



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

% **Judgment reserved on: 25.02.2026**
Judgment pronounced on: 10.03.2026

+ CS(OS) 747/2025, I.A. 26140/2025, I.A. 26141/2025, I.A. 26142/2025, I.A. 29069/2025, I.A. 1943/2026, I.A. 1944/2026, I.A. 1947/2026, I.A. 2413/2026 & I.A. 5009/2026

NEENA KAPOORPlaintiff

Through: Mr. Shridhar Y Chitale, Sr.
Adv. with Mr. Pranay Chitale &
Ms. Beleena Biju, Advs.

versus

MS. ANITA RANI MEHRA & ORS.Defendants

Through: Mr. Vivek Kohli, Sr. Adv. with
Ms. Ritu Bhalla, Mr. Sidhartha
Das, Mr. Himanshu Goel & Mr.
Siddharth Gautam, Advs.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN

J U D G M E N T

I.A. 28766/2025

1. This application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC') is filed by defendant no. 1 for rejection of the plaint.

FACTS

2. The plaintiff instituted a suit seeking partition of the properties of late Mr. Yashpal Mehra (hereinafter referred to as 'the deceased'). The facts as pleaded are that the plaintiff/non-applicant (hereinafter



‘the plaintiff’) born out of the wedlock on 24.03.1973 is the second daughter of the deceased and defendant no.1. At the time of her birth a priest predicted that she would bring misfortune to the family. She was thereafter entrusted to Sh.Charanjit Lal Mehra, the elder brother of the deceased. All family members were residing jointly till 1987 when Charanjit Lal Mehra shifted residence. The factum of the parentage of plaintiff though known within the family, was not disclosed to her. The plaintiff got married in 1995 and settled with her in-laws. After the demise of the deceased on 15.09.2018 the attitude of the family members changed and enquiries made from family members revealed that the plaintiff is the daughter of the deceased. The other legal heirs of the deceased obtained a succession certificate in which the name of the plaintiff was not included. The plaintiff issued a legal notice dated 03.06.2024 and the defendants in response thereto disputed the relationship between the plaintiff and the deceased. The succession certificate was challenged in W.P. No. 9604/2025 which is pending.

CONTENTIONS OF THE APPLICANT

3. Learned counsel for the applicant relying upon paragraphs 3, 4, 12, 14 and 16 of the plaint contends that the plaintiff was adopted by Charanjit Lal Mehra and has no cause of action to file the suit for partition of the property of the deceased. It is submitted that the plaintiff never resided with the deceased. The contention is that in the school records, passport, aadhaar card and ration card the father’s name of the plaintiff is Charanjit Lal Mehra.

3.1 It is argued that the plaintiff has intentionally withheld



documents in her possession with a view to conceal the relationship with Charanjit Lal Mehra and that this amounts to fraud on the court. The contention is that the plaint is liable to be rejected at the threshold.

3.2 The emphasis is that the suit is barred by limitation. The plaintiff attained majority in the year 1991, the deceased passed away on 15.09.2018 but the suit was filed in the year 2025 beyond the period of three years.

3.3 Reliance is placed on the decision of the Supreme Court in **T. Arivandandam v. T.V. Satyapal and Anr.** (1977) 4 SCC 467 to submit that vexatious litigation not disclosing a right to sue and camouflaged by clever drafting should be rejected under Order VII Rule 11 CPC. The decision of the Supreme Court in **K. Akbar Ali and Ors. v. K. Umar Khan** (2021) 14 SCC 51 is relied upon to urge that clever drafting creating an illusion of cause of action cannot be permitted and the court must examine whether the plaint discloses a real cause of action.

3.4 The decision of the Supreme Court in **S.P. Chengalvaraya Naidu v. Jagannath** (1994) 1 SCC 1 is cited to argue that withholding of relevant documents by the plaintiff having a bearing on the relationship with the deceased amounts to fraud on the court and is a sufficient ground for dismissal of the suit.

