



2025:DHC:10239-DB



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

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Judgment reserved on: 01.11.2025

Judgment pronounced on: 21.11.2025

+ RFA(OS) 71/2024, CM APPLs.75320/2024 and 75322/2024

MR. NIKHIL S KHANNA & ORS.Appellants

Through: Mr. Preetesh Kapur, Senior
Advocate with Mr. Shaunak
Kashyap, Mr. Anuj Panwar,
Mr. Saksham Gupta and Mr.
Kartikaya Gautam, Advocates

versus

MR. JAGDISH PRASAD KHANNARespondent

Through: Mr. Akhil Sibal, Senior
Advocate instructed by Mr.
Aditya Gupta & Ms. Abhilasha
Gupta, Advocates for IRA Law.

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 this Appeal, the Plaintiffs/Appellants herein assail the correctness of the Order dated 23.09.2024 [hereinafter referred to as 'Impugned Order'], passed in CS(OS) No. 656/2017, whereby the learned Single Judge rejected their plaint in exercise of powers under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'].

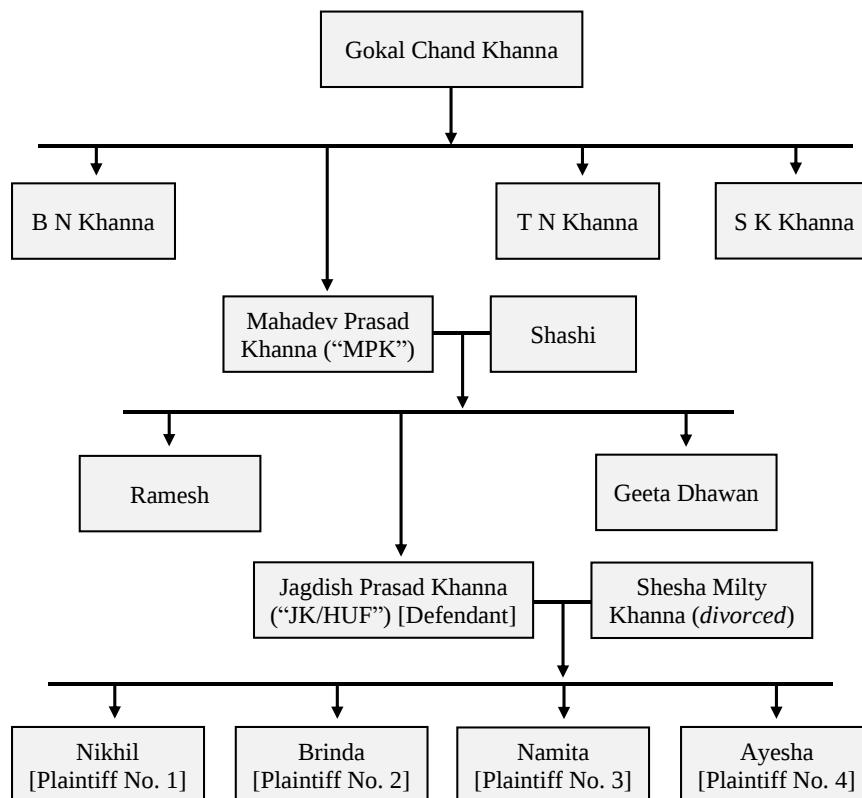
2. Herein, the parties shall be referred to by their status and ranking in the suit, i.e., CS(OS) No. 656/2017.

**FACTUAL MATRIX:**

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

4. Plaintiffs, namely Mr. Nikhil S. Khanna, Mrs. Brinda V. Khanna, Mrs. Namita Khanna, Ms. Ayesha Khanna, filed the suit CS(OS) No. 656/2017 for seeking partition, declaration, permanent injunction and rendition of accounts against their father, Mr. Jagdish Prasad Khanna/HUF [hereinafter referred to as 'JK/HUF'], s/o late Mr. Mahadev Prasad Khanna [hereinafter referred to as 'MPK'].

