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

Date of decision: 13.11.2025

+ FAO(OS) 99/2025, CM APPL. 56094/2025 (Delay of 87 days in filing the appeal) & CM APPL. 56095/2025 (For Exemption)

M/S. DELHI AUTOMOBILE LTD.Appellant

Through: Mr. Ankur Sood, Mr. Anil Mishra, Mr. Ankush Bharadwaj, Mr. Dhaman Trivedi, Ms. Romila Mandal and Mr. Prajwal Suman, Advocates.

versus

M/S. TANEJA DEVELOPERS AND INFRASTRUCTURE LTD.Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGEMENT (ORAL)**

ANIL KSHETARPAL, J.

1. The present Appeal has been filed by the Defendant (Appellant herein) assailing the correctness of Orders dated 30.04.2025 and 21.07.2025 passed by the learned Single Judge [hereinafter referred to as 'LSJ'], whereby the application filed by the Defendant (Appellant herein) under Order VII Rule 11 read with Section 151 of the Civil Procedure Code, 1908 ["CPC"] to reject the Complaint at threshold was



dismissed. A subsequent Review Petition filed seeking review of the Order dated 30.04.2025 also came to be dismissed vide Order dated 21.07.2025.

2. For sake of convenience, the parties shall be referred hereinafter with their respective ranks, as before the LSJ.

3. The Plaintiff (Respondent herein) filed a suit for specific performance and permanent injunction in the month of November 2006, alleging that the Defendant entered into an Agreement to sell in its favour on 24.12.2002 [hereinafter referred to 'ATS'], which was subsequently revised *vide* Agreement dated 07.08.2004 [hereinafter referred to as 'Revised ATS'].

4. While instituting the Suit, the Plaintiff, in Paragraph No.23 of the plaint, has disclosed the cause of action for filing the Suit as under:-

“23. That the cause of action for instituting the present Suit arose in favour of the Plaintiff and against the Defendant on 7.8.2004 when the parties entered into the Revised Agreement for sale of the said property. The cause of action again arose on various dates thereafter when the Plaintiff paid various amounts in terms of the said Agreement to the Defendant. The cause of action again arose on 28.12.2004 when the Plaintiff tendered the pay orders for discharge of the liability of the Defendant to the L&DO for getting the property mutated in its favour and for getting the property converted from lease hold to free hold for enabling the completion of the sale transaction of the said Agreement to Sell executed between the parties. The cause of action again arose on 21.5.2005 when the Defendant fraudulently sought to revoke the said Agreement executed with the Plaintiff. The cause of action again arose on various dates thereafter when the Plaintiff again agreed to fulfil the terms of the Agreement. The cause of action again arose in 3rd week of October, 2006 when the Plaintiff acquired knowledge of the intention of the Defendant to illegally sell, transfer and alienate the said property in favour of a third party. The cause of action is still continuing against the Defendant.”



5. A perusal of the aforesaid paragraph indicates that there exists a bundle of facts sufficient to constitute a cause of action. In order to reject a plaint at the threshold under Order VII Rule 11(a) of the CPC, it is required that the plaint, on its face, fails to disclose any cause of action. However, while exercising the power under the said provision, the Court is not required to determine whether the Plaintiff ultimately possesses a valid or sustainable cause of action or not, owing to the reason that the said question is a subject matter of trial, which would require production of evidence by the parties.

6. In this regard, it is also pertinent to note that at the stage of Order VII Rule 11 of the CPC, the Court is only required to see whether the plaint ‘discloses’ a cause of action or not and not whether it “establishes” a cause of action. In the present case, it is evident from reading of Paragraph No.23 that the plaint does disclose a cause of action.

