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

% ***Judgment reserved on: 20.08.2025***
Judgment pronounced on: 28.08.2025

\+ FAO(OS) 48/2025 & CM APPL. 23721/2025

SHRI ARUN KHOSLA & ORS. .....Appellants

Through: Mr. Rajiv Bahl, Adv. with P-1 in-person.

versus

SHRIMATI JYOTSNA BHATIA .....Respondent

Through: Mr. Praveen Kumar, Mr. Sarthak Gupta, Mr. Suman Raj, Mr. Fouzan Sah, Advs.

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

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

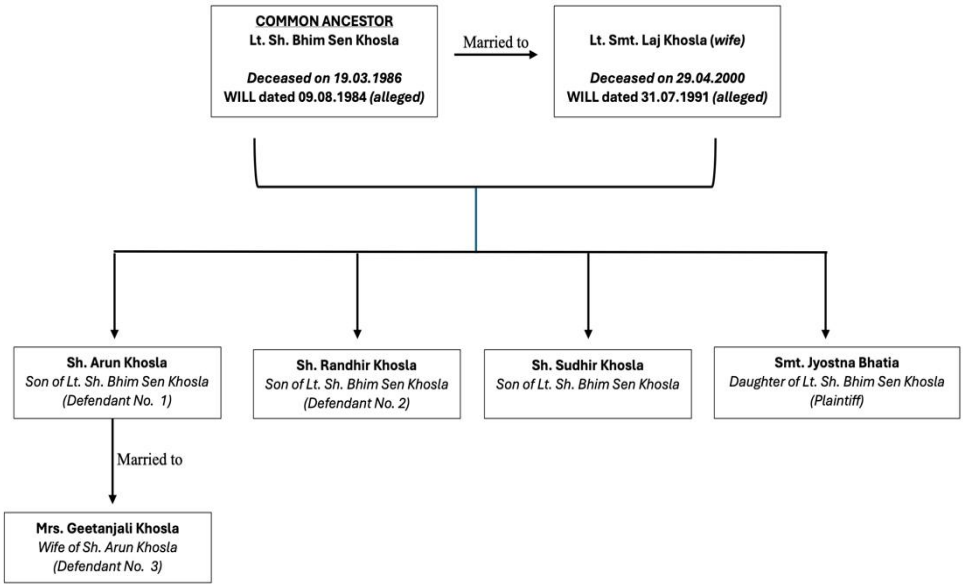
1. The present Appeal, under Section 10(1) of the Delhi High Court Act, 1966, is preferred against the **Judgment dated 27.02.2025**[1], passed by the learned Single Judge in CS(OS) 361/2016, titled *"Mrs. Jyotsna Bhatia v. Mr. Arun Khosla & Ors."*. By the Impugned Judgment, the learned Single Judge dismissed IA No. 14141/2016, application preferred by the Appellants under Order VII

[1] Impugned Judgement

Rule 11 of the **Code of Civil Procedure, 1908**[2], seeking rejection of the plaint instituted by the Respondent.

BRIEF FACTS:

2. Shorn of unnecessary details, the facts germane, for the institution of the present Appeal, along with the family tree for the sake of brevity, are as follows:-



3. Late Sh. Bhim Sen Khosla, who is the father and the common ancestor of the parties herein, was the owner of a property bearing **House No. B-98, Greater Kailash-I, New Delhi-110048**[3]**.** Late Sh. Bhim Sen Khosla passed away on 19.03.1986, leaving behind the aforenoted Class I heirs. It is the case of the Respondent/Plaintiff therein that her father died intestate and the properties owned by him devolved upon his legal heirs accordingly. Thereafter, the Plaintiff, on 03.06.2015, was apprised about the fact that the subject property had been mutated in favour of Appellant Nos. 1 and 3 (Defendant Nos. 1

[2] CPC
[3] Suit property

and 3 before the ld. Single Judge) through information from the MCD and upon scrutiny of certain documents.

4. It is further alleged by the Respondent that it was revealed to her that a suit, being CS(OS) 804/1995, which was filed by Late Smt. Laj Khosla, wherein a compromise decree was passed. It is stated that the suit was filed without impleading the Respondent and the compromise decree was also not brought to the knowledge of the Respondent by the Appellant. It is stated that upon further inquiry, it was brought to light that the father of the parties - Late Mr. Bhim Sen Khosla, had left a registered Will dated 09.08.1984 bequeathing the entire suit property in equal shares to Appellant Nos. l & 2.

