



2026:DHC:1070



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

Date of decision: 21st JANUARY, 2026

IN THE MATTER OF:

+ **I.A. 44885/2024**

In

CS(OS) 52/2022

ANUPRIYA VIJ & ANR.

.....Plaintiffs

Through: *Appearance not given*

versus

ANURAG SANT

.....Defendant

Through: Mr. Ashok Kumar Singh, Senior Advocate with Mr. Rakesh Chaudhary, Ms. Pushpa Dikshit, Mr. Rajat, Ms. Eesha, Ms. Saloni and Ms. Shivastuti, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

I.A. 44885/2024

1. The present Application under Order XII Rule 6 of CPC has been filed by the Plaintiffs, with the following prayers:

“(i) Pass a preliminary decree of partition in favour of the plaintiffs and against the defendant to the extent of 44.44% undivided share (22.22% in favour of each of the plaintiffs) with respect to the suit property bearing no. B-215, Ashok Vihar, Phase-1, Delhi-110052 comprising of ground floor, first floor and terrace above, built on a plot of land admeasuring 300 sq. yds. (250.80 sq. meters)



(ii) Pass order and direction against the defendant for the payment of Rs.44,500/- per month to the Plaintiffs towards the use and occupation, charges of the Plaintiffs 44.44% share in the Ashok Viharsuit property.

(iii) Pass any other or further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favour of the plaintiffs and against the defendant.”

2. The present Suit has been filed by the Plaintiffs seeking partition of two properties: (i) Property bearing No. B-215, Ashok Vihar, Phase-I, Delhi, admeasuring about 300 sq. yards comprising of ground floor, first floor and terrace above (*hereinafter referred to as “Ashok Vihar property”*); and (ii) Property bearing No. 5-B, Nath Market, First Floor, Nai Sarak, Delhi, (*hereinafter referred to as “Nai Sarak property”*) (*hereinafter collectively referred to as “Suit properties”*). Further, the Plaintiffs have also prayed for other reliefs including the relief of *mense* profits, rendition of accounts, permanent injunction, declaration of the alleged Will dated 26.08.2015, allegedly executed by Late Sh. Shiv Chand Sant.

3. Shorn of unnecessary details, the facts as stated in the Plaint are as follows:

- a) Plaintiffs are the daughters of Late Shri Shiv Chand Sant & Late Smt. Vijaya Sant and the Defendant is the son of Late Shri Shiv Chand Sant & Late Smt. Vijaya Sant.
- b) It is stated that during his lifetime, Late Shri Shiv Chand Sant acquired the Ashok Vihar property from his own funds in the year 1971 and the same was a leasehold property. During 1972–



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1973, Late Shri Shiv Chand Sant, got the ground floor and first floor constructed on the Ashok Vihar property from his own resources. Subsequently, the Ashok Vihar property was converted from leasehold to freehold by way of a registered Conveyance Deed dated 21.07.2017, executed in favour of Late Shri Shiv Chand Sant. It is stated that during his lifetime, Late Shri Shiv Chand Sant was also a tenant in Property No. 5-B, Nath Market, First Floor, Nai Sarak, Delhi (*hereinafter referred to as 'Nai Sarak property'*), which was an old and protected tenancy under the Delhi Rent Control Act, 1958. Further, the said Nai Sarak property existed even prior to his marriage, and the monthly rent thereof was paid by him to the landlord.

- c) It is stated that Late Shri Shiv Chand Sant also established and ran two publication businesses under the names and styles of “Umesh Prakashan” and “Umesh Publications”. It is stated that the said businesses were established by Late Shri Shiv Chand Sant from his self-acquired funds and earnings.
- d) It is stated that on 09.08.2020, Late Smt. Vijaya Sant, wife of Late Shri Shiv Chand Sant, passed away. Thereafter, within a period of about four months, Late Shri Shiv Chand Sant also passed away on 17.12.2020, leaving behind the Plaintiffs and the Defendant as his Class-I legal heirs.
- e) It is stated that upon the demise of Late Shri Shiv Chand Sant, all his movable and immovable properties, including the Ashok Vihar property, Nai Sarak tenancy rights, and all assets and interests in the aforesaid businesses, devolved upon the



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Plaintiffs and the Defendant equally, each having an undivided one-third share therein by operation of law of inheritance.

