



2026:DHC:8421-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 25.09.2026*

CNR No. DLHC010338382019

+ FAO(OS) 156/2019

SUNIL ARORA

.....Appellant

Through: Counsel (*appearance not given*)

versus

SWANTANTRA SUNEJA

.....Respondent

Through: Mr. Manoj Khanna, Adv. for R-1.
Mr. Naman Chhabra, Adv. for R-4.
Mr. Vansh Luthra, Adv. for R/Anil Arora.

CORAM:**HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MS. JUSTICE NISHA SAHAY SAXENA****J U D G M E N T**

1. The present appeal has been preferred by the Appellant/Defendant No.2 against the order dated 28.03.2019 passed by the learned Single Judge, whereby IA No.1050/2018, filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 ("CPC"), came to be dismissed.
2. Briefly stated, the Plaintiff/Respondent No.1, who has instituted the suit seeking, *inter alia*, partition of three immovable properties stated to have belonged to her father, Late Sh. Chaman Lal, declaration in respect of two Relinquishment Deeds dated 21.07.1999 and a Will dated 11.07.1994, and consequential reliefs of permanent injunction.
3. The Appellant preferred IA No.1050/2018 under Order VII Rule 11 of the CPC, seeking rejection of the plaint. The principal objections were

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limitation; the death of the common predecessor in 1995 and the alleged effect thereof on the rights claimed by the plaintiff after the 2005 amendment to the Hindu Succession Act, 1956; the alleged applicability of the Delhi Land Reforms Act, 1954; and the alleged insufficiency of court fee. By the impugned order dated 28.03.2019, the learned Single Judge dismissed the application, leading to filing of the present appeal.

4. Learned counsel for the appellant submits that the plaint, on a meaningful reading, itself discloses that the plaintiff's claim is barred by limitation. The Plaintiff challenges Relinquishment Deeds executed on 21.07.1999 and a Will dated 11.07.1994, whereas the suit was instituted only in 2016. Reliance is placed upon Article 58 of the Limitation Act, 1963. It is further submitted that Late Sh. Chaman Lal died in 1995 and, consequently, the Plaintiff cannot derive any right in the properties on the basis of the amendment to Section 6 of the Hindu Succession Act, 1956 introduced in 2005. It is contended that the nature of the Plaintiff's claim itself demonstrates that she is seeking to invoke a statutory provision which was not in force when succession opened. He further submits that certain properties are agricultural properties governed by the Delhi Land Reforms Act, 1954 and that the suit, insofar as it seeks partition thereof, is consequently barred by law. It is also submitted that the Plaintiff has not paid the requisite court fee, particularly as the Appellant disputes the assertion that she is in possession of the suit properties.

5. Learned counsel appearing for the respondent, on the other hand, supports the impugned order. It is submitted that the objections raised by the Appellant involve disputed questions which cannot be conclusively determined in an application under Order VII Rule 11 of the CPC.



6. We have heard the learned counsel for the parties and perused the material on record.
7. The law relating to rejection of a plaint under Order VII Rule 11 CPC is no longer *res integra*. The Supreme Court in ***Popat and Kotecha Property v. State Bank of India Staff Assn.***, (2005) 7 SCC 510, has held 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) 1SCC 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 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 compartmentalization, 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.”

(emphasis supplied)

8. The aforesaid principles make it clear that, while considering an



application under Order VII Rule 11 CPC, the Court is required to examine the plaint as a whole and determine whether the suit is barred by any law on the basis of the averments contained therein. The defence of the defendant cannot be imported into the plaint for the purpose of establishing such a bar. Equally, the mere fact that a question involves limitation does not, by itself, place the matter outside the scope of Order VII Rule 11(d) CPC. Where the plaint itself, on a meaningful reading, discloses a bar of limitation, the Court is competent to reject the plaint. Conversely, where determination of the alleged bar requires examination of disputed facts and the legal consequences flowing therefrom, the same cannot ordinarily be conclusively determined at the threshold.

9. The principal submission of the Appellant is that the suit is barred by limitation as the Plaintiff's father died in August 1995, that the Relinquishment Deeds were executed in 1999, and that the suit was instituted only in 2016.

