$~

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

% ***Judgment reserved on: 02.12.2025***

Judgment pronounced on: 08.12.2025

\+ RFA(OS) 71/2025, CM APPL. 72395/2025 and CM APPL. 72396/2025

KRISHAN KUMAR VATS .....Appellant

Through: Dr. Anand Duggal and Ms. Inderjot Kaur, Advs.

versus

SHRI SHOBHA RAM VATS & ORS. .....Respondents

Through: Mr. Sachin Puri, Sr. Adv. along with Mr. Rakesh Sherawat, Adv. Mr. R. Ranjan, Adv. for R-2, 4, 5 and 6.

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

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellant assails the correctness of the judgment dated 10.10.2025 [hereinafter referred to as 'Impugned Judgment'] passed by the learned Single Judge, whereby an application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] by the Respondent Nos.1 & 3 [Defendant Nos.1 & 3 before the learned Single Judge] was allowed and the plaint filed by the Appellant [Plaintiff before the learned Single Judge] was rejected.

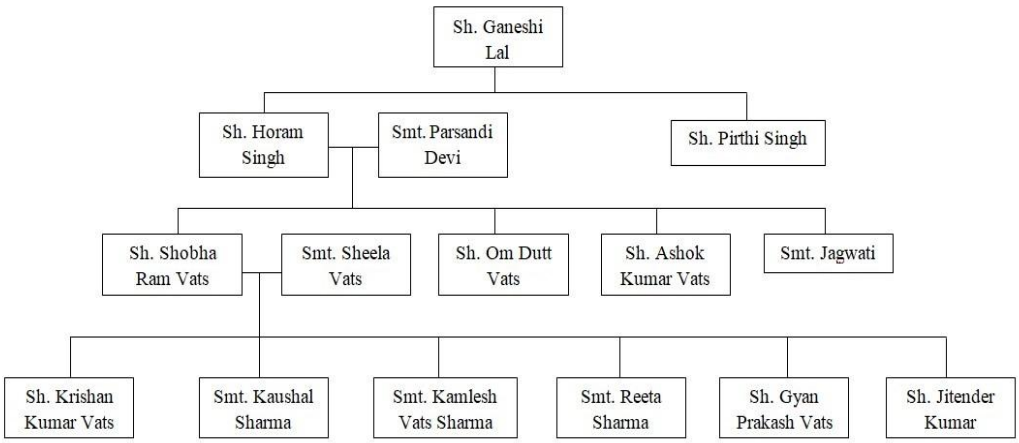
Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

2. For the sake of convenience, the parties before this Court shall be referred in accordance with their status and rank before the learned Single Judge.

FACTUAL MATRIX:

3. In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noticed.

4. The genealogy of the family reads as under:



5. It is claimed by the Plaintiff that somewhere in the 1950s, late Sh. Horam, father of the Defendant No.1 [hereinafter referred to as 'Horam'] and his brother, late Sh. Pirthi Singh [hereinafter referred to as 'Pirthi'] jointly purchased property admeasuring 530 sq. yds. bearing No.242, Hari Nagar Ashram, New Delhi [hereinafter referred to as 'Plot No.242'], which is stated to be mutated in the revenue record in the year 1951.

6. It stands admitted that Horam died intestate on 28.01.1975, leaving behind three sons, namely Shobha Ram Vats (Defendant

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

No.1), Om Dutt Vats and Ashok Kumar Vats, and a daughter, Smt. Jagwati. Upon his demise, his undivided half share in the Plot No.242 devolved equally upon his four children. The record further shows that Smt. Jagwati subsequently executed a registered Relinquishment Deed dated 10.06.1998 in favour of her three brothers, thereby vesting the entire half share of Horam exclusively in them. Horam's wife, Smt. Parsandi Devi had predeceased the said relinquishment and died on 28.01.1988.

7. It is further not in dispute that Pirthi remained unmarried and had executed a Will dated 12.02.1987 bequeathing his half share in the Plot No.242 in favour of his three nephews (sons of Horam), namely Sh. Om Dutt Vats, Sh. Shobha Ram Vats and Sh. Ashok Kumar Vats. Pirthi passed away on 02.04.1988, and his bequest accordingly took effect.

