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

Date of Decision: 17.11.2025

+ RFA(OS) 24/2024, CM APPL. 32170/2024

KARAN LUTHRA

.....Appellant

Through: Mr. Rajesh Yadav, Sr. Adv.
with Mr. Rajiv Dewan, Mr.
Manoj Kumar, Mr. Raunak
Gupta, Advs.

versus

LATE SHRI M. K. SUBBA (THROUGH LRS)

.....Respondent

Through: Mr. Kuriakose Varghese, Ms.
Isha Ghai, Ms. Aditi Todaria,
Advs.
Mr. Manish Srivastava, Mr.
Hardik Vashisht, Mr. Moksh
Arora, Advs. for R-1(A)

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. The matter has been passed over twice today.
2. On the third call, learned counsel representing the Respondent requests for a passover, which was declined by this Court. Thereafter, learned counsel representing the parties proceeded to make their submissions including learned counsel representing the Respondent..
3. When the Court proceeded to dictate the judgment, learned counsel representing the Respondent again requests for a passover,



which is not appreciable.

4. Through the present Appeal, the Appellant assails the correctness of a judgment dated 30.04.2024 [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 [Defendant before the learned Single Judge] was allowed and the plaint filed by the Appellant [Plaintiff before the learned Single Judge] was rejected.

5. A perusal of the record reflects that the Appellant/Plaintiff filed a suit for specific performance of Agreement To Sell ('ATS'), permanent injunction and recovery of possession on 01.12.2018, while claiming that the Respondent/Defendant executed a full and final payment ATS on 07.06.2011 after receipt of the total sale consideration of Rs.10.50 crores.

6. As per ATS dated 07.06.2011, there was no date fixed for execution of the sale deed. Thereafter, when the Appellant/Plaintiff requested the Respondent/Defendant to honour the ATS dated 07.06.2011, the Respondent/Defendant started demanding additional amount. The Appellant/Plaintiff paid an additional amount of Rs.1 crore, apart from Rs.10.50 crores which was already paid.

7. Subsequently, in the year 2013, the Respondent/Defendant again started demanding additional amount of Rs.50,00,000/-, which was paid by the Appellant/Plaintiff in July 2013 and November 2013. Thereafter, the Respondent/Defendant, who was a politician, went to Assam for contesting election and suffered brain stroke and remained



hospitalized for some time in Medanta Hospital, Gurugram. The Respondent/Defendant was thereafter shifted to Singapore for treatment.

8. Subsequently, there was a robbery at the house of the Respondent/Defendant and the Respondent/Defendant promised to execute the sale deed after some time. The Appellant/Plaintiff also sent a Notice to the Respondent/Defendant on 12.10.2015, calling upon the Respondent/Defendant to execute the sale deed, to which no reply was submitted. Thus, the Appellant/Plaintiff, upon learning that the Respondent/Defendant was negotiating the sale of the property through a property broker, filed the suit on 01.12.2018.

9. The Respondent/Defendant filed an application under Order VII Rule 11 of the CPC, which has been allowed by the learned Single Judge by way of the Impugned Judgment.

10. This Court has heard learned counsel representing the parties at length.

11. Article 54 of the Schedule attached to the Limitation Act, 1963 [hereinafter referred to as 'Article 54'] reads as under:

	<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
54	<i>For specific performance of a contract.</i>	<i>Three years.</i>	<i>The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.</i>

12. It is evident that the column 3 of Article 54 is in two parts. The first part provides that the period of limitation will begin to run from



the date fixed for performance. In the present case, there was no date fixed for performance. Hence, the first part of Article 54 is not applicable.

13. In the second part, the period of limitation will begin to run from the date the plaintiff has notice that the defendant/other party has refused its performance. In the present case, from a reading of the plaint, it is evident that the Respondent/Defendant never served any Notice upon the Appellant/Plaintiff refusing to perform his part of the contract. In such circumstances, rejection of the plaint at this stage was not appropriate.

14. Learned Single Judge has assumed that the Respondent/Defendant refused performance because he was not responding to repeated requests of the Appellant/Plaintiff in this regard. It must be noted here that the language of Article 54 is categorical, the refusal must be explicit and communicated and cannot be presumed from silence or non-responsiveness. There has to be a refusal on the part of the Respondent/Defendant which must be communicated to the Appellant/Plaintiff. Mere failure to respond to the oral requests may not fall within the scope of second part of Article 54. At this stage, only the contents of the plaint are required to be examined. Hence, the learned Single Judge has erred in rejecting the plaint.

15. Accordingly, 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.

16. The parties, along with their respective counsel, are directed to



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appear before the learned Single Judge (Roster Bench) on 27.11.2025.

17. The present Appeal, along with the pending application, stands disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 17, 2025

jai/rgk