



2026:DHC:9203



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

Date of decision: 13th OCTOBER, 2026

IN THE MATTER OF:

CNR No. DLHC010346702023

I.A. 9274/2024

IN

+ **CS(OS) 546/2023 & I.A. 46547/2024, I.A. 18151/2026, O.A. 184/2026**

AJAY GOEL

.....Plaintiff

Through: Mr. Sanjeev Soni and Mr. Mandeep Singh, Advocates

versus

RAM KANWAR GOEL AND ORS

.....Defendants

Through: Mr. Pawan Kumar Sharma and Ms.Manshi Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 9274/2024

1. The present Application under Order VII Rules 11(a) and 11(d) read with Section 151 CPC, has been filed by Defendant No.3 seeking rejection of the Plaint on the ground that the Plaintiff has no right, title or interest in the Suit Property and therefore has no cause of action to maintain the suit.

2. The present Suit is one for declaration, partition and permanent injunction in respect of the residential property bearing No. D-247, Phase-I, Ashok Vihar, Delhi-52, comprising the ground floor, first floor and two rooms on the roof/terrace (*hereinafter referred to as 'the Suit Property'*).

Signature Not Verified

Signed By: HARSHOM
SINGH KIRMOJIYA
Signing Date: 15.10.2026
11:03:27

CS(OS) 546/2023

Page 1 of 13



2026:DHC:9203



Primarily, the Plaintiff seeks a declaration that the Gift Deed dated 25.03.2021, executed by Defendant No.1 in favour of Defendant No.3, is illegal, null and void and does not affect his alleged 1/4th undivided share in the Suit Property.

3. Before dwelling into the facts of the case, it is pertinent to mention that Defendant No.1, Ram Kanwar Goel, is the father of the Plaintiff and of Defendants No.2 and 3. Thus, Plaintiff and Defendants No.2 and 3 are siblings, while Defendant No.1 is their father.

4. Relevant facts, in brief, leading to the present Suit are as under:

- a. According to the Plaintiff, the Suit Property was acquired in November 1970. It is stated that at that time, Defendant No.1, Ram Kanwar Goel, was working with the MCD and did not have sufficient financial means to purchase any land. It is stated that Defendant No.1 approached his father, Late Kanshi Ram, and requested him to provide money for purchasing the plot.
- b. It is stated that Late Kanshi Ram was carrying on an ancestral wholesale business dealing in grain and raw cotton, and gave Rs.8,000/- in cash to Defendant No.1 for purchasing the plot. According to the Plaintiff, the money for purchasing the plot came from the funds generated from this ancestral business.
- c. It is the case of the Plaintiff's case that Rs.8,000/- was advanced under a fiduciary arrangement, described in the plaint as a "Benami Transaction" and/or conditional gift with an understanding that the Suit Property would ultimately belong to



2026:DHC:9203



Defendant No.1 and his three children, namely, the Plaintiff, Defendant No.2 and Defendant No.3, in equal shares.

- d. It is stated that the Suit Property was purchased in Defendant No.1's name and the perpetual lease was executed in his name on or about 16.12.1970.
- e. It is further stated that although the Suit Property stood in Defendant No.1's name, the parties continued to treat it as a joint family property belonging equally to the father and his three children. It is stated that the ground floor was initially constructed. Thereafter, in 1996, a further oral family arrangement was arrived at between the Plaintiff, Defendants No.1, 2 & 3 in the presence of a close relative, under which the Plaintiff and his family were to occupy and enjoy the entire first floor along with common roof rights, passages and entrances, until the Suit Property was partitioned or sold with the consent of all the parties. It is stated that pursuant to this understanding, the Plaintiff constructed the entire first floor from his own funds, without financial contribution from the other Defendants.
- f. It is stated that the Plaintiff remained in possession and enjoyment of the entire first floor, along with common rights in the roof, passages and entrances of the Suit Property.
- g. It is stated that disputes arose between the parties when Defendant No.1 executed a Gift Deed dated 25.03.2021 in favour of Defendant No.3. It is stated that the Gift Deed was



2026:DHC:9203



executed clandestinely and in collusion with Defendants No.2 and 3.

- h. The case of the Plaintiff is that Defendant No.1 could not have gifted the entire Suit Property to Defendant No.3 because, according to the Plaintiff, Defendant No.1 himself had only a 1/4th undivided share in the Suit Property. The Plaintiff consequently seeks a declaration that the Gift Deed is fraudulent, illegal, void and non-est insofar as it affects his alleged 1/4th share.