5. The Respondent further asserts that her mother had executed another Will dated 31.07.1991 in favour of Appellant No. 1, purportedly bequeathing her share in the suit property. However, it is contended that on 31.07.1991, the mother did not possess any disposable share in the property. Moreover, in CS(OS) No. 804/1995, she had herself entered into a compromise acknowledging a 25% share in the property, therefore, the execution of the Will dated 31.07.1991 becomes doubtful.

6. In these circumstances, the Respondent instituted the present suit seeking, *inter alia*, declaration, partition and separate possession of the residential property and agricultural land owned by her late father. During the proceedings, the Appellants filed IA No. 14141/2016 under Order VII Rule 11 of the CPC, seeking rejection of the plaint. The learned Single Judge, however, dismissed the said application by way of the Impugned Judgment.

7. It is pertinent to note that the Appellants herein have limited their challenge to the judgment impugned herein to the sole question

of whether this suit itself was barred by limitation or not. They have thus not urged any of the other points raised by them in the original application under Order VII Rule 11 of the CPC and the corresponding grounds as raised in the present Appeal.

CONTENTIONS OF THE APPELLANTS:

8. It is the contention of the learned counsel for the Appellants that the Respondent herein was aware of the registered Will dated 09.08.1984 as also the Will dated 31.07.1991, and given this aspect, the suit as filed in 2016 and as amended on 15.03.2021 is heavily barred by limitation. In support of the said contention, learned counsel for the Appellants would refer to the recent judgment of the Hon'ble Supreme Court in ***Smt. Uma Devi & Ors. v. Sri. Anand Kumar & Ors***[4].

9. Learned counsel for the Appellants would also state that there is no discussion on the aspect of limitation in the Impugned Judgment and on this ground alone, the Impugned Judgment needs to be set aside.

CONTENTIONS OF THE RESPONDENT:

10. *Per contra,* learned counsel for the Respondent would state that the learned Single Judge has rendered a reasoned judgment dealing with all the aspects as raised in the application under Order VII Rule 11 of CPC, including the contention in respect of the plaint being barred by limitation.

11. He would then seek to draw support from Paragraphs 8 & 9 of the Impugned Judgment to contend that the learned Single Judge was fully cognizant of the various issues that have been raised and also set

[4] 2025 INSC 4341

out in Paragraph 3 of the Impugned Judgment, and resultantly, the said issue has been duly considered and dealt with.

ANALYSIS:

12. The Court has heard learned counsel for both parties at length and has meticulously examined the pleadings, including the plaint along with documents, I.A. No. 14141/2016 with its reply, and the Impugned Judgment.

13. At the outset, it is considered necessary to refer to the relevant portions of the impugned judgment. The pertinent paragraphs are reproduced below:-

> *"**3.** It is the case of the Plaintiff that the father of the Plaintiff - Mr. Bhim Sen Khosla, who owned the above-mentioned properties, passed away on 19.03.1986 leaving behind his wife Ms. Laj Khosla, two sons - Mr. Randhir Khosla (Defendant No.2 herein) & Mr. Arun Khosla (Defendant No.1 herein), and one daughter - Mrs. Jyotsna Bhatia (the Plaintiff herein). It is the case of the Plaintiff that on the death of Mr. Bhim Sen Khosla the suit properties divulged on the legal heirs of Mr. Bhim Sen Khosla as Mr. Bhim Sen Khosla died intestate. It is stated that at the time of the demise of Mr. Bhim Sen Khosla, Defendant No.1 along with Defendant No.3 were staying on the first floor of the Suit Property and Defendant No.2 along with his wife, three daughters and mother were staying on the ground floor. It is stated that the mother of the Plaintiff passed away on 29.04.2000 and the Plaintiff participated in the last rites of her mother at the suit property and after the last rites, though the Defendants though acknowledged 1/3rd share of the Plaintiff in the Suit Property but since Defendant No.2 was under huge debts, partition of the Suit Property was not sought by the parties and the same was deferred. It is stated that the Plaintiff shifted to Delhi with her family in 2002. It is stated that since the Plaintiff did not have any permanent place over her head, the Plaintiff asked for demarcation of her share in the Suit Property from Defendants No.1 & 2. It is stated that Defendant No. l sought some time for demarcation and partition of Plaintiff's share and Defendant No.2 represented to the Plaintiff that Defendant No.2 is facing acute financial distress and in order to bail out Defendant No.2, Defendant No.1 agreed to extend financial assistance to Defendant No.2 subject to Defendant No.2 surrendering his rights in favour of Defendant No.1. It is stated that Defendant No.1 represented to the Plaintiff that on account of his daughter's*