5. The genealogical chart of the family is hereunder:



6. After tracing the lineage of the family up to four generations, commencing from late Mr. Gokal Chand Khanna, the Plaintiffs claim



partition of the movable and immovable properties/assets owned by JK/HUF (also referred to as JPK/HUF, both denoting the same entity/person).

7. JK/HUF, after his marriage with Ms. Shesha Miltly Bose (mother of the Plaintiffs) in 1960, created a HUF of his own family in which all his children subsequently became members. On 10.03.1999, members of the MPK family entered into an *inter se* settlement agreement, resolving their disputes which had arisen with regard to their joint interests and affairs. Further, on the same day, the MPK family entered into a Deed of Family Settlement, which was duly registered. However, Mrs. Shashi Prabha passed away on 25.02.2000 and therefore, the aforesaid Deed of Family Settlement could not be implemented. Further, on 23.03.2000, MPK made a Will, whose executors were late Mr. Laxman Das Khanna and late Mr. Vijay Khanna.

8. Thereafter, another Deed of Family Partition was entered into on 26.02.2000. However, disputes arose between the parties *qua* the Deed of Family Partition. The said disputes were referred to arbitration before the late Mr. Laxman Das Khanna and the late Mr. Vijay Khanna. On 07.03.2000, an award was announced by them, dividing the properties amongst the members of the Khanna family, comprising *inter alia* four groups, namely, BN Khanna group, MPK group, TN Khanna group and SK Khanna group.

9. Pursuant to the award, JK/HUF was appointed to the Board of Eastern International Hotels Ltd. [hereinafter referred to as 'EIHL'] as



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a representative of the MPK family and a representative of his own family members as well. Out of the 50% shareholding of EIHL, which came to the share of the MPK family, 10% (1,80,314 shares) of EIHL came to the share of JK/HUF's family. Out of these 1,80,314 shares, 62,680 shares were registered in the name of JK/HUF, while the remaining 1,17,634 shares were to be registered in the names of the family members of JK/HUF's family. It is alleged that the 1,17,634 shares were transferred in the name of JK/HUF to be held in trust for his family members, including the Plaintiffs.

10. JK/HUF, for and on behalf of, as well as for the benefit of his family, *inter alia*, started various companies and acquired various assets from the earnings of the Joint Hindu Family. The details of movable assets were also given. However, disputes and differences arose between JK/HUF and his family, resulting in the dissolution of the marriage between JK/HUF and Ms. Shesha Milty Bose in the year 2005.

11. Pursuant thereto, JK/HUF and Ms. Shesha Milty Bose and Plaintiff Nos.1 and 2 entered into a Deed of Partition on 28.11.2006 [hereinafter referred to as 'Subject Partition Deed'], wherein certain properties belonging to JK/HUF as mentioned in the Subject Partition Deed were partitioned between JK/HUF and Ms. Shesha Milty Bose and Plaintiff Nos.1 and 2. However, at that time, Plaintiff Nos.3 and 4, who were major and had a right in the family property by virtue of the Hindu Succession (Amendment) Act, 2005 [hereinafter referred to as 'HSA 2005 Amendment'], were kept out of the same.



12. It may be noted that MPK passed away on 22.02.2015. Further, the first executor of the Will of MPK, Sh. Laxman Das Khanna also passed away and Mr. Vijay Khanna assumed the role of executor of the Will of MPK, however, unfortunately, he also passed away.

13. In Paragraph 3 of the plaint, the Plaintiffs have averred that JK/HUF, presently aged about 77 years, is not maintaining sound health and is stated to be of diminished mental capacity. It is further alleged that due to such a condition, he has been making decisions detrimental to the rights and interests of the other coparceners, i.e. the Plaintiffs.

14. It has been further asserted that the Plaintiffs are coparceners in the Joint Hindu Family, and that the properties in question constitute Joint Hindu Family properties, with JK/HUF being the *Karta* thereof. In certain paragraphs of the plaint, it has further been recorded that some of the said properties are ancestral in nature. After setting out the background of various deeds of settlement executed between the parties and referring to the arbitration award, the Plaintiffs have claimed that JK/HUF had acquired several properties and established various business ventures from the income and accretions derived from the Joint Hindu Family and ancestral properties.