5. Summons in the Suit were issued on 04.09.2023. Written Statements have been filed.

6. The present Application has been filed by Defendant No.3 under Order VII Rules 11(a) and 11(d) read with Section 151 CPC, seeking rejection of the plaint on the ground that the Plaintiff has no *locus standi* or right, title or interest in the Suit Property and, consequently, no cause of action to file the suit.

7. The principal ground raised by Defendant No.3 is that the Plaintiff has incorrectly claimed the Suit Property to be an ancestral property and has based his claim of a 1/4th share in the Suit Property on the allegation that Defendant No.1 had obtained Rs.8,000/- from his father, Late Kanshi Ram, in November 1970 for purchasing the plot. Defendant No.3 disputes this allegation and states that the Suit Property was in fact acquired by Defendant No.1 much prior to November 1970. According to the Application, Defendant No.1 had applied for allotment of the plot from the DDA in 1967 under the Middle Income Group Scheme and had deposited



2026:DHC:9203



Rs.800/- on 11.11.1967. It is stated that the plot was allotted to Defendant No.1 on 19.04.1968, and further payments towards the consideration were made on 13.06.1968 and 09.02.1970. It is further contended that the entire consideration for the plot was paid by Defendant No.1 and his wife from their own earnings and savings. It is stated that Defendant No.1 was working with the MCD and his wife was a teacher in a Government-aided school. Thus, according to Defendant No.3, the entire consideration for the plot had already been paid before November 1970 and there was no occasion for Defendant No.1 to approach his father for Rs.8,000/- for purchasing the Suit Property. Defendant No.3 further contends that Defendant No.1 constructed the Suit Property in phases by obtaining loans from his Department and financial institutions and repaid those loans himself. It is therefore asserted that the Suit Property was the self-acquired property of Defendant No.1 and that none of the other family members had any right, title or interest therein. On this basis, Defendant No.3 contends that Defendant No.1, being the absolute owner, was competent to execute the registered Gift Deed dated 25.03.2021 in favour of Defendant No.3. It is specifically asserted that the Gift Deed was executed voluntarily and with the free consent of Defendant No.1, without any fear, coercion or undue influence. Defendant No.3 has also challenged the Plaintiff's plea that the transaction was a Benami transaction. It is stated that the Plaintiff has not produced any documentary evidence to establish that Defendant No.1 had borrowed Rs.8,000/- from his father in November 1970 or that the Suit Property was purchased from that amount. On the contrary, according to Defendant No.3, the documents filed by Defendant No.3 show that the Suit Property had been allotted to Defendant No.1 in 1967 and that the entire consideration had been paid by Defendant No.1 from his own funds by April 1970. Defendant No.3,

Signature Not Verified

Signed By: HARJOM
SINGH KIRMOJIYA
Signing Date: 15.10.2026
11:03:27

CS(OS) 546/2023

Page 5 of 13



2026:DHC:9203



therefore, contends that the Plaintiff's plea of a Benami transaction is unsupported and cannot form the basis of a claim to ownership or partition. On the basis of these averments, Defendant No.3 states that the Plaintiff has no right, title or interest in the Suit Property and no cause of action has accrued in favour of the Plaintiff for seeking declaration, partition or permanent injunction. Defendant No.3 therefore seeks rejection of the plaint under Order VII Rule 11(a) and (d) CPC on the ground that the plaint does not disclose a legally sustainable cause of action and that the suit is barred by law.

8. *Per contra*, learned Counsel appearing for the Plaintiff contends that the Application is based on disputed questions of fact which cannot be adjudicated at the stage of Order VII Rule 11 Application. He states that the grounds raised by the Defendant No.3 in the present Application have already been raised by the Defendants in their Written Statement. He states that the contentions regarding the source of funds used for purchasing the Suit Property, the DDA allotment and the construction of the Suit Property are matters forming part of their defence and are yet to be proved. He accordingly prays that the Application for rejection of the plaint be dismissed.

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. Further in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512, the Apex Court has held as under:

“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.”

13. A Perusal of the above observations of the Apex Court shows that while deciding an application under Order VII Rule 11 of the CPC, this Court is confined only to examining the averments in the Plaint and the documents filed. The defense of the Defendant or disputed questions of fact cannot ordinarily be examined at this stage. The Plaint can be rejected only if, on a meaningful reading of its averments, it falls within one of the conditions specifically contemplated under Order VII Rule 11 CPC.

14. The question which arises for consideration is whether, on a meaningful and holistic reading of the Plaint, the Plaint is liable to be rejected under Order VII Rule 11 CPC or not. The answer, in the opinion of this Court, is in the negative.