3.5 Reliance is also placed on the decision of the Supreme Court in **L. Debi Prasad v. Tribeni Devi** (1970) 1 SCC 677 to buttress the submission that in a suit filed after more than fifty years of the adoption the conduct of the plaintiff and Charanjit Lal Mehra, the



adopted father of the plaintiff shall be pivotal in proving the relationship but the documents relating thereto though in possession of the plaintiff have not been intentionally produced.

SUBMISSIONS OF THE PLAINTIFF

4. *Per contra*, while dealing with an application under Order VII Rule 11 CPC the court has to restrict to the pleadings in the suit. It is submitted that the cause of action has been pleaded specifically in paragraph 45 of the plaint.

4.1 The contention that the plaintiff was given in adoption to Charanjit Lal Mehra is refuted. It is submitted that the plaintiff was entrusted for upbringing and was not given in adoption, the plaintiff continues to be a Class I heir of the deceased and claims a share in the estate of the deceased by partition.

4.2 The plea that the suit is barred by limitation is contested relying upon Article 110 of the Schedule to the Limitation Act, 1963 (for short 'the Act of 1963') wherein a period of twelve years is provided to enforce the right of a person excluded from joint family property. The period is to be computed from the date when the exclusion is known to the plaintiff. It is submitted that the limitation for filing the present suit is not three years.

4.3 It is canvassed that the death of the deceased on 15.09.2018, thereafter the issuance of the surviving member certificate on 19.09.2023 excluding the name of the plaintiff and the response of the defendants to the legal notice dated 22.06.2024 denying the lawful right of the plaintiff as a Class I heir of the deceased shall be relevant for determining the question of limitation.



5. No other arguments or contentions except those noted above have been pressed.

6. The law is well settled that while deciding an application under Order VII Rule 11 CPC the court has to restrict to the pleadings in the plaint and the averments therein are taken to be correct. At this stage, the court is not required to weigh the contentions of the defendants as the same are immaterial. The plea of knowledge at a particular time giving rise to the cause of action is to be accepted. Reference in this regard may be made to the following decisions of the Supreme Court:

6.1 In **Uma Devi & Ors. v. Anand Kumar & Ors.** 2025 INSC 434 it was held:

“15. In *Madanuri Sri Rama Chandra Murthy v. Syed Jalal* (2017) 13 SCC 174, this court laid down the scope of Order 7 Rule 11 CPC :

7. The plaint can be rejected under Order VII Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order VII Rule 11, CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order VII Rule 11, CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order VII Rule 11 of CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of



action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint.....”

6.2 In **Dahiben v. Arvindbhai Kalyanji Bhanusali** (2020) 7 SCC 366 it was held:

“23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] , read in conjunction with the documents relied upon, or whether the suit is barred by any law.

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23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration.⁴”

6.3 In **Salim D. Agboatwala v. Shamalji Oddhavji Thakkar** (2021) 17 SCC 100 it was held:

“11. As observed by this Court in *P.V. Guru Raj Reddy v. P. Neeradha Reddy* [*P.V. Guru Raj Reddy v. P. Neeradha Reddy*, (2015) 8 SCC 331 : (2015) 4 SCC (Civ) 100] , the rejection of plaint



under Order 7 Rule 11 is a drastic power conferred on the court to terminate a civil action at the threshold. Therefore, the conditions precedent to the exercise of the power are stringent and it is especially so when rejection of plaint is sought on the ground of limitation. When a plaintiff claims that he gained knowledge of the essential facts giving rise to the cause of action only at a particular point of time, the same has to be accepted at the stage of considering the application under Order 7 Rule 11.”

ANALYSIS

7. The contention that consequent to the plaintiff having been given in adoption to Charanjit Lal Mehra no cause of action survives for her to file a suit for partition of the estate of the deceased, need not be gone into in detail at this stage. The pleadings are to the effect that the plaintiff was entrusted to Charanjit Lal Mehra at the time of her birth to avoid the prophecy of misfortune. The issue as to whether such entrustment amounts to valid adoption is a matter to be decided in the suit after considering the evidence adduced. The evidentiary value of Charanjit Lal Mehra being shown as the father of the plaintiff in the school documents, passport, aadhaar card and ration card involves deciding a complicated question and evaluation of the evidence cannot be undertaken under Order VII Rule 11 CPC.

