



2026:DHC:2459



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

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Reserved on: 07th January, 2026

Pronounced on: 24th March, 2026

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RFA 977/2025 & CM APPL. 66417/2025

KANISHKA SABHARWAL

S/o Shri Daulat Ram,

R/o Village Dungdhar Pori

Garhwal, Uttarakhand

.....Appellant

Through: Mr. Pushpendu Shukla, Advocate

Versus

1. SHRI SURESH KUMAR (SINCE DECEASED)

THROUGH HIS LRS& ORS.

i. Sh. Shashank@ Shan Bharti - (son)

ii. Sh. Dinesh Kumar Bharti - (son)

iii. Smt. Nirmala Bharti - (wife)

2. Shri Ram Shankar

S/o Sh. Sardar Singh

3. Shri R.A. Siddiqui

S/o Sh. M.A. Siddiqui

4. Shri Bajrang Garg

S/o Sh. Panna Lal Garg

5. Shri Raghunandan @ Lucky

S/o Sh. Jagat Ram



2026:DHC:2459



6. Shri Manoj Kumar
S/o late Sh. Tara Chand
7. Shr. M.K. Singh
S/o Sh. Bitto Singh
8. Shri Bijender Dabas
S/o Sh. N.S. Dabas

.....Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The Regular First Appeal is filed by the Appellant herein under Section 96 of the Code of Civil Procedure (*hereinafter referred to as 'CPC'*), 1908, against the Order dated 01.07.2025 passed by the Ld. District Judge-06, Delhi thereby ***allowing Application under Order VII Rule 11 CPC r/w Section 151 CPC of Respondent No. 1*** (through LRs and Respondents No. 6 to 8) and **rejecting the Suit** of the Appellant/Plaintiff *for Declaration, Recovery of Possession, Mesne Profits and Permanent Injunction.*
2. The Plaintiff/Appellant filed a ***CS No. 533/19***, titled *Kanishka Sabharwal vs. Shri Suresh Kumar and Ors.* for *Declaration, Recovery of Possession, Mesne Profits and Permanent Injunction.*



3. The **brief facts** are that the Plaintiff claimed ownership of property plot no. 47(old), new no. 140, measuring 79 sq yds, forming part of Khasra No. 77/7, situated in the abadi known as Nihal Vihar, Nangloi, Delhi-110041 (*hereinafter referred to as “the Suit property”*), having purchased it from *Defendant No.1, Shri Suresh Kumar (since deceased)* through namely registered GPA, Agreement to Sell, Affidavit, Receipt, Will and Possession Letter, all dated 15.05.2001.

4. Thereafter, Plaintiff claimed that he raised the boundary wall and installed a gate, at his own expense and kept the property locked under his own lock and keys, with the intention of constructing his residence thereon, while he was residing as a tenant at H.No.604, 6th Floor, Rohini Heights, Sector-29, Rohini, Delhi-110089.

5. Defendant No.1 allegedly remained in contact with the Plaintiff and his family members. In the year 2006, Defendant No.1 approached the Plaintiff’s mother on the pretext of arranging sale of the property and obtained from her the original previous title documents dated 23.12.1999 executed by Smt. Harpreet Kaur w/o Sh. Rajinder Singh, in his favour.

6. According to the Plaintiff, despite repeated demands, Defendant No.1 neither returned the documents nor produced any purchaser till the year 2008. In October 2008, one *Sh. Nagender Chaudhary*, a property dealer of M/s T.S. Properties, at RZG-33, Main road, 50 ft wide road, Nihal Vihar, Delhi had telephonically informed the Plaintiff’s father that he had purchased the Suit property from Defendant No.1.

7. The Plaintiff and his father showed him the copies of the title documents dated 15.05.2001 in their favour and asserted that Defendant



No.1 had no right to sell the property after that date, whereupon Nagender Chaudhary refused to produce his documents and threatened them with murder and dire consequences, if they visited the plot again.

8. The Plaintiff lodged a Complaint at P.S. Prashant Vihar, and the investigation was conducted by ASI Randhir Singh of P.S. Paschim Vihar. On 08.11.2008, upon coming to know that construction was being raised at the property, he objected and made another Complaint dated 09.11.2008 at PP Nihal Vihar, whereafter construction was stopped with police intervention.