15. Further, it is stated that the Subject Partition Deed, was only in respect of some of the properties of JK/HUF and involved only a few members of JK/HUF. Moreover, the Subject Partition Deed clearly records that the said partition was only in respect of some of the movable and immovable properties of JK/HUF coupled with the fact



that Clause 1 thereof provides that the said partition shall not in any manner curtail, effect or dilute the rights of the Plaintiff Nos.1 and 2 to any other ancestral or other properties, that may exist, except the properties held by JK/HUF as detailed in the Subject Partition Deed.

16. Furthermore, it has been stated that the Plaintiffs are entitled to seek partition of all the assets mentioned in Schedule 'A' and Schedule 'B' and JK/HUF holds those properties not in his personal capacity, but as the head of the HUF and these properties are not his self-acquired properties. Apart from alleging mismanagement and misappropriation of funds by JK/HUF under the influence and duress of one Mrs. Kanta Stanchina, the Plaintiffs have also asserted that the mental condition of JK/HUF is rapidly diminishing and JK/HUF might dispose of all properties and funds under the influence and duress of Mrs. Kanta Stanchina.

17. Consequently, the Plaintiffs filed the suit, i.e., CS(OS) No. 656/2017, against JK/HUF, who is the father of the Plaintiffs.

18. It may be noted that in paragraph 55 of the plaint, the Plaintiffs have disclosed the cause of action to file the suit, which reads as under:

"55. That the cause of action for filing the present suit arose following erratic correspondences written in 2017 and a visit by the Defendant and Kanta Stanchina in June 2017 to the United States of America where the daughters witnessed a significant reduction of the Defendant's faculties including an inability to speak logically, answer his phone or answer basic questions about his travel and whereabouts. In addition, they became concerned by the insistence of Kanta Stanchina to deplete the Defendant's retirement funds by making requests to his financial advisor and taking out funds from his personal IRA banking account.



Furthermore, requests of the Plaintiffs to their father to mutually partition the family assets have not yielded any results. The Plaintiffs also fear that given the diminishing mental capacity of their father and his companion's presence might result in further complicating the issue at hand as the father may, albeit illegally dispose/transfer/alienate family assets in detriment to Plaintiffs' legal rights. As such, the Plaintiffs are filing the present suit. The present suit is within limitation. Plaintiffs have only recently in 2017 been able to obtain the documents filed alongwith the suit, establishing a continuing conduct of self dealing, conflict of interest and manipulation, occasioning filing of the present action."

19. Ultimately, the Plaintiffs have prayed for the following reliefs:

"(a) Pass a decree in favour of the Plaintiffs and against the Defendant by equally partitioning all the properties mentioned in Schedule A and B hereto subject to paragraph no. 45 of the Plaint; and

(b) Pass a decree of permanent injunction in favour of the Plaintiffs restraining the Defendant from dealing with or in any manner creating any third party rights in respect of the properties mentioned in Schedule A and B hereto; and

(c) Preliminary decree be passed defining the shares of the parties hereto declaring that the parties, i.e., Plaintiffs and the Defendant, are entitled to equal share in property/ assets mentioned in Schedule A and B hereto subject to paragraph no. 45 of the Plaint; and

(d) Pass a decree of declaration declaring that acts done by the Defendant in violation/breach of the rights of the Plaintiffs as illegal, null and void and void ab initio and restore the status quo so as to reflect 1 /5th share each of the Plaintiffs in all such properties and assets subject to paragraph no. 45 of the Plaint; and

(e) Pass a decree of rendition of accounts thereby directing the Defendant to render true and correct account in respect of all his earnings of whatsoever nature that he has received as Executive director as well as shareholder of EIHL including but not limited to perquisites, dividends etc. as also from other moveable and immovable properties mentioned in Schedule A & B and after ascertaining the same, partition equally between the parties to the suit subject to paragraph no. 45 of the Plaint; and"