15. The Plaintiff's case, as pleaded in the Plaint, is that Defendant No.1, had approached his father for financial assistance for acquisition of the plot on which the Suit Property was subsequently constructed. It is specifically pleaded that a sum of Rs.8,000/- was paid by Late Kanshi Ram to Defendant No.1 in cash under a fiduciary arrangement, with the understanding that the Suit Property would be jointly owned by Defendant No.1 and his three



2026:DHC:9203



children in equal shares. The Plaintiff has further pleaded that he subsequently constructed the entire first floor from his own funds and that no partition of the Suit Property had taken place. The Plaintiff has then pleaded that Defendant No.1 executed the Gift Deed dated 25.03.2021 in favour of Defendant No.3, gifting the entire Suit Property to him despite having only a 1/4th share in the Suit Property. On these averments, the Plaintiff has sought declaration in respect of the Gift Deed, partition and permanent injunction.

16. It cannot be said that these averments do not disclose any cause of action. The Plaintiff has set out the factual basis on which he claims an interest in the Suit Property, the circumstances in which such interest is alleged to have arisen, the subsequent act of Defendant No.1 which is alleged to have affected that interest, and the reliefs which the Plaintiff seeks on that basis. Whether the Plaintiff is ultimately able to establish these assertions is an entirely different question. At the stage of Order VII Rule 11 CPC, the Court is not required to determine whether the Plaintiff will succeed in proving the facts pleaded by him.

17. The principal submission of Defendant No.3 is that the Suit Property was the exclusive and self-acquired property of Defendant No.1. In support of this contention, reliance has been placed upon the DDA allotment records and the dates on which the consideration for the plot was paid by Defendant No.1. Defendant No.3 contends that the plot had been allotted to Defendant No.1 in 1968, and that the consideration had been paid by 09.02.1970. It is therefore contended that there was no occasion for Defendant No.1 to have obtained Rs.8,000/- from his father in November 1970.



2026:DHC:9203



18. The aforesaid contention, however, requires this Court to accept the factual case of the Defendant in preference to that of the Plaintiff. The Plaintiff has specifically disputed the Defendant's version and has maintained that the sum of Rs.8,000/- was in fact advanced by Late Kanshi Ram in cash pursuant to the arrangement pleaded in the plaint. The question as to whether such payment was actually made, the purpose for which it was made, the source of the funds, the understanding between Late Kanshi Ram and Defendant No.1 and the legal consequences flowing from such arrangement are all matters which cannot be determined at this stage. An application under Order VII Rule 11 CPC cannot be converted into a mini-trial for deciding these disputed questions.

19. This Court is also unable to accept the submission of the Defendant No.3 that the Plaint should be rejected merely because the Defendants have placed on record documents which, according to them, establish the exclusive ownership of Defendant No.1 over the Suit Property. The documents relied upon by the Defendants form the basis of their defence and the Plaintiff, in its reply, disputes the factual and legal conclusions sought to be drawn from them. The question at this stage is not whether those documents ultimately establish the Defendant's case, but whether the plaint, when read as a whole and assuming its material averments to be correct, discloses a cause of action or not. In the opinion of this Court, the Plaint does indicate a cause of action.

20. At the stage of Order VII Rule 11 CPC, the Court cannot undertake an adjudication of the rival title claims by examining the defence documents and weighing them against the Plaintiff's pleadings. Such an exercise would effectively amount to deciding the suit without trial. The present application



2026:DHC:9203



cannot be allowed by converting the limited jurisdiction under Order VII Rule 11 CPC into an adjudication of the question whether Defendant No.1 was, in fact, the absolute owner of the Suit Property.

21. However, it does not mean that the documents relied upon by the Defendants have no relevance in the proceedings. Once the documents are admitted by the Plaintiff, or if the pleadings or the record otherwise contain clear and unequivocal admissions relevant to the issues in the suit, it would be open to the Defendants to avail themselves of such remedies as may be available in law, including, by filing an application under Order XII Rule 6 CPC.

22. With these observations, the Application is dismissed.

23. It is clarified that nothing contained in the present Order shall be construed as an expression of opinion on the merits of the rival claims of the parties. All questions relating to the ownership of the Suit Property, the alleged payment of Rs.8,000/-, the alleged fiduciary/family arrangement, the respective shares of the parties, the validity and legal effect of the Gift Deed dated 25.03.2021 and the evidentiary value of the documents relied upon by the parties are left open for adjudication at the appropriate stage.

CS(OS) 546/2023 & I.A. 46547/2024, I.A. 18151/2026, O.A. 184/2026

List before the Roster Bench on 28.10.2026.

SUBRAMONIUM PRASAD, J

OCTOBER 13, 2026

Rahul/KG