9. A further written Complaint dated 15.11.2008 was also sent to the Incharge, Police Post Nihal Vihar, P.S. Paschim Vihar, DCP, West Dist., ACP West Distt, Delhi and to BSES Rajdhani Power Ltd., against Nagendra Chaudhry, requesting that no electricity connection be granted, in respect of the suit property.

10. The Plaintiff claimed that he never *resold* the Suit property to Defendant No.1 and that the documents dated 15.05.2001, were never cancelled. It is further pleaded that during the course of the police investigation, his father allegedly suffered business losses of ₹25 to 30 lakhs and also suffered heart attack on 17.06.2009, requiring hospitalization at Jaipur Golden Hospital, Rohini. In the year 2014, his father suffered C.R.B.O. eye disease.

11. The Plaintiff further alleged that Defendant No.1 fraudulently changed the property number to RZH-141A, instead of original plot No.47(old)/140(new) forming part of Khasra No.77/7, and deliberately altered the area description (80-90 sq. yds.) in order to facilitate criminal



offences under Sections 420/467/468/471/506/120-B/34 IPC. According to the Plaintiff, documents dated 06.12.2006 executed by Defendant No.1 in favour of Sh. Ram Shanker, relate to the same property as the boundaries and location is identical to those in the documents dated 15.05.2001. It is further alleged that Defendant No.1 altered his signatures in the latter documents, signing earlier in English initials and later in Hindi as 'Suresh Bharti', though the thumb impressions allegedly remained the same.

12. It is further pleaded that Defendant No.1, having already sold the property to the Plaintiff, had no right to execute the documents dated 06.12.2006. The Plaintiff further asserted that he found Defendant No.8 in possession of the property on 15.07.2018, who claimed to have purchased it from Defendant No.7 and threatened the Plaintiff along with other Defendants.

13. Complaints dated 03.08.2019 and 04.08.2019 were made to various authorities, including the Prime Minister and police officials. A Complaint under Section 200 Cr.P.C. was also filed, resulting in registration of FIR No.336/19 dated 16.05.2019 at P.S. Nihal Vihar, under Sections 420/467/468/471/34 IPC.

14. During investigation, the police recovered a chain of documents reflecting transfers dated 06.12.2006 from Defendant No. 1 to Defendant No. 2 and thereafter, subsequent transfers to the other Defendants.

15. The Plaintiff *alleged that these documents are forged and void*, as Defendant No.1 had no title after 15.05.2001. It is also alleged that an electricity connection bearing CA No.102787489 w.e.f. 11.11.2008, was obtained fraudulently in the property.



16. The Plaintiff contends that Defendant No.8 is an unauthorized occupant and liable to vacate and pay mesne profits at the rate of ₹10,000 per month as rent, and damages for three years preceding to the filing of the Suit.

17. A Legal Notice dated 03.06.2019 was served upon Defendant No.8 to hand over possession by 30.06.2019 and to pay damages, but to no avail; instead Defendant threatened to create third-party interest in the suit property.

18. *The Plaintiff thus, instituted the present Suit for possession and mesne profits.*

19. **Separate Written Submissions** were filed on behalf of Defendant No. 1 to 3, and 6 to 8, wherein they have prayed for the dismissal of Suit. *Defendant No. 1 to 3 took a preliminary objection that the present Suit is frivolous, vexatious, and barred by limitation, having been filed after an inordinate delay of more than ten years, from the alleged cause of action. It was contended that the Suit disclosed no cause of action against the answering Defendants and was liable to be rejected under Order VII Rule 11 CPC. The Defendants further objected that the Suit suffers from non-joinder and misjoinder of necessary parties, as all legal heirs of the deceased Defendant No. 1 had not been impleaded, and that the Plaintiff has suppressed material facts and approached the Court with unclean hands. It was also averred that the Suit had not been properly valued and the requisite court fees have not been paid. Accordingly, the Defendants prayed that the plaint is liable to be dismissed at the threshold with exemplary costs.*