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20. Thereafter, on 25.07.2022, JK/HUF filed an application being I.A. 2532/2019 under Order VII Rule 11 of the CPC seeking rejection of the plaint, which has been allowed by the learned Single Judge *vide* the Impugned Order, while recording the following reasons:

- (i) There is an absence of requisite clarity and particularity in the pleadings, as mandated under Order VI Rule 4 of the CPC.
- (ii) The Subject Partition Deed and consequent division of the properties have never been challenged by the Plaintiff Nos.3 and 4, who have neither sought its cancellation nor annulment.
- (iii) Plaintiffs have failed to furnish the requisite details or specifications of the properties forming the subject matter of the suit.
- (iv) The plea regarding the existence of ancestral properties is also vague and devoid of particulars. Mere assertion of a Joint Hindu Family, without establishing the nature of the properties as ancestral, does not confer any right upon the Plaintiffs.
- (v) The shares of EIHL, which were in the kitty of JK/HUF, already stand partitioned.
- (vi) No document has been placed on record to substantiate the plea that 1,17,634 shares transferred in the name of JK/HUF were held by him in trust for the benefit of his family.
- (vii) The Plaintiffs have failed to produce any document to show that the lockers, bank accounts etc. were held in the name of, or operated by, the HUF.



(viii) The partition cannot be sought by the Plaintiffs during the life time of JK/HUF, as it would devolve upon them only after his demise according to the Rules of Succession under Section 8 of the Hindu Succession Act, 1956.

CONTENTIONS OF THE PARTIES:

21. Heard learned Senior Counsel for the parties at length and, with their able assistance, perused the paper book. Learned Senior Counsel have also filed their written submissions, which are on record.

22. Learned Senior Counsel for the Appellants/Plaintiffs, while contending that the Impugned Order travels beyond the scope and parameters of Order VII Rule 11 of the CPC, has submitted as under:

(i) That the tracing of the properties as Joint Family properties has been specifically and comprehensively pleaded in the plaint, by tracing their origin right from inception, viz., the year 1955.

(ii) That the power vested in the Court to terminate a civil action at the threshold is a drastic one, and therefore, the conditions stipulated under Order VII Rule 11 of the CPC must be construed and applied strictly.

(iii) That if, upon a plain and meaningful reading of the plaint as a whole, it *prima facie* discloses a cause of action, the plaint cannot be rejected under Order VII Rule 11 of the CPC.

(iv) It is further submitted that there exists a clear distinction between a plaint “*disclosing a cause of action*” and “*establishing or*



proving a cause of action”, the latter being a matter for adjudication after the conduct of trial.

(v) That, subsequent to the admitted Subject Partition Deed, certain properties remain available for partition, which fact by itself discloses a subsisting cause of action necessitating trial.

(vi) That a plaint cannot be rejected in part, and therefore, even if a limited or partial right is shown, the entire plaint must be permitted to proceed to trial.

(vii) That, in view of the HSA 2005 Amendment, Plaintiff Nos.3 and 4 are entitled to claim their admitted shares as coparceners, and consequently, the plaint is maintainable at least to that extent.

(viii) Reliance is also placed on ***Sukriti Dugal v. Jahnavi Dugal***¹, wherein this Court categorically held that legal issues on merits cannot be examined at the stage of considering an application under Order VII Rule 11 of the CPC.

23. *Per contra*, learned Senior Counsel for the Respondents/Defendant, while contending that the plaint does not disclose a cause of action and is liable to be rejected under Order VII Rule 11 of the CPC, has submitted that:

(i) That the documents forming part of the Plaintiffs’ own pleadings are inconsistent with their averments that all ancestral properties are Joint Family properties in which the Plaintiffs have a

¹ 2020 SCC OnLine Del 241.



share. It is thus submitted that such contradictions in the plaint itself justify scrutiny at the threshold under Order VII Rule 11 of the CPC.