marriage he is not in a position to demarcate the share in the suit property and requested the Plaintiff to accommodate him for some more time and in lieu of this accommodation, the Defendant No.1 promised to the Plaintiff to construct the entire first floor from his own funds and hand it over to the Plaintiff for her occupation. It is stated that since Defendants No.1 & 2 arc brothers, the Plaintiff relented. Defendants No.1 & 2 both agreed that till the Plaintiff is given her separate share in the Suit Property, the Plaintiff can continue to have access to one room on the ground floor. It is stated that in 2003, around the marriage of the daughter of the Defendant No.1, Defendant No.2 and his family vacated the first floor of the suit property. It is stated that after the marriage of her daughter, Defendant No.1 commenced construction of first floor of the suit property. It is stated that since the house in which the daughter of Defendant No.1 was married was being demolished for reconstruction, the Defendant No.1 requested the Plaintiff to allow his daughter to occupy the first floor of the house with her husband during the construction of their house. It is stated that initially, it was represented to the Plaintiff that they need to stay only for two years and thereafter, the Plaintiff can move in to the Suit property. It is stated that the Plaintiff agreed to the request of the Defendant No.1. It is stated that the daughter and son-in-law of the Defendant No.1 vacated the suit property at the end of 2014. It is stated that after the first floor was vacated, in February, 2015 the Plaintiff approached the Defendant No.1 expressing her desire to shift on the first floor of the suit property with her family to which Defendant No.1 said that he needs to remove his articles which are lying on the first floor. It is stated that disputes arose between the Plaintiff and the wife of the Defendant No.1, who told the Plaintiff that the entire property belongs to her husband and the Plaintiff has no share in the suit property. It is stated that on 03.06.2015 Plaintiff received information from the MCD and on scrutiny of the documents it was revealed that the entire property has been mutated in the name of the Defendant No.1 & 3 as owners. It is stated that it was also revealed that a Suit, being CS(OS) 804/1995 was filed by Late Smt. Laj Khosla wherein some compromise decree was passed. It is stated that the suit and compromise decree were not brought to the knowledge of the Plaintiff by the Defendants. It is stated that upon further inquiry it was brought to light that the father of the Plaintiff - Late Mr. Bhim Sen Khosla had left a registered Will dated 09.08.1984 bequeathing the entire suit property in equal share to Defendants No.1 & 2. It is stated in the plaint that her father had immense love and affection for her as she was the only daughter and there is no reason why she would be left out from inheritance. It is stated that it also came to the knowledge of the Plaintiff that the Suit, being CS (OS) No.804/1995, filed by the mother of the Plaintiff before this Court, was compromised on 25.03.1996 by abandoning the Will dated 09.08.1984 and the

parties to that Suit became owners of the Suit property. It is stated that the said Suit was filed without impleading the Plaintiff as a party and once the Will dated 09.08.1984 was not propounded, the Plaintiff being class-I legal heir of Late Mr. Bhim Sen Khosla was to be impleaded as a party to the suit. It is stated that the Defendants No.1 & 2 along with the mother fraudulently obtained a decree dated 10.04.1996 behind the back of the Plaintiff. It is stated that it also came to light that the mother of the Plaintiff had also executed a Will dated 31.07.1991 in favour of Defendant No.1 bequeathing her share in the Suit property in favour of Defendant No.1. It is stated that the Will dated 31.07.1991 was executed at a time when the mother of the Plaintiff did not have any disposable share in the suit property and moreover, by her own conduct of entering into a compromise in CS(OS) No.804/1995 whereby the mother owns 25% share in the suit property and, therefore, the execution of the Will dated 31.07.1991 becomes doubtful. The Plaintiff has, therefore, filed the present Suit.

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8. *A perusal of the above judgment shows that the remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained under Order VII Rule 11. The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the Court.*

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9. *A reading of the application under Order VII Rule 11 CPC does not bring out any case as to why the plaint should be rejected on any of the grounds which are mentioned in an application under Order VII Rule 11 CPC. The application is premised on the ground that the Plaintiff has made false averments and has concealed material facts. The Plaintiff was aware of her father having executed a Will dated 09.08.1984 and the mother having executed a Will dated 31.07.1991 and also the fact that her mother and two brothers having obtained a consent decree with regard to the partition of the suit property on 10.04.1996 and the fact that Defendant No.2 having sold his share of the property to Defendant No.3 vide Sale Deed dated 13.06.2003."*

14. We have examined the judgment of the Hon'ble Supreme Court in ***Smt. Uma Devi v. Smt. Anand Kumar*** *(supra)*. For ready reference, the relevant paragraphs of the said judgment are reproduced below:-