7. Learned counsel for the Defendant submits that the Revised ATS was a contingent contract, stipulating three conditions, which have never been fulfilled. Hence, the Plaintiff does not have cause of action. He refers to the aforesaid three conditions which are contained in Paragraph No.5 of the Revised ATS which reads as under:-

- “5. The VENDOR warrants that it is bound to fulfill the following obligations within the time period as prescribed hereinbelow, that is, the VENDOR shall:
- a) within 90 days from the date hereof, either of its own or with the assistance of the persons nominated and authorised hereinabove, settle with the abovesaid six illegal occupants of the portions of the Said Property and obtain vacant physical possession thereof;
 - b) within 90 days from the date hereof, if any liability, charge, lien, etc. exist on properly bearing No.1, Sikandra Road,



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New Delhi, (i.e., the Said Property), to clear the same and make the Said Property free from all encumbrances, charges, liens of any sorts whatsoever and clear all blemishes to a clear, perfect, valid and marketable title in the said property.

- c) within 90 days from the date hereof, to settle and pay the charges and demands of L&DO upto date and to get the mutation in favour of M/s. Delhi Automobiles Ltd. in the records of the L&DO, even by deposit of the projected charges and demands under protest with permission and directions from the Hon'ble High Court of Delhi in Writ Petition No.4498/2000;

The time frame as mentioned hereinabove is as per the maximum time required by the VENDOR. The parties agree that time is essence of this Agreement. All obligations shall be discharged by the VENDOR and VENDEE within the time stipulated in this Agreement.”

8. Learned counsel for the Defendant further relies on the Judgments passed by the Supreme Court in ***Nandkishore Lalbhai Mehta v. New Era Fabrics Private Limited & Others***¹, and ***Sangita Sinha v. Bhawana Bhardwaj & Ors***². He contends that the Plaintiff is required to establish a cause of action by making necessary averments in the plaint and he cannot continue with the Suit unless from the pleadings in the plaint he establishes a cause of action.

9. He further contends that the Revised ATS was revoked by a Notice and the Plaintiff has failed to either challenge the said notice or seek any declaration against such revocation. Hence, the Suit is not maintainable.

10. As already noted above by this Court, the express language used under Order VII Rule 11(a) of the CPC is limited to the disclosure of a cause of action in the plaint, merely empowering the

¹ (2015) 9 SCC 755

² 2025 SCC OnLine SC 723



Court to examine whether the plaint discloses a cause of action or not. The remaining facts and/or cause of action is required to be proved when the Plaintiff is called upon to lead evidence. Reliance in this regard can be placed upon the Judgment passed by Madras High Court in **Mr. Tim Boyd v Mr. Kesiraju Krishna Phani**³.

11. Therefore, at this stage, the Court is not required to adjudicate whether the stipulations or alleged pre-conditions for performance of ATS are fulfilled or not, since this would be beyond the scope of Order VII Rule 11 of the CPC.

12. The reliance placed by the learned counsel for the Defendant on the Judgment passed in **Nandkishore Lalbhai Mehta** (*supra*) is misplaced, since the said decision did not arise in the context of Order VII Rule 11 of the CPC. In the said case, the Hon'ble Supreme Court was merely examining the matter in an appeal arising out of a final judgment passed after adjudication of the Suit.

13. Similarly, a reliance has been placed on the Judgment in **Sangita Sinha** (*supra*), in support of the submission that the Plaintiff has not sought a declaration with regard to the revocation of the ATS by the Defendant. However, this is also not a ground to reject a plaint at the stage of Order VII Rule 11 of the CPC. In any case, a unilateral action on the part of the Defendant to revoke the ATS may not require a separate declaration in view of **Surinder Mohan Batra and Others v. Gurbinder Pal Singh Tiwana and Another**⁴.

14. In view of the above position of law, as well as the facts and circumstances of the present case, this Court does not deem it appropriate to interfere with the Impugned Orders passed by the LSJ.

³ 2016 SCC OnLine Mad 6175



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15. Accordingly, the present Appeal, along with pending application(s), if any, is dismissed.

16. Needless to state that, the observation(s) made in the Impugned Order or by this Court shall not be construed as final expressions on the merits of the case.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 13, 2025/nd/kr/hr

⁴ 2023 SCC OnLine P&H 2388