(ii) That the Plaintiffs have failed to plead the requisite material facts and particulars which are mandatorily required in a suit for partition. In the absence of such essential pleadings, the plaint does not disclose any cause of action.

(iii) That in respect of the property at Item No. 6 of Schedule A, the very document relied upon in the plaint to assert that it forms part of the Joint Family property does not even mention the said property, thereby demonstrating that no cause of action arises in relation thereto.

(iv) That the JK/HUF Joint Hindu Family already stands dissolved by virtue of the Subject Partition Deed, and hence no further claim of Joint Family status or partition survives.

(v) That the Award relied upon by the Appellants does not record or indicate any devolution of shares in EIHL upon the JK/HUF consequent to the demise of MPK.

(vi) That even assuming, without admitting, that Plaintiff Nos.3 and 4 were entitled to a share at the time when the partition was effected in the year 2006, at best, as per their own case, such entitlement would extend only to the properties which were already partitioned under the Subject Partition Deed.



(vii) Reliance is placed on ***Sagar Gambhir v. Sukhdev Singh Gambhir***²; ***Aarshiya Gulati v. Kuldeep Singh Gulati***³; and, ***Sunny Minor v. Raj Singh***⁴, to contend that in partition suits, particulars as to how the property is claimed to be part of the common hotchpotch are required to be pleaded as per Order VI Rule 4 of the CPC.

24. Learned Senior Counsel for the parties have not made any other submissions.

ANALYSIS AND FINDINGS:

25. Before proceeding further, it becomes important to take note of Order VII Rule 11 of the CPC, which enlists as many as six grounds to reject the plaint. The same is reproduced hereunder:

“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;

² 2017 SCC OnLine Del 7305.

³ 2019 SCC OnLine Del 6897.

⁴ 2015 SCC OnLine Del 13446.



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.”

26. In the aforesaid provision, the provision for rejection of a plaint on the ground designated in ground (f) was introduced by the Code of Civil Procedure (Amendment) Act, 2002.

27. On a bare perusal of Clause (a) of the aforementioned provision, one of the grounds for rejection of the plaint is where it does not disclose a cause of action. While rejecting the plaint under Order VII Rule 11(a) of the CPC, the test to be applied is whether, on a meaningful reading of the plaint as a whole, the averments made therein, if taken to be true in entirety, disclose the existence of a right to sue. The Court, at this stage, is not required to examine the truth or otherwise of the allegations but only to see whether the plaint, on its face, discloses a cause of action warranting trial.

28. As would be evident from a reading of the plaint, the Plaintiffs, while filing the suit, have disclosed a cause of action in Paragraph 55 of the plaint, which has already been reproduced above. Hence, it cannot be said that the plaint does not disclose a cause of action. Additionally, the entire bundle of facts leading to the filing of the suit constitutes a cause of action. Lack of clarity or absence of specific details with respect to the properties cannot, by itself, constitute a ground for rejection of the plaint under Order VII Rule 11 of the CPC.



Accordingly, Reason Nos. (i) and (iii), as recorded by the learned Single Judge, could not have been relied upon for rejecting the plaint.

29. Further, the filing of a majority of civil suits, including those seeking reliefs of specific performance, declaration, injunction, cancellation of documents, and recovery of possession of immovable or movable property, is governed by the provisions contained in the Specific Relief Act, 1963 [hereinafter referred to as 'SRA']. Section 31 of the SRA contemplates suits for annulment or cancellation of instruments, whereas Section 34 of the SRA provides for suits seeking declaratory relief. The distinction between these provisions was elucidated by the Supreme Court in **Suhrid Singh v. Randhir Singh**⁵, wherein it was held that where the Plaintiff is a party to the impugned instrument, he must seek its cancellation under Section 31, however, where the Plaintiff is not a party thereto, the appropriate remedy is to seek a declaration under Section 34 that the said document does not affect or bind his rights. Thus, the nature of relief sought and the status of the Plaintiff vis-à-vis the document determine whether the suit would fall under Section 31 or Section 34 of the SRA.