20. The *Defendants No. 6 to 8, in their Written Submission*, took the *preliminary objection* that the present Suit is not maintainable and is barred by limitation, rendering it liable to rejection under Order VII Rule 11 CPC, as the Plaintiff has approached the Court after an unexplained delay of nearly two decades despite not being in possession, since at least 2008. It is contended that the Plaintiff has no valid title or possession, having failed to produce any chain of title documents, and has instead suppressed material facts and concocted a false case. The answering Defendants have set out a complete chain of transactions from 1999 to 2012, tracing title from Defendant No. 1 to Defendant No. 8, to assert lawful ownership and possession. It is further alleged that the documents relied upon by the Plaintiff are forged and fabricated, incapable of conferring any right, particularly in the absence of possession. The Defendants also contended that the Plaintiff has not come with clean hands, has failed to take timely legal action, and has deliberately concealed crucial facts; therefore, the suit, being based on false and frivolous averments, is liable to be dismissed with costs and initiation of appropriate action for perjury.

21. *In the Replication, the Plaintiff* has denied all the contentions made in the Written Statements of Defendants 1 to 3 and 5 to 8.

22. The **Application under Order VII Rule 11 CPC** were filed by the LRs of Defendant No.1 and Defendants No.6 to 8, seeking rejection of the *plaint on the ground of limitation*.

23. The Ld. Trial Court noted that as per the Plaintiff's own case, he had knowledge in October, 2008 that a third party was asserting ownership and raising construction over the suit property and had also lodged police



Complaints. The Court held that this amounted to a cloud over the Plaintiff's title and the right to sue first accrued in 2008. The Suit for Declaration ought to have been filed within three years, in terms of Article 58 of the Limitation Act. The Plaintiff could not create a fresh cause of action from the alleged discovery of Defendant No.8's possession in 2018 or from the Legal Notice dated 03.06.2019. The Ld. Trial Court held that the Suit instituted in 2019, *was barred by limitation and rejected the Plaint under Order VII Rule 11 CPC.*

24. Aggrieved by the rejection of the Suit, Appellant/Plaintiff has filed the present Appeal. The **Grounds of Appeal** are that the Ld. Trial Court has failed to appreciate the pleadings in their entirety and wrongly confined the matter, only to limitation period.

25. While deciding an Application under Order VII Rule 11 CPC, the Trial Court ought also to have considered the Written Statements of the Defendants. None of the Respondents disputed his ownership based on the sale/transfer/title documents dated 15.05.2001, and there is neither allegation nor evidence, that the Appellant ever sold the property to Defendant No.1. The Trial Court erred in holding that the cause of action arose in 2008. The Appellant had immediately lodged police Complaints in November, 2008 upon learning of the alleged sale.

26. He asserts that the Respondents intentionally withheld the documents, despite repeated requests. He did not know the particulars of the subsequent sale transactions executed successively from Defendant No.1 to Defendant No.8 and got the knowledge of the documents only in May, 2019, when copies were supplied by the Investigating Officer. Without details of those



documents, he could not have sought their cancellation. The Suit was filed promptly after the investigation disclosed the alleged forged documents ***Therefore, the cause of action accrued only in May 2019, not in 2008.***

27. The Appellant further submitted that the Trial Court failed to consider the registration of FIR No.336/2019 and the criminal proceedings, initiated pursuant to orders of the Magistrate.

28. It is also contended that any delay in filing the Suit was neither intentional nor willful, but because of the serious illness and heart ailment of the Appellant's father from 2009, until his death. The Trial Court erred in not condoning the delay and in drawing an adverse inference.

29. On merits, the Appellant stated that Defendant No.1 had no right, title or interest in the suit property after 15.05.2001 and therefore, all subsequent transfers in favour of Defendants No.2 to 8, are void ab initio. It was alleged that Defendant No.1 fraudulently altered signatures and property particulars in subsequent documents and misused the original title documents which had been taken from the Appellant's mother, on the pretext of facilitating the sale. The Appellant claimed that the Respondents collectively cheated and defrauded him, through successive illegal transfers.

30. The Appellant also submits that the Trial Court erred in observing that *he had not sought proper Declaratory relief.* However, his ownership was undisputed and therefore, declaration of his own title, was unnecessary. It is contended that he cannot be deprived of immovable property, merely on the ground of delay.

31. Finally, it is submitted that the Judgments relied upon by the Ld. Trial Court were inapplicable; the authorities cited by the Appellant were not



properly considered, rendering the impugned Order perverse and prejudicial to his rights and effectively rewarding the Respondents for their alleged wrongdoing.