8. As a result of the aforesaid devolutions, the entire Plot No. 242 came to vest jointly in the three brothers. To record and formalise their arrangement, the parties executed a Family Settlement dated 21.08.1998 and thereafter a registered Partition Deed dated 05.12.2003, under which the Plot No.242 was divided into three equal portions, subsequently numbered as 242-A, 242-B and 242-C.

9. It is claimed by the Plaintiff that the three brothers divided the Plot No.242 by metes and bounds and thus, property No.242-C, Hari Nagar Ashram, New Delhi [hereinafter referred to as 'suit property'] fell to the share of the Defendant No.1, who constituted a Joint Hindu Family ('JHF') coparcenary property. Defendant No.1 was the Karta.

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

10. The Plaintiff further claims that the old house was demolished and a new house was constructed jointly by the family members on the suit property, comprising a ground, first, second and third floor.

11. Furthermore, the Plaintiff asserts that he had contributed towards the construction of the suit property as well as towards the payment of municipal taxes. It is further his case that the parties have been occupying distinct portions of the premises, with the Plaintiff and Respondent No.5 residing on the second floor, Respondent No.6 residing on the first floor, and the remaining members utilising the ground floor for commercial purposes. According to the Plaintiff, such an arrangement reflects joint possession and enjoyment of the property as a JHF property.

12. The record further indicates that Defendant No.1 executed a Gift Deed dated 13.07.2021 in favour of his daughter, Smt. Kamlesh Sharma (Defendant No.3), thereby transferring the ground and third floors to her. Defendant No.1 is also stated to have executed a Will dated 28.06.2021 in respect of the first and second floors of the suit property.

13. The Plaintiff, claiming to be a coparcener of the alleged JHF property, instituted CS(OS) 97/2023 seeking a declaration challenging the validity of the Will dated 28.06.2021. The Plaintiff has additionally sought partition, permanent and mandatory injunctions, and possession of the suit property.

14. The grievance of the Plaintiff is that the aforesaid instruments were procured under undue influence and are void in law on the ground that the suit property is JHF property in which Defendant No.1

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

had no exclusive right of disposition. The stand of Defendant Nos.1 and 3, however, is that the suit property is self-acquired and, therefore, Defendant No.1 was fully competent to deal with it in the manner he deemed fit. It is also on record that Defendant No.1 appeared before the learned Single Judge on 23.07.2025 and affirmed that both the Gift Deed and the Will were executed voluntarily, denying any coercion or improper influence.

15. Defendant Nos.1 to 3 filed an application under Order VII Rule 11 of the CPC, which was contested by the Plaintiff. The learned Single Judge has proceeded to reject the plaint *vide* Impugned Judgment, while recording the following reasons:

i. That Horam never constituted any JHF.

ii. That the Plaintiff, in his statement, did not disclose that he had a 1/7th share in the suit property.

iii. That the Plaintiff failed to produce any document to establish that he had contributed towards the reconstruction of the suit property.

16. Learned Single Judge has also relied upon the judgments passed by the Supreme Court in ***Commissioner of Wealth Tax, Kanpur & Others v. Chander Sen***[1], ***Yudhishter v. Ashok Kumar***[2] and judgment passed by a Division Bench of this Court in ***Neeraj Bhatia v. Ravindra Kumar Bhatia and Others***[3].

[1] (1986) 3 SCC 567
[2] (1987) 1 SCC 204
[3] 2024 SCC OnLine Del 4894

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

CONTENTIONS OF THE PARTIES:

17. Heard learned counsel for the parties at length and, with their able assistance, perused the paperbook.

18. Learned counsel for the Appellant/Plaintiff, while contending that the Impugned Order travels beyond the narrow scope and parameters of Order VII Rule 11 of the CPC, has submitted as under:

i. that on the meaningful reading of the plaint, it is evident that the averments of Blending and Joint Treatment were pleaded in the Plaint, thus disclosing the cause of action; and

ii. that the learned Single Judge has prematurely adjudicated upon the very issues that required trial, namely, the character of the inherited property, the existence or otherwise of a joint family nucleus, the applicability of the doctrine of blending, and the effect of joint possession and reconstruction, thereby converting a limited Order VII Rule 11 enquiry into a full adjudication on merits.

