



2025:DHC:11211



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

Date of decision: 08th DECEMBER, 2025

IN THE MATTER OF:

+ **CS(OS) 523/2019**

MRS. AMARDEEP KAUR

.....Plaintiff

Through: Mr. Harpreet Singh and Mr. Rajesh
Gupta, Advocates with Ms.
Amardeep Kaur, Plaintiff in person

versus

MR. PARMINDER SINGH & ANR.

.....Defendants

Through: Mr. Ankit Jain, Sr. Adv, Mr. Mohit
Gupta, Adv, Mr. Vijender Maan, Adv
& Mr. Mohit Jangra, Advs.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

I.A. 8778/2023

1. The present application under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed by the Defendants seeking rejection of the Plaint.
2. The present Suit is one for partition, injunction, and rendition of accounts wherein the Plaintiff has prayed for the following reliefs:

“A. A decree of partition of 1/3rd share in the suit properties being the Immovable Properties and movable properties: -



- a) J-12/58, Second Floor, Rajouri Garden, New Delhi;
- b) J-9/62 Second Floor, Rajouri Garden, Delhi;
- c) J-3/193 Rajouri Garden, New Delhi;

- d) Apartment bearing no. 6C, 80 SFS, Green View Apartment, Mayapuri Road, New Delhi;
- e) Shop No. 103 Old Rajinder Nagar, New Delhi;
- f) Shop No. 102, Old Rajinder Nagar, New Delhi;

Movable Assets: -

- a) Fixed deposits maintained with Axis Bank / UCO bank branch.
- b) Rentals/profit lying in the bank accounts inter alia including:

- i. HDFC Account No. 01291930016478
- ii. UCO bank account no. 04890110000199.
- iii. Axis Bank account no. 224010100056328
- iv. Punjab National Bank account no. 515270001094910243.
- v. Investment and precious movable articles.

- c) Gold, jewelry and other precious articles in lockers.

In this behalf this Hon'ble Court may pass a preliminary decree for partition, thereby apportioning the shares of the Plaintiff and the Defendants hereto and thereafter appoint a local commissioner to report the ways and modes of partition by metes and bounds of the estate. On receipt of the report of the local commissioner this Hon'ble Court may accept the same or modify it in such a manner as this Hon'ble Court deems fit and proper and may pass a final decree for partition and direct for putting the Plaintiff and the Defendants in possession in respect of their respective separate portions in the suit properties.



B. Direct the Defendant No.1 and Defendant No.2 to render the accounts with respect to the rental incomes / capital gains / dividends and any other incomes accruing to the bank account(s) and/or any other Demat account maintained in the name of Late Smt. Jatinder Kaur with effect from September, 2016 and / or all the receipts from dealing with the estate of Late Smt. Jatinder Kaur.

C. A decree for perpetual injunction against the Defendants restraining them from in any manner selling, transferring, alienating, encumbering, parting with possession with respect to the immovable and movable properties as mentioned in prayer (a) above; also;

D. Local commissioner may be appointed under the provisions of Civil Procedure Code to report/suggest a mode of partition of the "Suit Property" with a proportionate land(s) underneath;

E. Grant costs of the present suit in favor of the Plaintiff;

F. Pass any such other decree / orders as this Hon'ble Court may deem just, fair and proper in the facts and circumstances of the present case."

3. For the sake of convenience, the averments in the Plaint are summarised hereinunder:

- a. The Plaintiff and the Defendants are real siblings, being the children of Late Sardar Harminder Singh and Late Smt. Jatinder Kaur, both of whom passed away intestate. The family consists of three children—Plaintiff, Defendant No.1 and Defendant No.2—who are Class-I legal heirs of Late Sardar Harminder



Singh and Late Smt. Jatinder Kaur.

- b. It is stated that Late Sardar Harminder Singh, was a successful businessman engaged in the electronics trade and, during his lifetime he acquired several movable and immovable assets. It is stated that he passed away intestate in 1977. It is stated that since at the time of the death of Late Sardar Harminder Singh all the children were minors, Late Smt. Jatinder Kaur took complete responsibility for managing the estate, including the properties and funds inherited from the deceased father and those subsequently purchased through reinvestment of family resources.
- c. It is stated that over the years, Late Smt. Jatinder Kaur managed, sold, reinvested and acquired properties from joint family funds, rental income and proceeds from earlier assets. It is stated that she repeatedly declared that all such properties were joint family properties to be inherited equally by the Plaintiff and the Defendants after her death. It is stated that Late Smt. Jatinder Kaur independently purchased some additional immovable assets from joint family resources.
- d. It is stated that after the turbulence of the 1984 riots, the mother, prioritizing safety and in order to secure future of her sons, sold the joint family shops in Nehru Place along with some other assets to establish Defendants No.1 & 2 in Norway, where they eventually settled and prospered.
- e. It is stated that the Plaintiff got married in 1986 and continued to reside in India. It is stated that despite settling her sons



abroad, Late Smt. Jatinder Kaur stayed back in India with the Plaintiff, managing the income from rentals, investing in properties, and overseeing the joint family assets. It is stated that the Plaintiff maintained proximity to her mother and took care of her emotional, medical, and familial needs.