30. It is evident that Plaintiff Nos.3 and 4 were not parties to the Subject Partition Deed, though they were members of the coparcenary, if any existed, by virtue of the HSA 2005 Amendment, which came into force on 09.09.2005. A Partition Deed executed *inter se* certain coparceners, in the absence of others who were also coparceners, does not require to be specifically challenged or annulled by the non-signatory coparceners to assert their rights. Accordingly,

⁵ (2010) 12 SCC 112.



the learned Single Judge fell in error in holding that Plaintiff Nos.3 and 4 had never challenged the Subject Partition Deed. Hence, Reason No. (ii), as recorded by the learned Single Judge, does not furnish a valid basis for rejection of the plaint.

31. Similarly, lack of clarity or vagueness while asserting certain facts in the pleadings cannot constitute a ground for rejection of the plaint, as the same does not fall within the parameters prescribed under Order VII Rule 11 of the CPC. While such deficiencies may ultimately result in the Plaintiffs failing to obtain any relief upon adjudication, rejection of the plaint at the threshold on this basis is wholly unwarranted.

32. Furthermore, the Plaintiffs have asserted a right by birth in the ancestral properties. Such an assertion is a matter to be established through evidence during the trial. Under Order VI Rule 2 of the CPC, the Plaintiffs are required to plead only material facts in a concise form and are not expected to set out the evidence by which those facts are to be proved. The learned Single Judge, however, has relied upon Order VI Rule 4 of the CPC, which pertains to cases involving allegations of misrepresentation, fraud, breach of trust, wilful default, or undue influence, where specific particulars are mandatorily required. The aforesaid provisions are reproduced hereunder:

“ORDER VI (Pleadings Generally)

2. Pleading to state material facts and not evidence.—(1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.



(2) Every pleading shall, when necessary, be divided into paragraphs, numbered consecutively, each allegation being, so far as is convenient, contained in a separate paragraph.

(3) Dates, sums and numbers shall be expressed in a pleading in figures as well as in words.

4. Particulars to be given where necessary.—In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.”

33. Further, the Co-Ordinate Bench of this Court in **Manjeet Singh Anand v. Sarabit Singh Anand & Ors.**⁶ held that at the stage of examining the application under Order VII Rule 11 of the CPC, pleadings cannot be interpreted in the expansive manner. Once the existence of a Joint Hindu Family is averred in the plaint, the onus of proving it arises in the subsequent stages and that would be a matter of evidence.

“25. When we apply this principle to the facts of the present case, we find that cause of action is pleaded. The mere fact that the case is weak and not likely to succeed is no ground for ousting the plaintiff at this stage. Failure to disclose a cause of action is distinct from the absence of full particulars. In the present case, the entire attempt of the appellants is to show that there is absence of full particulars. It is stated at the cost of repetition that the plaintiffs do plead existence of HUF and whether HUF in reality existed or not would be a matter of trial. Only on the ground that full particulars in that behalf are not pleaded by the plaintiffs, cannot be a ground to dislodge the plaintiffs at this stage.

26. The whole attempt of learned counsel for the appellants, as is clear from their arguments noted above, is to show that no case of HUF is made out or that of a trustee established. In this behalf, their attempt is to point out that the pre-requisites of coparcenery or the HUF are not specifically pleaded. No doubt there are no detailed pleadings in this behalf. However, at this stage, pleadings

⁶ 2009 SCC OnLine Del 1968.



cannot be construed in the manner in which it is sought to be done by the learned counsel for the appellants. When we find that the appellants have pleaded that there was a Joint Family, it would be for them to bring on record sufficient evidence to show that all the prerequisites of coparcenery in HUF are proved. Again that would be a matter of evidence. Same thing applies to the pleadings qua the plea of the plaintiffs that the property in question is a trust property. As pointed out above, the learned Single Judge has referred to various judgments dealing with exception (b) to Section 4(3) of the Benami Transactions (Prohibition) Act, 1988 relating to the plea of existence of the trust by the plaintiffs, including provisions of Sections 81 and 82 of the Indian Trust Act. Since we are agreeing with the said reasoning, which is based on many judgments referred to by the learned Single Judge, it is not necessary to burden this judgment by repeating the same.”