19. *Per contra*, learned senior counsel for the Respondents/Defendants has submitted:

i. that the other half portion of the Plot owned by Pirthi devolved upon Defendant No.1 and his brothers by the registered Will dated 12.02.1987 and the said property cannot be termed a JHF property. The inheritance of the said property is in the nature of a self-acquired property in the hands of Defendant No.1; and

ii. that Defendant No.1 affirms the execution of the registered Gift Deed dated 13.07.2021 and the registered Will dated 28.06.2021,

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

therefore, the Plaintiff has no cause of action for challenging the said documents.

20. Learned counsel for the parties have not made any other submissions.

ANALYSIS AND FINDINGS:

21. Before delving into the facts in the present case, it is pertinent to note that the enabling power of the Court to reject the plaint in exercise of power under Order VII Rule 11 of the CPC is circumscribed by the grounds enlisted in Clauses (a) to (f), which are extracted as under:

> "***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."*

22. Herein, the Impugned Judgment does not expressly record the provision invoked, however, from the reading of the same, it appears

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

that the plaint was rejected by the learned Single Judge under Clause (a) or (d) of the Order VII Rule 11 of the CPC. Under Clause (a), a plaint may be rejected if it does not disclose a cause of action, whereas Clause (d) permits rejection where, from the statements contained in the plaint, the suit appears to be barred by any law. Unless the Court is satisfied that the case squarely falls within one of the grounds enumerated in Clauses (a) to (f), it must proceed with the suit in the ordinary course. The remedy of rejection of a plaint is a stringent one and can be invoked only when the Court conclusively determines, on a meaningful reading of the plaint alone, that no cause of action is disclosed.

23. At this juncture, it is pertinent to refer to Paragraph No.26 of the plaint, which reads as under:

> *"26. That the cause of action to file the present suit arose in favour of the plaintiff and against the defendants on 8.3.2022 when the defendant No. 1 filed written statement in the Civil Suit bearing No. 72/2022 disclosing about the execution of alleged Gift Deed for the entire ground and third floor and cause of action further arose on 30.05.2022 when the certified copy of the alleged Gift Deed was obtained by the plaintiff from the office of the Sub-Registrar V(1), South East-1, Lajpat Nagar, New Delhi wherein on 13.07.2021 Gift Deed for entire Ground Floor and entire Third Floor and alleged Will dated 28.06.2021 for entire Second Floor and Third Floor has been mentioned to be executed by defendant No. 1 in favour of defendant No. 3. The cause of action again arose on several dates when the plaintiff along with defendant No. 2, 4, 5 and 6 requested the defendant No. 1 to get the Gift Deed revoked/cancelled and also to create a codicil of the Will and further to partition the suit property equally among the parties to this Suit but the defendant No. 1 with connivance of defendant No. 3 has flatly refused to concede the legal demands of the plaintiff and the other defendants.. The cause of action further arose in the first week of the month of November, 2022 when the defendant No. 1 and 3 are trying to finalise the deal for transfer of the suit property by bringing buyers and builders to visit and see the suit property. The cause of action is still in continuation as the suit property has not been partitioned by the defendant No. 1. equally among all the co-owners."*

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

24. On a perusal of the above-mentioned paragraph, it is evident that the Plaintiff, while instituting the suit, has disclosed a cause of action. Rejection of a plaint under Clause (a) of Order VII Rule 11 of the CPC is warranted only where the plaint, on its face, does not disclose any cause of action. The cause of action comprises the bundle of facts pleaded by the Plaintiff, which form the basis for initiating the proceedings. Judicial precedent recognises that if, upon a meaningful and not merely formal reading of the plaint, the Court concludes that no cause of action is made out, the power under Clause (a) may be invoked. However, such meaningful reading does not empower the Court to embark upon a fact-finding exercise or to render determinations on disputed facts. These issues can be adjudicated only after the parties are afforded an opportunity to lead evidence in accordance with the established procedure of a civil trial.

25. In the present case, the learned Single Judge has recorded a categorical finding that Horam never constituted any JHF after partition. Such a conclusion is plainly a finding of fact. The Plaintiff has specifically pleaded that the suit property was a JHF property, that the parties were coparceners, and that Defendant No.1 was acting as the Karta. In these circumstances, the learned Single Judge erred in returning a factual determination at the threshold stage, which is impermissible while considering an application under Clause (a) of Order VII Rule 11 of the CPC.