*"**3.** The defendants moved an application under Order 7 Rule 11 of the Code of Civil Procedure (hereinafter 'CPC'), seeking return of the plaint on the grounds that the suit was not maintainable as it was barred by limitation as well as on other grounds. The Trial Court allowed the application and dismissed the suit.*

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***9.** The defendants further argued that the plaintiffs were effectively challenging a sale deed executed by their own aunt. Since the suit for partition was filed without contesting the sale deed, that itself was legally untenable. Moreover, a registered sale deed constitutes constructive notice to the world unless it is a case of fraud, coercion, or minority and therefore there has to be a presumption in law that the plaintiffs had knowledge of the sale deed.*

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***11.** The sole argument advanced by the respondents/plaintiffs is that the suit was only for partition, filed in the year 2023 and was within the limitation period as the limitation will be counted from the date of their knowledge of the sale deed. However, upon examining the pleadings before the Trial Court and appellate court, it is evident that the plaintiff failed to address the crucial question of when they became aware of the registered sale deeds. If they had prior knowledge of the sale deeds, they failed to specify the exact date of such knowledge. Additionally, the pleadings suggest suppression of essential facts by the plaintiffs.*

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***13.** Applying this settled principle of law, it can safely be assumed that the predecessors of the plaintiffs had notice of the registered sale deeds (executed in 1978), flowing from the partition that took place way back in 1968, by virtue of them being registered documents. In the lifetime of Mangalamma, these sale deeds have not been challenged, neither has partition been sought. Thus, the suit (filed in the year 2023) of the plaintiffs was prima facie barred by law. The plaintiffs cannot reignite their rights after sleeping on them for 45 years.*

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***17.** In our considered opinion, the Trial Court had rightly allowed the application of the defendants/appellants under Order 7 Rule 11 CPC, holding that the suit filed by the plaintiffs was a meaningless litigation, that it did not disclose a proper cause of action and was barred by limitation. There were thus no justifiable reasons for the appellate court to have remanded the matter to the Trial Court."*

15. Learned counsel for the Appellants argued that the judgment in question contemplates a situation where, on the ground of limitation, a

plaint may be dismissed on an application under Order VII Rule 11 of the CPC. It was further contended that, since the Will is a registered document, the Respondent would necessarily be deemed to have constructive notice of the same, and consequently, the plaint ought to have been rejected.

16. Learned counsel for the Appellants also contended that from a perusal of the averments of the plaint, it was apparent that the Respondent was well aware of the registered Wills, and for that reason too, the learned Single Judge has erred in not rejecting the plaint.

17. We are unable to accept the contentions advanced by the learned counsel for the Appellants. Upon a complete reading of the plaint, we are of the view that the averments therein, do not, on the face of it, establish that the suit is barred by limitation. A holistic reading of the plaint does not lead to such a conclusion. At the outset, it is necessary to reiterate the settled legal position, as consistently affirmed by the Hon'ble Supreme Court, that rejection of a civil action at the threshold is a drastic step, and the requirements of Order VII Rule 11 of the CPC must be strictly construed and adhered to. Order VII Rule 11 CPC provides as follows:-

> *"**ORDER VII***
>
> ***Plaint***
>
> ***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 returned 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-paper 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 from correcting the valuation or supplying the requisite stamp-paper, 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."*

18. We are of the firm view that the conditions as espoused under Order VII Rule 11(d) of CPC are not fulfilled.

19. We are further of the considered opinion that the judgment of the Hon'ble Supreme Court, particularly Paragraph 13 thereof, as relied upon by the Appellants, is clearly distinguishable on facts and law. It is a well-settled principle that the mere fact of registration of a Will does not by itself confer validity upon it; a registered Will is not conclusive proof and must still be duly proved in accordance with law. This settled position emerges from a consistent line of precedents of the Hon'ble Supreme Court, including ***Leela v. Muruganantham***[5], wherein it was categorically held as follows:-

> *"22.....In the light of plethora of decisions including the decisions in **Moturu Nalini Kanth v. Gainedi Kaliprasad, (2024) 16 SCC 78**, and in **Derek A.C. Lobo v. Ulric M.A. Lobo, (2024) 15 SCC 202**, this position is well settled that mere registration of a will would not attach to it a stamp of validity and it must still be proved in terms of the legal mandates under the provisions of Section 63 of the Succession Act and Section 68 of the Evidence Act. It is not the case of the appellant that the will dated 6-4-1990 is a registered one."*

20. In the present case, unlike in ***Smt. Uma Devi*** *(supra)*, the Wills in question are specifically contested. In ***Smt. Uma Devi*** *(supra)*, it was the sale deed that was under consideration, and significantly, that sale deed itself had not been challenged. Further, the said judgment

[5] (2025) 4 SCC 289

recognizes that a registered sale deed ordinarily constitutes constructive notice unless it is a case of "fraud, coercion or minority", thereby leading to a presumption in law that there was knowledge of the sale deed. However, in the present case, the plaint explicitly avers that there was no knowledge of the Wills until 2015, and it specifically seeks declarations regarding the registered Wills. The pleadings make it abundantly clear that knowledge of the disputed Wills was acquired only in 2015, and accordingly, specific reliefs have been sought for their cancellation.