34. The learned Senior Counsel appearing for the Respondents sought to extend the application of this provision to cases beyond those expressly contemplated therein. In the considered view of this Court, such an extension is misconceived, as Order VI Rule 4 of the CPC would have no application in a suit where the Plaintiff seeks partition along with a declaration of rights in the ancestral property. Additionally, failure to fulfil the Order VI Rule 4 of the CPC is not a ground to reject the plaint. Ultimately, after the conclusion of trial, the Court will independently examine the pleadings before forming any opinion.

35. Moreover, the Plaintiffs have given details of a significantly large number of properties. Hence, it was not appropriate for the Court to hold that the necessary particulars had not been pleaded. Thus, in the considered view of this Court, Reason No. (iv), as assigned by the learned Single Judge, could not have been a ground for rejection of the plaint.



36. Similarly, the learned Single Judge has also erred in observing that the shares of EIHL, which were in the kitty of JK/HUF, already stood partitioned. Plaintiff Nos.3 and 4 were not parties to the Subject Partition Deed and, therefore, the same is not binding upon them. Any *inter se* division of shares among certain coparceners of the Joint Hindu Family, to the exclusion of the remaining coparceners, would not deprive Plaintiff Nos.3 and 4 of their right to seek appropriate relief. Moreover, such an observation cannot constitute a valid ground for rejection of the plaint under Order VII Rule 11 of the CPC. Hence Reason No. (v), as recorded by the learned Single Judge, was not tenable for rejecting the plaint.

37. Further, the Reason No. (vi) assigned by the learned Single Judge does not withstand scrutiny of law, as the plaint cannot be rejected merely on the ground that no document has been filed in support of the averment that 1,17,634 shares transferred in the name of JK/HUF were held for the benefit of the family and that JK/HUF was expected to hold the same in a fiduciary capacity for the benefit of its members.

38. Similarly, Reason No. (vii) recorded by the learned Single Judge does not commend itself for acceptance by this Court, particularly as the mere non-production of documents along with the plaint cannot, by itself, constitute a ground for its rejection. The provisions of Order VII Rule 11 of the CPC require the Court to examine only the averments contained in the plaint while determining its maintainability, and not the sufficiency of evidence in support thereof. The absence of documents at the stage of institution of the



suit is, at best, a matter of proof and cannot be treated as a defect warranting rejection of the plaint at the threshold.

39. The last ground relied upon to reject the plaint is also unsustainable in law, as the learned Single Judge failed to appreciate that the Plaintiffs, apart from seeking partition, have also prayed for a decree of declaration, a decree of permanent injunction, and rendition of accounts.

40. It is a well-settled principle of law that a plaint cannot be rejected in part. The power under Order VII Rule 11 of the CPC is confined to the rejection of the plaint as a whole and not in respect of any particular portion or relief claimed therein. Where multiple reliefs are sought on the basis of a common cause of action, the plaint must be examined in its entirety to determine whether it discloses a cause of action. The Court cannot dissect or segregate particular reliefs or portions of the plaint while invoking the provisions of Order VII Rule 11 of the CPC.

41. In *D. Ramachandran v. R.V. Janakiraman*⁷, the Supreme Court held that the plaint cannot be rejected in part and that the power under Order VII Rule 11 of the CPC must be exercised with reference to the plaint as a whole. The Court observed that if any part of the plaint discloses a cause of action, the plaint cannot be summarily rejected merely because certain other reliefs may not be maintainable.

42. Accordingly, while exercising jurisdiction under Order VII Rule 11 of the CPC, the Court is required to consider the substance of

⁷ (1999) 3 SCC 267.



the pleadings and the cause of action pleaded in their entirety, and not to reject the plaint partially based on isolated reliefs or averments.