26. The learned Single Judge has further proceeded to call upon the Plaintiff to file an affidavit disclosing his property details on the ground that he was employed with National Thermal Power Corporation Limited. This approach amounts to an appreciation of

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

evidence, which is not contemplated at the stage of examining the plaint under Order VII Rule 11 of the CPC. Under Clause (a), the Court is confined to the averments in the plaint alone, and no external material can be requisitioned or relied upon.

27. The learned Single Judge has also erred in observing that the Plaintiff failed to produce documents showing his contribution towards the reconstruction of the house. Such an observation again constitutes a finding of fact. At the stage of Order VII Rule 11 of the CPC, the Court must refrain from assessing the sufficiency or correctness of evidence and must avoid rendering conclusions that effectively prejudge issues that are to be established through trial. Any such premature evaluation is contrary to the settled parameters governing rejection of plaints.

28. Moreover, the judgments of the Supreme Court in ***Chander Sen*** *(supra)* and ***Yudhishter*** *(supra)* were not delivered in the context of Order VII Rule 11 of the CPC. Consequently, the reliance placed upon these decisions for rejecting the plaint is misplaced, and they do not govern the determination required in the present matter.

29. Learned senior counsel for the Respondents/Defendants has submitted that if this Bench is inclined to take a view different from that expressed in ***Neeraj Bhatia*** *(supra)*, the matter ought to be referred to a Larger Bench.

30. This Court has duly considered the submission advanced on behalf of the Respondents/Defendants. A reference to a Larger Bench would have been warranted if the issue required reconsideration of an established legal position. However, a consistent line of judgments of

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

the Supreme Court clarifies that findings of fact cannot be recorded while exercising jurisdiction under Clause (a) of Order VII Rule 11 of the CPC. In view of this settled legal position, as reiterated by the Supreme Court in ***Vinod Infra Developers Ltd. v. Mahaveer Lunia & Ors.***[4]***; and Karam Singh v. Amarjit Singh & Ors.***[5], no occasion arises to make a reference.

31. It is also relevant to note that in ***Rohit Chauhan v. Surinder Singh & Ors.***[6], the Supreme Court has held that the moment a son is born to a coparcener who is separated from his coparcenary, a new coparcenary comes into existence.

32. This Court has also carefully read the judgment passed by the Supreme Court in ***Neeraj Bhatia*** (*supra*). In the aforesaid case, there was no dispute that the subject property was the absolute and self-acquired property of the late Sh. Balwant Singh Bhatia, who was allotted the subject property by the Government of India. The Plaintiff, while filing the suit, claimed that the subject property was blended by the late Sh. Balwant Singh Bhatia in the common hotchpotch of the Hindu Undivided Family by an oral declaration, however, no document was produced. In that context, the Division Bench proceeded to reject the plaint. With highest respect, it is to be noted that the attention of the Division Bench was not drawn to the scope of adjudication at the stage of Order VII Rule 11 of the CPC. Moreover, as already noticed by now, it is fairly well settled by the Supreme Court that at the stage of Order VII Rule 11, only the

[4] 2025 INSC 772
[5] 2025 INSC 1238
[6] (2013) 9 SCC 419

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36

contents of the plaint are required to be seen. Hence, the prayer for reference to a Larger Bench cannot be accepted.

33. Hence, in light of the above legal position, it was inappropriate for the learned Single Judge to record a finding at this preliminary stage that the suit property is the exclusive property of Defendant No.1. Further, it is well-settled that a plaint cannot be rejected in part. The Plaintiff asserts possession over a portion of the suit property and has sought a decree of permanent injunction to protect his possession. This aspect has been overlooked, and the rejection of the plaint, without examining this prayer independently, is contrary to the settled principles governing Order VII Rule 11 of the CPC.

CONCLUSION:

34. Keeping in view the aforesaid, the present Appeal is allowed. The Impugned Judgment is hereby set aside. The suit filed by the Appellant/Plaintiff is restored to its original number.

35. The parties, through their respective counsel, are directed to appear before the learned Single Judge on 22.12.2025.

36. The present Appeal, along with all pending applications, stands disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 08, 2025
jai/sh

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:08.12.2025 17:21:36