- f. It is stated that Late Smt. Jatinder Kaur purchased/acquired several immovable properties using joint family funds, rental proceeds, and investment earnings. Her acquisitions, as detailed in the Plaint, are as under:
- i. J-12/58, Rajouri Garden, Second Floor;
 - ii. J-9/62, Rajouri Garden, Second Floor;
 - iii. J-3/193, Rajouri Garden;
 - iv. Apartment No. 6C, 80 SFS Green View Apartments, Mayapuri Road;
 - v. Shop No. 102, Old Rajinder Nagar; and
 - vi. Shop No. 103, Old Rajinder Nagar;
- g. It is stated that apart from immovable assets, the family also owns a substantial amount of movable assets such as bank deposits, rental income, investments, jewellery, and other valuables. These assets have collectively been referred to as the “joint family properties” in the Suit.
- h. It is stated that Late Smt. Jatinder Kaur posed immense faith in the Plaintiff and she even executed an irrevocable General Power of Attorney dated 17.01.2007 in favour of the Plaintiff for the management of Shops No. 102 and 103, Old Rajinder Nagar. It is stated that the Plaintiff also oversaw the properties’



maintenance and rental arrangements, acting in the best interest of the mother and the joint family estate.

- i. It is stated that the Plaintiff and the Defendants shared an amicable relationship, however, harmony in the family began to waver around 2015–2016, when the health of Late Smt. Jatinder Kaur started deteriorating drastically due to Chronic Liver Disease, Hepatic Encephalopathy, and age-related disorders, which lead to frequent confusion, impaired consciousness, drowsiness, and altered sensorium. It is stated that Late Smt. Jatinder Kaur visited Norway for treatment and was repeatedly hospitalised in Sir Ganga Ram Hospital and Medanta over multiple spells between 2016 and 2018. It is stated that the Defendants started visiting India more frequently during this time.
 - j. It is stated that in September 2018, Late Smt. Jatinder Kaur passed away in Norway and after her demise, the Defendants began asserting exclusive rights over the properties and attempted to take unilateral control of the Old Rajinder Nagar shops and their rental income.
 - k. It is stated that the Plaintiff made efforts to resolve issues amicably however, since attempts of amicably resolution failed, the instant Suit was filed.
4. Summons in the Suit were issued on 10.10.2019. Written Statements have been filed by the Defendants raising several objections to the present Suit.
 5. The present Application under Order VII Rule 11 (d) of the CPC has



been filed by the Defendants seeking rejection of the Plaint on the ground of maintainability of the Suit.

6. It is the case of the Defendants that the Plaintiff has approached the Court with a false, frivolous and fictitious case, solely with the intention of creating an illusionary cause of action. As per the Defendants, the Plaintiff has deliberately made vague and unsubstantiated averments regarding the alleged “joint family properties” purportedly acquired by the deceased father prior to 1977, however, the Plaintiff has not produced a single document in support of such assertions, and therefore, the entire foundation of the Plaint is artificial and contrived.

7. It is the case of the Defendants that the Plaintiff has herself admitted in her pleadings that the deceased mother had sold all the old properties and thereafter purchased new ones from the sale proceeds. It is stated that as per the Plaintiff’s own case, these transactions were well-known to her and were carried out with her full knowledge and consent and, as such the Plaintiff cannot now contend that the newly purchased properties form part of joint family estate, nor can she seek partition without first challenging or recovering her alleged share in the sale proceeds of the old properties. It is, therefore, stated that if at all the Plaintiff had any grievance, she ought to have instituted a suit for recovery of her alleged share in the sale proceeds of the old properties. It is further stated that the Plaintiff has never pleaded that she became aware of the purchase of any property at a later point in time. According to the Defendants, the Plaintiff was fully aware of the acquisition of each of the Suit Properties on the date of their purchase, and her conscious silence for decades now bars her claim.

8. It is stated that under Article 110 of the Limitation Act, 1963, any suit



for partition by a person allegedly excluded from joint family property must be filed within twelve years from the date of such exclusion and since the Plaintiff has not filed any such Suit within the prescribed period of limitation, the present Suit is not maintainable as being barred by time as it has been filed after 12 years of the purchase of the properties. It is stated that except for property No. J-9/62, Rajouri Garden, Second Floor, which was purchased in 2016, all other Suit Properties were purchased between 1997 to 2010 and, therefore, any claim on those properties is barred by time as the present Suit was filed in 2019 which is way out of the limitation period of 12 years. It is stated that property No. J-9/62, Rajouri Garden, Second Floor is within the limitation period but it was transferred by Late Smt. Jatinder Kaur to the Defendants. It is stated that only Shop No. 103, Old Rajinder Nagar, can be partitioned as it is in joint ownership.

9. Heard the learned Counsels for the parties and perused the material on record.

10. For the adjudication of the present application, it is pertinent to refer to Order VII Rule 11 of the CPC, which reads as under:

“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:

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.”