8. Another aspect to be considered is that it is not disputed by the applicant that the plaintiff is the biological daughter of the deceased. The bone of controversy is whether the plaintiff was given in adoption to Charanjit Lal Mehra and this cannot be a ground for dismissal of the suit under Order VII Rule 11 CPC especially in view of the



pleadings that the plaintiff was entrusted to Charanjit Lal Mehra.

9. In view of the pendency of I.A. 29069/2025 filed by the applicant for production of the documents, the contention that the plaintiff has intentionally withheld documents having a bearing on the relationship with Charanjit Lal Mehra need not be dilated upon.

10. Considering the limited scope of interference under Order VII Rule 11 CPC, it cannot be concluded that the documents withheld if any have a bearing on the outcome of the suit or that such withholding amounts to playing fraud on the court.

11. It is trite law that the issue of limitation is a mixed question of fact and law. Reference in this regard may be made to the decision of Supreme Court in **P. Kumarakurubaran v. P. Narayanan and Others** 2025 SCC OnLine SC 975:

“12.1. However, we are of the considered view that the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable.”

(emphasis supplied)

12. The deceased expired on 15.09.2018, as per the pleadings



thereafter only the plaintiff gained knowledge that she was the biological daughter of the deceased. The surviving member certificate was obtained by the defendants on 19.09.2023. The applicability of Article 110 of the Schedule of the Act of 1963 in the facts of the present case has to be considered on the basis of evidence adduced.

13. In the application under Order VII Rule 11 CPC one of the grounds of challenge was insufficiency of court fee. However, this ground has not been pressed by learned senior counsel at this stage with liberty to raise the same at an appropriate stage.

14. The decisions relied upon by learned counsel do not enhance the case of the applicant. In **S.P. Chengalvaraya Naidu v. Jagannath** (supra) the matter was not pertaining to an application filed under Order VII Rule 11 CPC. In that case a preliminary decree was challenged and the court came to the conclusion that the decree was obtained by playing fraud on the court by taking unfair advantage. The decision is not applicable to the facts of the present case.

14.1 In **T. Arivandandam v. T.V. Satyapal and Anr.** (supra) the eviction order against the tenant had attained finality and time for eviction as prayed for was granted. Thereafter, the son of the tenant filed a suit seeking a declaration that the order of eviction was obtained by fraud and collusion. The conduct was condemned by the court and it was held that the filing of the suit was a flagrant misuse of the process of the court and a clear case of vexatious and meritless litigation without disclosing a right to sue. The decision is on the facts of that case and is of no avail for deciding the present application.

15. There is no dispute on the proposition laid down in **K. Akbar**



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Ali v. K. Umar Khan (supra) that whether the plaint discloses a cause of action or whether the suit is barred by any law is to be decided on the basis of the averments contained in the plaint and that frivolous and vexatious litigation should not be permitted to continue. In the present case the plaint contains averments disclosing a cause of action and it is neither the case of the applicant that the suit is barred by law on the face of the plaint nor can the matter be said to be vexatious. The determination of the relationship of the plaintiff with the deceased requires evidence and is to be examined at an appropriate stage of the suit.

16. **L. Debi Prasad v. Tribeni Devi** (supra) was not a case of rejection of the plaint under Order VII Rule 11 CPC. In that case the validity of an adoption was being considered and in that backdrop the time period between the adoption and the challenge thereto was examined *vis-à-vis* the nature of evidence to be produced. This is not the stage in the suit for this court to go into that aspect.

17. No case is made out for rejection of the plaint. The application under Order VII Rule 11 CPC is dismissed.

AVNEESH JHINGAN, J.

MARCH 10, 2026/'JK'

Reportable:- Yes