32. *It is therefore, submitted that the impugned Order be set aside and the Suit be remanded for trial on merits.*

Submissions heard and record perused.

33. The Suit of the Plaintiff for *Declaration of Sale Deed and for possession in favour of the Defendants titled as Kanishka Sabharwal vs. Shri Suresh Kumar and Ors.*, has been rejected under Order VII Rule 11 CPC.

34. According to the Plaintiff/Appellant, he had purchased the Suit Property by virtue of GPA, Agreement to Sell, etc., dated 15.05.2001. He claimed that he took over the possession and raised a boundary wall and put the lock on her door. However, it is his own case that *in the year 2006*, the Defendant No. 1 approached the mother of the Plaintiff and took back the original sale documents dated 23.12.1999 executed by Smt. Harpreet Kaur in favour of the Defendant No. 1, that is the original previous chain of documents.

35. It is further the claim of the Plaintiff/Appellant that in October, 2008, he was shocked and surprised to know that one *Nagender Chaudhary* had purchased the Suit Property from Defendant No. 1. He had confronted him to show the alleged documents in his favour, but he was threatened by Nagender Chaudhary.

36. From the submissions of the Plaintiff itself, it is evident that he became aware of the sale of the property in favour of Nagender Chaudhary way back in 2008, despite which he took no steps to challenge the



documents of title executed in favour of Nagender Chaudhary.

37. Thereafter, there has been a sale through GPA, etc., made by Nagender Chaudhary to Defendant No. 3 and thereafter, subsequent transfers to the other Defendants till Defendant No. 8, who is in possession and claims title on the basis of GPA, Agreement to Sell, Receipt, etc. dated 15.05.2001. It is the claim of the Plaintiff/Appellant that thereafter, his father suffered huge losses in business and suffered heart attack and he was busy in taking care of his father and was unable to take any action. ***On 15.07.2018***, he went to the Suit Property and found Defendant No. 8 in the possession of the property.

38. It is evident that the Plaintiff/Appellant first came to know about the property having been sold by Defendant No. 1 to Defendant No. 2, way back in 2008. The *cause of action* to file a Suit to challenge the documents in favour of the Defendant No. 2 *arose in 2008*, while the Suit has been filed only in 2018. The Suit for getting the Documents declared as null and void, could have been filed within 03 years of the cause of action, **but has been filed much beyond 03 years and is patently barred by limitation.**

39. The Apex Court in the case of Anathula Sudhakar vs. P. Buchi Reddy (dead) 2008 (5) SRJ 147 held that when a cloud is raised on the Plaintiff's title who is not in possession, a **Suit for Declaration and for Possession with or without consequential injunction, is the remedy.**

40. Likewise, the Apex Court in the case of Mallavva vs. Kalsammanavara Kamma in SLP (CIVIL) No. 29135/2019, 2024 SCC OnLine SC 3846 decided on 20.12.2024 has observed that if a composite Suit is filed for cancellation of Sale Deed as well as recovery of possession,



the limitation period should be considered in respect of the substantive relief of **cancellation of deed**, which would be 03 years from the date of knowledge of the Sale Deed, which is sought to be cancelled.

41. It has been rightly noted by learned District Judge that cause of action is sought to be created by claiming that the Legal Notice was sent on 03.06.2019, but mere serving of Legal Notice, cannot revive a cause of action which has lived its life by 2011.

42. It has been rightly noted by the Learned District Judge that when a cloud was raised on the title of the Plaintiff way back in 2008, when Nagender Chaudhary was found in possession of the property, the filing of the present Suit in 2019 **was patently barred by limitation**. It is also rightly observed that the Plaintiff has merely sought Declaration of the documents in favour of the Defendants, to be null and void, but had not sought a corresponding Declaration of him being the rightful owner of the Suit Property, despite a cloud being cast on his title.

43. The learned District Judge, therefore, has rightly dismissed the Suit of the Plaintiff by observing that it is patently barred by limitation.

44. **There is no merit in the present Appeal, which is hereby, dismissed. The pending Applications are disposed of, accordingly.**

(NEENA BANSAL KRISHNA)

JUDGE

MARCH 24, 2026

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