11. The law relating to rejection of a plaint under Order VII Rule 11 of the CPC is crystallized through various judgments of the Apex Court. The Apex Court in Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510, has held as under:

“13. Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.

14. In Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the



defendant in the written statement would be wholly irrelevant at that stage.

15. In I.T.C. Ltd. v. Debts Recovery Appellate Tribunal [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See T. Arivandandam v. T.V. Satyapal [(1977) 4 SCC 467] .)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in Roop Lal Sathi v. Nachhattar Singh Gill [(1982) 3 SCC 487] only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In Raptakos Brett & Co. Ltd. v. Ganesh Property [(1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.

19. There cannot be any compartmentalisation,



dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

20. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is prima facie of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.”

12. A perusal of the above judgment shows that the remedy under Order VII Rule 11 CPC is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the very threshold, without proceeding to record evidence or conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained under Order VII Rule 11 of the CPC. The



whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive, should not be permitted to occupy the time of the court.

13. While deciding an application under Order VII Rule 11 of the CPC, this Court is confined only to examining the averments in the Plaint, to see as to whether a real cause of action has been set out in the Plaint or not and to make sure that the plaint is not manifestly vexatious and meritless.

14. Having considered the submissions and perused the material on record, it can be seen that the Suit Properties were purchased/acquired by Late Smt. Jatinder Kaur by utilizing the assets left behind by late Sardar Harminder Singh and, therefore, the properties purchased/acquired by Late Smt. Jatinder Kaur will have the character of joint family properties. The reliance placed by the Defendants on Article 110 of the Limitation Act is, therefore, wholly misconceived and legally untenable.

15. Article 110 of the Limitation Act applies only where a coparcener or co-owner has been excluded from joint family property and seeks to recover possession after proving such exclusion. The foundational requirement for invoking Article 110 of the Limitation Act is a pleaded, proved and conscious act of exclusion, brought to the knowledge of the plaintiff, which sets the limitation clock running. In the present case, the Plaintiff was never excluded from the Suit Properties at any point of time. On the contrary, the Plaint unequivocally asserts joint ownership by inheritance upon the intestate demise of the mother, whereupon the Plaintiff and the Defendants became co-owners of the Suit Properties. The Suit is, therefore, not one for recovery after exclusion but a simple Suit for partition, for which it is well-settled that limitation does not run until partition is denied or a partition is



effected. There is nothing in the Plaint to show any admission of any overt act amounting to ouster, nor is there any pleading of hostile, exclusive possession by the Defendants to the knowledge of the Plaintiff. Mere purchase of properties by the mother in her own name or the execution of conveyance deeds, does not constitute exclusion of a co-heir, particularly when the cause of action for partition arises only upon the opening of succession, i.e., on the death of the mother in 2018. Thus, the Defendants' attempt to compute limitation from the dates of purchase of the properties is entirely misplaced, as these transactions occurred during the lifetime of the mother when the Plaintiff had no subsisting right to seek partition. The right to sue accrued only after the death of the mother, and the present Suit was filed shortly thereafter and is, therefore, squarely within time.

16. Of late, this Court is noticing an increasing trend of filing applications under Order VII Rule 11 of the CPC by litigants, who seek to convert this limited procedural tool into a mechanism for prematurely adjudicating disputed questions of fact and law. What is intended to be a narrow and exceptional remedy and available only where the Plaint on its face is barred by law or fails to disclose a cause of action, is now frequently invoked as a tactical weapon to delay proceedings, to pressurize the opposite party, or to secure an early dismissal without examination of evidence. Parties routinely attempt to stretch the scope of Order VII Rule 11 of the CPC to compel the Court to undertake a mini-trial at the threshold, inviting the Court to consider materials outside the Plaint or to resolve contentious factual disputes, which the provision does not permit. Such attempts not only run contrary to the settled jurisprudence limiting the enquiry strictly to the averments in the Plaint but also burden the Courts by necessitating avoidable



hearings. This growing tendency to misuse Order VII Rule 11 of the CPC undermines the objective of expeditious justice and, if unchecked, risks transforming a procedural safeguard into an instrument of obstruction. Courts have repeatedly cautioned that this provision must be applied sparingly, and only in cases where the bar to the Suit is clear, patent, and undisputed from the plaint alone, and not where the defendant seeks to manufacture a bar through selective interpretation or extraneous material. In the opinion of this Court, the present Application is one such classic example of misuse of Order VII Rule 11 of the CPC. Though, this Court was inclined to impose costs, however, in the facts and circumstances of this case, this Court is desisting from imposing costs. However, this Court makes an appeal that such applications under misuse Order VII Rule 11 of the CPC ought not to be filed.

17. With these observations, the application is dismissed.

CS(OS) 523/2019, I.A. 14011/2019, I.A. 12204/2020, I.A 1551/2025

18. List on 16.03.2026.

SUBRAMONIUM PRASAD, J

DECEMBER 08, 2025

Rahul