10. In this regard, relevant paragraphs of the plaint read as under:

"3. That originally Late Sh.CHAMAN LAL S/O late Sh. Nand lal died in august 1995.The deceased Chaman lal has left behind his wife i.e the defendant no.3 herein and two sons i.e defendant no. 1 and 2 herein and two daughters i.e the defendant no. 4 and the plaintiff herein. There is no other, legal heir of late Chaman lal who has died intestate."

"5. That after the death of Sh. Chaman Lal, the properties and the estates owned by him devolved upon his five legal heirs i.e. the defendants no. 1 to 4 and the plaintiff to the extent of 1/5th share each. The plaintiff and the defendants have become the co-owner of the suit properties, estate and the interest left behind by Late Sh. Chaman Lal to the extent of 1/5th share each."



“6. That the plaintiff and all the defendants are in occupation and use of suit properties without division and without relinquishing their rights in the suit properties.”

“9. That in the month of august, 2014 the plaintiff came to know that the defendants no.1 and 2 have got the share of the mother i.e. defendant no.3 relinquished vide relinquishment deed dated 21.07.1999 wrongfully with regard to the suit property no. (a) and (b) in their favour with the malafide intention to grab the share of the plaintiff. The name of the plaintiff has been deliberately ignored/not mentioned and accordingly the plaintiff has also filed a criminal complaint u/s 156(3) Cr.P.C in Tis Hazari Court, Delhi which is pending.”

“12. That after the death of late Chaman lal, the parties to the suit are the only legal heirs of late Chaman Lal qua the suit properties and had several meetings to partition the suit properties on various dates, but due to the non-availability and non-cooperative attitude of the defendants, the meetings could not reach for an amicable settlement for the equal distribution/partition of the suit properties.”

“16. That the plaintiff being one of the legal heirs is entitled to her 1/5th undivided share in the suit properties, as she is in joint and constructive possession of the suit properties and all the defendants are under obligation to divide the suit properties and are duty bound to give due share of the plaintiff as well as the parties to the suit are class-I heirs of Late Chaman Lal.”

11. The plaint, therefore, does contain a specific assertion that the plaintiff continued to assert an undivided share and joint and constructive possession, and separately contains a specific plea that she acquired knowledge of the Relinquishment Deed only in August 2014. Whether the plaintiff had knowledge earlier; whether the plaintiff was in fact in joint or constructive



possession; and what legal consequences follow from the execution of the Relinquishment Deeds are matters which cannot be conclusively determined merely by reference to the dates appearing on the face of the documents. The Appellant may ultimately establish, at trial, that the Plaintiff had knowledge of the documents at an earlier point of time or that her claim of constructive possession is factually untenable. But such a determination cannot be made merely by accepting the Appellant's assertions in an application under Order VII Rule 11 CPC. It is, therefore, not a case where the plaint itself contains an admission or averment which renders the plea of limitation so irrefutable that the suit can be rejected at the threshold.

12. The fact that the Plaintiff has also sought a declaration concerning the Relinquishment Deeds and the Will does not alter this position. The precise nature of the relief sought, the appropriate provision of the Limitation Act applicable thereto, the point at which the right to sue accrued and the effect of the pleaded date of knowledge are matters which require consideration on the basis of evidence led by the parties.

13. In this regard, while Article 58 of the Limitation Act may be relied upon in relation to a declaratory relief, Article 59 may also assume relevance where the substance of the relief sought concerns cancellation or setting aside of an instrument. The question as to which provision applies and when the period of limitation commenced cannot, in the facts of the present case, be determined merely by looking at the dates of execution of the documents.

14. We accordingly do not accept the Appellant's submission that the suit is *ex facie* barred by limitation merely because the Relinquishment Deeds and the Will predate the institution of the suit by several years.