43. Furthermore, the learned Single Judge has overlooked the specific averments of the Plaintiffs to the effect that the decision-making power of JK/HUF stands compromised and that Mrs. Kanta Stanchina is likely to misuse the same for transferring the properties to their detriment. The Plaintiffs have, therefore, justifiably expressed apprehension of mischief at the hands of Mrs. Kanta Stanchina, warranting protection through adjudication rather than rejection at the threshold.

44. The learned Single Judge has further observed that the suit filed by the Plaintiffs, having been instituted after a period of ten years from the date of the Subject Partition Deed, is barred by limitation. However, the Plaintiffs have specifically averred that the cause of action arose in their favour only in the year 2017, when they became aware that the decision-making power of JK/HUF, owing to his weakened mental faculties, stood compromised and that his companion was coercing him to transfer the properties.

45. Additionally, it is well settled that a suit for partition of joint family property is maintainable so long as the property continues to remain joint. Plaintiff Nos.3 and 4 were admittedly not parties to the Subject Partition Deed, and it is their categorical case that the JK/HUF continued as a Joint Hindu Family, the existence of which came to be disputed only in the year 2017.



46. Learned Senior Counsel for the Respondents has placed reliance upon the decision of this Court in **Sagar Gambhir** (*supra*) to contend that, while considering an appeal arising from an order rejecting a plaint under Order VII Rule 11 of the CPC, it is incumbent upon the Plaintiff, in a suit for partition, to set out detailed particulars indicating the manner in which the properties are claimed to be joint family properties. In the said case, the plaint was found to be devoid of material particulars such as the date and mode of creation of the HUF, as also the chain of succession or inheritance forming the basis of the alleged coparcenary. Relying upon the earlier judgment of this Court in **Sunny (Minor)** (*supra*), the plaint was accordingly rejected under Order VII Rule 11 of the CPC for failure to disclose a cause of action.

47. However, in the facts of the present case, the Plaintiffs have sought partition of both movable and immovable assets owned by JK/HUF, while specifically tracing the genesis of the HUF and its properties to their origin in the year 1955. The pleadings contain a continuous narrative of the constitution of the HUF and the acquisition of assets forming part of its corpus. In view of these peculiar facts and the nature of the pleadings on record, the decision in **Sagar Gambhir** (*supra*) is clearly distinguishable.

48. Reliance has next been placed upon **Aarshiya Gulati** (*supra*), wherein the Court observed that, in suits for partition, it is necessary for the Plaintiff to specifically plead, in terms of Order VI Rule 4 of the CPC, the particulars showing how the properties are claimed to have been thrown into the common hotchpotch. In that case, similar to



Sagar Gambhir (*supra*), the Court found the plaint wanting in essential averments, namely- (i) the date of creation of the HUF; (ii) identification of the property forming the nucleus of the HUF; and (iii) any assertion that the property in question was owned by the common ancestor. It was further held that the mere assertion of the existence of an HUF, unaccompanied by a specific factual foundation, is insufficient to sustain a cause of action.

49. However, the Plaintiffs in the present case have, as noted hereinbefore, traced the origin of the HUF and the acquisition of its assets from inception. The pleadings specifically delineate the formation of HUF, the properties constituting its corpus, and the continuity of its existence over the years. Accordingly, the ratio of **Aarshiya Gulati** (*supra*) would have no application to the facts of the present case.

50. Further, the judgments rendered by the Supreme Court in **Commissioner of Wealth Tax, Kanpur & Ors. v. Chander Sen**⁸ and **Yudhishter v. Ashok Kumar**⁹ are clearly distinguishable, as these judgments are not pertaining to Order VII Rule 11 of the CPC and hence do not govern the present case.

51. In such circumstances, it was not appropriate for the learned Single Judge to hold that the suit was barred by limitation. The question of limitation, in the peculiar facts of the present case, is a mixed question of law and fact, which can only be determined after affording an opportunity to the parties to lead evidence.

⁸ (1986) 3 SCC 567.

⁹ (1987) 1 SCC 204.



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CONCLUSION:

52. In view of the aforesaid, the present Appeal is allowed. The Impugned Order is hereby set aside.

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

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 21, 2025/sp/sh