2025:DHC:10044

$~51

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

% ***Decided on: 13.11.2025***

\+ C.R.P. 313/2025

SUDESH KUMAR BHOLA .....Petitioner

Through: Mr. Vijay K. Gupta and Mr. Mehul Gupta, Advocates

versus

PARVEEN JAIN & ORS. .....Respondents

Through: Mr. Abhinav Singh and Ms. Bharti Yadav, Advocates for MCD

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

<u>PRATEEK JALAN, J. (ORAL)</u>

<u>CM APPL. 70934/2025</u> <u>*(exemption)*</u>

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>C.R.P. 313/2025 & CM APPL. 70935/2025</u> <u>*(delay in filing)*</u>

3. The petitioner, who is arrayed as defendant No.1 in the suit bearing CS DJ 6856/2016 pending before the District Court, Saket, has filed this petition seeking revision of an order dated 18.07.2025. By the said order, the Trial Court has rejected the petitioner's application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ["CPC"].

4. The only ground urged by Mr. Vijay K. Gupta, learned counsel for the petitioner, is that the suit instituted by the respondent No.1/plaintiff was barred by limitation.

5. A copy of the plaint has been placed on the record.

6. The relief sought by the respondent No. 1/plaintiff relates to a declaration that a sale deed dated 01.06.1998 executed by the plaintiff's brother (defendant No.2 in the suit/respondent No.2 herein) in favour of the petitioner is null and void, a declaration that the plaintiff remains co-owner of the suit property (883/6, Ward No. VI, Main Bazar Road, Mehrauli, New Delhi), possession of the suit property, injunction, and accounts.

7. Mr. Gupta submits that the Sale Deed was admittedly executed by respondent No.2 in favour of the petitioner on 01.06.1998, whereas the suit was filed only in December 2014, well after the limitation period, which would be three years for the claim of cancellation of the Sale Deed, under Article 59 of the Limitation Act, 1963, and twelve years for the claim of possession in terms of Article 65 thereof. He submits that the said Sale Deed was executed pursuant to a general power of attorney dated 17.07.1980 executed by the plaintiff in favour of the respondent No.2.

8. While considering an application under Order VII Rule 11 of the CPC, even on the ground of limitation, the Court is restricted to consideration of the averments in the plaint and the documents annexed therein. This principle has been laid down by the Supreme Court in several decisions, including *Dahiben v. Arvindbhai Kalyanji Bhanusali*[1]. The following summary of the principles governing the exercise of jurisdiction under Order VII Rule 11 of CPC is relevant for the present purposes:

> *23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit,*

---

[1] (2020) 7 SCC 366.

no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

xxx xxx xxx

*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[2] read in conjunction with the documents relied upon, or whether the suit is barred by any law**.*

xxx xxx xxx

23.8. Having regard to Order 7 Rule 14 CPC, the documents filed along with the plaint, are required to be taken into consideration for deciding the application under Order 7 Rule 11(a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

*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[3]**.*

*23.11. The test for exercising the power under Order 7 Rule 11 is that **if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed**. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I[4] which reads as:*

"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed."

xxx xxx xxx

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC."

---

[2] Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512.
[3] Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137.
[4] Supra (Note 2).

9. The question before the Court, therefore, is whether the suit was barred by limitation, on the basis of a reading of the plaint itself.

10. The reading of the plaint in the present case, clearly demonstrates that the plaintiff claims knowledge of the said Sale Deed only on or after 19.10.2012. This is evident from the following averments in the plaint:

> *"…4. That there accrued property tax liability of the entire property and due to inaction on the part of the defendant No.2, the plaintiff approached the property tax department and inquired about the same and as information was not forth coming from the said department, the plaintiff applied under the Right to Information Act, 2005.*
>
> *5**. That the application under RTI Act of the plaintiff was rejected and the plaintiff entered into appeal process wherein order was passed to provide the requisite information wherein the plaintiff came to know, to his utter shock and surprise, on 19.10.2012 regarding applications for mutation on behalf of defendant No.1 Shri Sudesh Kumar Bhola for a portion of the property bearing No.883/6, Mehrauli, New Delhi wherein he had wrongly mentioned the property number as 884/6.***
>
> *The information as borne out under the RTI Act on 19.10.2012 is that Shri Sudesh Kumar Bhola applied for mutation of property on 14.10.1998 citing in his application that he has purchased 350 sq.yds of proper No. 883-A, Ward No.6, Khatoni No. 883, Khasra No.1151/3 consisting of two shops at Main bazaar, Mehrauli, New Delhi from Anil Kumar Jain son of Shri Mahabir Pershad Jain. It is pertinent to mention herein that there never existed a property bearing No 883-A. This shows in clear terms the fraud played as the defendants No.1 and 2 wherein they have tried to manipulate the description of the property with different numbers and wrongful dimensions and boundaries. This fact is further borne out in the notice sent to Shri Sudesh Kumar Bhola, dated 6.11.1998 wherein the MCD required defendant No. 1 to furnish details to avoid discrepancy The notice of the MCD took abundant caution and described the property as property No. 883/6, 883/6 (old) and 884/6 (new) khasra No.1151/3, for purpose of payment of property tax in respect of property No. 883-A Ward No.6, Mehrauli, New Delhi The RTI report further furnished the plaintiff with the sale deed filed by Shri Sudesh Bhola dated 1.6.1998 executed and registered by Shri Anil Kumar Jain, defendant No.2 in favour of Shri Sudesh Kumar Bhola, defendant No.1. The above mentioned sale deed is impugned*

herein.

xxx xxx xxx

*14. **<u>That the cause of action for filing the present suit arose in favour of the plaintiff against the defendant on 19.10.2012 when the reply to application under RTI Act was provided to the plaintiff</u>** wherein the applications for mutation moved on behalf of defendant No.1 on the strength of sale deed dated 1.6.1998 came to the notice of the plaintiff. The cause of action further arose in favour of the plaintiff when the plaintiff visited the suit property and was prevented by the defendant No.1 and instead gave threat to his life. The cause of action is subsisting and continuing one."*[5]

11. The aforesaid averments demonstrate that the case of the plaintiff is that he had no knowledge of the Sale Deed, at least until 19.10.2012, in which case, the suit would be within the period of limitation. It may be noticed that the respondent No.1/plaintiff has also made an allegation of fraud and collusion against the petitioner and respondent No.2 herein.

12. Having regard to the limited scope of inquiry under Order VII Rule 11 of the CPC, as the contents of the plaint, and the documents annexed therewith, make out a case that the respondent No.1/plaintiff acquired knowledge of the impugned Sale Deed only on 19.10.2012, I am of the view that the Trial Court has rightly held that the veracity of this averment is a matter for trial. It is exactly because of circumstances such as this, that limitation is sometimes described as a mixed question of law and fact.

13. For the aforesaid reasons, I do not find any jurisdictional error in the impugned order of the Trial Court, warranting interference in the revisional jurisdiction of this Court.

14. Mr. Gupta requests at this stage that the suit, having been instituted in the year 2014, may be expedited. I notice that the Trial Court itself has

made such an observation in the impugned order dated 18.07.2025. The petitioner is at liberty to make this request to the Trial Court in the presence of the other parties, which the Trial Court is requested to consider in accordance with its own Board.

15. With the aforesaid observations, the present revision petition is dismissed.

16. The pending application is accordingly disposed of.

PRATEEK JALAN, J

NOVEMBER 13, 2025
dy/Jishnu/

---

[5] Emphasis supplied.