15. The next submission of the Appellant concerns the death of Late Sh.



Chaman Lal in 1995 and the amendment made to the Hindu Succession Act in 2005. The plaint itself proceeds on the basis that the plaintiff claims through Late Sh. Chaman Lal as one of his legal heirs and asserts a 1/5th share in the properties. As noticed hereinabove, paragraph 5 specifically contains such an averment, while paragraph 16 describes the plaintiff as one of the legal heirs and asserts her entitlement to an undivided share. The learned Single Judge, on a consideration of the pleadings, proceeded on the basis that the plaintiff was not asserting a right merely as a coparcener by virtue of the 2005 amendment but was claiming as a Class-I heir of the deceased. Whether that characterisation ultimately accords with the applicable substantive law; whether any particular property was coparcenary property; what was the nature of the rights which devolved upon the death of Late Sh. Chaman Lal; and what consequence follows from the fact that succession opened in 1995 are questions which cannot be conclusively determined for the purposes of Order VII Rule 11 merely from the date of death.

16. The appellant also relies upon the alleged agricultural character of certain properties and the provisions of the Delhi Land Reforms Act. The plaint, however, describes the properties and seeks partition thereof, but does not, on its own terms, contain an admission which renders the entire suit *ex facie* barred by the Delhi Land Reforms Act. The relevant properties are described in the prayer clause as under:

“(a) Property bearing Khasra no.531, Mundka Delhi-110041, measuring 2000 sq yards, (b) Property bearing no.134 (Khasra no.50/25) Timber Market, Swarn Park, Mundka, Delhi-110041, measuring 2000 sq yards, (c) Factory No.B-59, Phase-2, Mangolpuri Industrial Area, Delhi, measuring 200 sq mtrs.”

17. The question whether any particular property was, at the relevant point



of time, governed by the Delhi Land Reforms Act, what its precise legal character was, and what consequence such character entails, cannot be determined merely by accepting the Appellant's assertion in an application under Order VII Rule 11. It is also relevant that the impugned order records the submissions made on behalf of Defendant No.2 concerning the character of the properties and the effect of their urbanisation. The learned Single Judge thereafter framed an issue concerning the nature of the relevant property and the applicability of the statutory bar. We, therefore, do not consider it necessary, in proceedings under Order VII Rule 11, to pronounce upon the applicability or otherwise of the Delhi Land Reforms Act to any individual property.

18. Furthermore, the appellant has also questioned the sufficiency of the court fee. The plaint values the suit for purposes of jurisdiction at Rs. 2,20,00,000/- and sets out the court fee paid in respect of the reliefs claimed. At the same time, the plaint specifically pleads that the plaintiff is in "*joint and constructive possession*" of the suit properties. Whether such possession is ultimately established is not a question which can be decided merely by accepting the appellant's assertion that the plaintiff was not in possession. The learned Single Judge was, therefore, justified in declining to reject the plaint at the threshold on this ground, particularly when an issue concerning court fee had subsequently been framed for adjudication.

19. In view of the foregoing, it is evident that each of the principal objections raised by the Appellant requires, to a greater or lesser extent, determination of facts and application of the law to those facts. The Appellant's case may ultimately furnish grounds for contesting the Plaintiff's claim at trial. However, so far as the jurisdiction under Order VII Rule 11



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CPC is concerned, that pertains to whether the plaint itself discloses a cause of action or there is a statutory bar to the suit. It does not contemplate a mini-trial for determination of disputed questions of fact.

20. We accordingly hold that the objections raised by the Appellant involve mixed questions of fact and law which, in the facts and circumstances of the present case, cannot be conclusively determined at the threshold under Order VII Rule 11 CPC.

21. For the aforesaid reasons, we find no infirmity in the impugned order dated 28.03.2019 passed by the learned Single Judge dismissing IA No.1050/2018 under Order VII Rule 11 of the CPC.

22. Learned counsel for the Appellant also submitted that the objections raised in the application under Order VII Rule 11 CPC be considered as preliminary issues. The Appellant may file an appropriate application before the learned Single Judge, which shall be considered and decided in accordance with law.

23. The appeal, along with pending applications, if any, stands dismissed.

**VIVEK CHAUDHARY
(JUDGE)**

**NISHA SAHAY SAXENA
(JUDGE)**

SEPTEMBER 25, 2026/kp