gill created a Hindu Undivided Family [“HUF”] comprising himself, his wife, and his son, Dr. Sarpreet Singh Gill (Defendant No. 2).

9. Late Sh. Jaswant Singh Gill was *karta* of the Hindu Coparcenary (Joint Hindu Family).

10. As already noticed above, Plaintiff prayed for partition, apart from rendition of accounts and other ancillary reliefs.

11. On the very first date of hearing, the learned Single Judge declined to register the plaint after observing that property Nos. 2, 3, 5, and 15 stand in the name of Defendant No. 1, and property No. 4 stands in the name of a Company, i.e., third party.

12. Heard learned counsel appearing for the parties and, with their



able assistance, perused the paperbook alongwith the documents placed on record.

13. It is well settled that a plaint cannot be rejected in part while exercising powers under Order VII Rule 11 of the Code of Civil Procedure, 1908 [“CPC”]. The law in this regard has been succinctly laid down by the Hon’ble Supreme Court in *Sejal Glass Ltd. v. Navilan Merchants (P) Ltd.*², which reads as under:

“3.Order 7 Rule 11 of the Code of Civil Procedure, 1908 which reads as follows:

“11. **Rejection of plaint.** —The plaint shall be rejected in the following cases—

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of Rule 9:

Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

What is important to remember is that the provision refers to the “plaint” which necessarily means the plaint as a whole. It is only

² (2018) 11 SCC 780



where the plaint as a whole does not disclose a cause of action that Order 7 Rule 11 springs into being and interdicts a suit from proceeding.

4. It is settled law that the plaint as a whole alone can be rejected under Order 7 Rule 11. In *Maqsud Ahmad v. Mathra Datt & Co.*, the High Court held that a note recorded by the trial court did not amount to a rejection of the plaint as a whole, as contemplated by the CPC, and, therefore, rejected a revision petition in the following terms: (AIR p. 1022 para 4 : SCC OnLine Lah para 4)

“4. ... There is no provision in the Civil Procedure Code for the rejection of a plaint in part, and the note recorded by the trial court does not, therefore, amount to the rejection of the plaint as contemplated in the Civil Procedure Code.”

5. Similarly, in *Bansi Lal v. Som Parkash*, the High Court held: (AIR p. 39, para 7)

“7. But the real question which arises in this appeal is whether there can be a partial rejection of the plaint. Mr Chiranjiva Lal Aggarwala submits that a plaint can either be rejected as a whole or not at all, and he has relied on a statement of the law given in *Mulla's Civil Procedure Code* at p. 612 where it is stated: “This rule (Order 7 Rule 11) does not justify the rejection of any particular portion of a plaint.” In support of this statement the learned author has relied on *Raghubans Puri v. Jyotis Swarupa, Venkata Rangiah Appa Rao v. Secy. of State* and *Maqsud Ahmad v. Mathra Datt & Co.* In reply to this argument Mr Puri has submitted that it is really five suits which had all been combined in one and therefore in this particular case the rejection of a part was nothing more than rejection of three plaints. But the suit was brought on one plaint and not five suits were brought. The law does not change merely because the plaintiff chooses in one suit to combine several causes of action against several defendants which the law allows him. It still remains one plaint and therefore rejection of the plaint must be as a whole and not as to a part. I am therefore of the opinion that the learned Senior Subordinate Judge was in error in upholding the rejection as to a part and setting aside the rejection in regard to the other part. This appeal which I am treating as a petition for revision must therefore be allowed and the rule made absolute, and I order accordingly.”

(emphasis added)

14. We are of the considered opinion that refusal to register the suit with respect to some of the properties amounts, in effect, to a partial



rejection of the plaint, which is impermissible in law.

15. There is a provision for deletion of certain parts of the pleadings under Order VI Rule 16 of the CPC, but no application was filed in this regard. Furthermore, there was no application under Order VII Rule 11 of the CPC.

16. It is the positive case of the Plaintiff that all the 15 properties enumerated in the plaint were purchased from the nucleus of the coparcenary property and from the proceeds generated by the sale of the ancestral land measuring 6 acres.

17. It is also the case of the Plaintiff that late Sh. Jaswant Singh Gill was employed in Coal India Limited, and that his salary was barely sufficient to meet the living expenses and educational needs of the family members.

18. Thus, in substance, the case set up by the Plaintiff is that late Sh. Jaswant Singh Gill purchased the various properties from the income generated from the agricultural land and from the proceeds of its sale.

19. In these circumstances, refusing to register the plaint *qua* properties no. 2, 3, 4, 5 and 15 was not appropriate.

20. Learned counsel for Defendant Nos. 1 and 3 submits that the Plaintiff has not sought a declaration that the properties standing in the name of Defendant No. 1 are Joint Hindu Undivided Family/coparcenary properties. He submits that the Plaintiff has only sought the partition of the properties without seeking relief of declaration.

21. Learned counsel for the Defendant No. 2 supports the case of the Plaintiff.



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22. This court is of the considered view that once the broader relief of partition has been sought on the assertion that all 15 properties constitute Joint Hindu family/coparcenary property, the relief of declaration is implicit. Moreover, the Plaintiff has, in various paragraphs of the Plaint, clearly averred that all 15 properties are JHF/coparcenary properties purchased from ancestral funds. The Plaintiff has also asserted that late Sh. Jaswant Singh Gill even created HUF.

23. In these circumstances, the refusal to register the suit *qua* some of the properties cannot be sustained. Accordingly, the Impugned Order is set-aside, and the learned Single Judge is requested to register the suit as it is, without drawing any distinction among the various properties involved in the dispute.

24. The present appeal, along with pending application(s), if any, is disposed of in the above terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
DECEMBER 02, 2025/nd/kr