21. The reliance placed by learned counsel for the Appellants upon portions of the written statement, particularly on the affidavits filed by the Respondent before certain authorities, is wholly misconceived. It is a settled proposition of law that, while considering an application under Order VII Rule 11 CPC, only the averments contained in the plaint are to be examined, and no reference can be made to the written statement or the material on which the defence has been premised.

22. In this regard, the learned Single Judge has correctly relied upon the judgment of the Hon'ble Supreme Court in ***Popat and Kotecha Property v. State Bank of India Staff Assn.***[6], wherein the Court has categorically reiterated this principle. The relevant paragraphs of that decision read as follows:-

> *"**13.** Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.*
> *14. In **Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557]** it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of*

[6] (2005) 7 SCC 510.

deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

15. *In* ***I.T.C. Ltd. v. Debts Recovery Appellate Tribunal [(1998) 2 SCC 70]*** *it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.*

16. *The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (****See T. Arivandandam v. T.V. Satyapal [(1977) 4 SCC 467].****)*

17. *It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in* ***Roop Lal Sathi v. Nachhattar Singh Gill [(1982) 3 SCC 487]*** *only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.*

18. *In* ***Raptakos Brett & Co. Ltd. v. Ganesh Property [(1998) 7 SCC 184]*** *it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.*

19. *There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.*

20. *Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. 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 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."*

23. There is yet another important aspect of the matter. The Respondent/Plaintiff has sought multiple reliefs, including, *inter alia*, declaration/cancellation of the Wills. It is a well-settled principle that a plaint cannot be rejected in part; any rejection under Order VII Rule 11 CPC must necessarily pertain to the plaint in its entirety and not in a piecemeal manner. This position has been clarified by the Hon'ble Supreme Court in ***Geetha v. Nanjundaswamy***[7], wherein it was categorically held that rejection of a plaint in respect of only part of the claim is impermissible. The Court observed as follows:-

> "**13.** In view of the above referred principle, we have no hesitation in holding that the High Court committed an error in rejecting the plaint in part with respect to Schedule-A property and permitting the Plaintiffs to prosecute the case only with respect to Schedule-B property. This approach while considering an application under Order VII Rule 11, CPC is impermissible. We, therefore, set aside the judgment and order of the High Court even on this ground."
>
> ***(emphasis supplied)***

24. A perusal of the Appellants' application under Order VII Rule 11 of the CPC further reveals that reliance has been placed on affidavits and No Objection Certificates allegedly filed before the MCD on various occasions.

25. However, the allegations made by the Appellants with respect to the Respondent's alleged knowledge of the Wills are matters of evidence which necessarily have to be established during trial. It would not be proper for the Court to summarily oust the Respondent at the threshold on the basis of disputed questions of fact by rejecting the plaint.

[7] 2023 SCC OnLine SC 1407.

26. The suit is presently pending before the learned Single Judge, where the Appellants will have ample opportunity to contest the averments in the plaint, adduce evidence, and defend the same in permissible ways during the course of trial.

27. It is a well settled proposition that when the issue of limitation turns upon disputed foundational facts, such as the date of knowledge, the existence of a continuing or recurring cause of action, or similar factual aspects, such questions must be adjudicated upon only after framing of issues and upon the parties leading evidence. These cannot be conclusively determined at the outset under Order VII Rule 11(d) of the CPC.

28. At the cost of repetition, we reiterate that the power to reject a plaint under Order VII Rule 11 of the CPC is a drastic measure, to be exercised sparingly and only in clear cases where the plaint, on the face of it, discloses a legal bar. Such relief certainly cannot be granted at the threshold in the present matter, particularly on the basis of the Appellants' contentions.

29. In view of the aforesaid facts and circumstances, we are of the firm view that the present appeal is devoid of merit. Accordingly, the appeal, along with pending applications, if any, stands dismissed.

ANIL KSHETARPAL
(JUDGE)

HARISH VAIDYANATHAN SHANKAR
(JUDGE)

AUGUST 28, 2025/tk/sm/va