- f) It is further stated that after the death of Late Shri Shiv Chand Sant, the Plaintiffs repeatedly requested the Defendant to amicably partition the Suit properties as well as the movable and immovable assets of the businesses so that each party could receive his/her legitimate one-third share.
- g) However, the Defendant refused to do so and, for the first time, set up a case that Late Shri Shiv Chand Sant had allegedly executed a Will dated 26.08.2015, and that Late Smt. Vijaya Sant had also allegedly executed a Will dated 24.09.2019, on the basis of which the Plaintiffs together were entitled to only a limited share in the Ashok Vihar property and had no share in the Nai Sarak property or in the businesses.
- h) According to the Plaintiffs, the said alleged Wills are neither genuine nor valid and are stated to have been procured by the Defendant by exercising undue influence, coercion, pressure and domination over the aged parents during their lifetime, when they were completely dependent upon the Defendant.
- i) It is the Plaintiffs' case that during the lifetime of their parents, the Defendant had taken complete control over the Ashok Vihar property as well as the businesses. Further, the Defendant usurped rental income, controlled bank accounts and documents, and subjected the parents to harassment and ill-treatment, compelling them to act under fear and compulsion.



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- j) Thereafter, various communications, including WhatsApp exchanges, took place between the parties after the death of the parents, wherein, the Defendant repeatedly asserted his alleged rights under the purported Wills and threatened to initiate probate proceedings.
- k) It was apprehended by the Plaintiffs that the Defendant may alienate or create third-party rights in respect of the Ashok Vihar property, for which the Plaintiffs addressed communications in September and November, 2021 to the office of the concerned Sub-Registrar and the Municipal Corporation, asserting their one-third undivided share on the said property and requesting that no sale, transfer or mutation be carried out in respect of the said property.
- l) In these circumstances, asserting that the alleged Wills are illegal, void and not binding, and that the Plaintiffs continue to be co-owners to the extent of one-third undivided share each in the suit properties and business assets, the Plaintiffs filed the present suit with the following prayers:

“i) Pass a preliminary decree for partition thereby declaring that the plaintiff No. 1 and 2 and the defendant have got 1 /3rd share each in both the suit properties i.e. (i) Property No. B-215, Ashok Vihar, Phase-1, Delhi-11 0052 comprising of Ground floor, first floor and terrace above, built on a plot of land admeasuring 300 sq. yds. (250.80 sq.meters) and (ii) Property No. 5-B, Nath Market, First Floor, Nai Sarak, Delhi-11 0006 admeasuring approximately 600 sq. ft.;



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ii) *Appoint a local commissioner with the direction to aforesaid suit properties and to suggest the mode of partition of the suit properties;*

iii) *Pass a final decree of partition in terms of the report of the local commissioner;*

iv) *Put the plaintiffs and the defendant in possession of their respective portions of the suit properties;*

v) *Pass a decree of mesne profit thereby directing the defendant to pay to the plaintiff no. 1 and 2, a sum of Rs.26,666/- per month to each plaintiff w.e.f. 17.12.2020 upto the date of filing of the present suit (calculated upto 17.12.2021) i.e. $Rs.26,666/- \times 12 = Rs.3,19,992/- \times 2 = Rs.6,39,984/-$ and also for the future period till the time the share of the plaintiff no.1 and 2 is not given in the suit Ashok Vihar property;*

vi) *Pass a decree for rendition of accounts thereby directing the defendant to render the true and correct accounts of the businesses of the father i.e. Umesh Prakashan and Umesh Publications and after that pass a decree of partition to the extent of 1/3rd share each amongst the plaintiff no.1 and 2 and defendant with respect to the assets both the moveable and immovable of the said businesses;*

vii) *Pass a decree of permanent injunction in favour of the plaintiffs and against the defendant thereby restraining the defendant from creating any third party right, title and interest in the suit properties (i) Property No. B-215, Ashok Vihar, Phase-1, Delhi- 11 0052 comprising of Ground floor, first floor and terrace above, built on a plot of land admeasuring 300 sq. yds. (250.80 sq.meters) and (ii) Property No. 5-B, Nath Market, First Floor, Nai Sarak, Delhi-110006 admeasuring approximately 600 sq. ft.;*



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viii) Pass a decree of declaration thereby declaring that the Will dated 26.08.2015 allegedly executed by father/Late Sh. Shiv Chand Sant and the Will dated 24.09.2019 allegedly executed mother Nijya Sant are illegal and void-ab-initio and not binding on the plaintiffs.

(ix) To award the cost of the suit in favour of the plaintiffs;”

4. Summons in the Suit were issued on 01.02.2022 and the Written Statement filed by the Defendant was taken on record *vide* Order dated 07.02.2023.

5. It is the Defendant’s case that the Plaintiffs have no subsisting right, title or interest in the Suit properties or the businesses, in view of the duly executed and registered Will dated 26.08.2015 of Late Shri Shiv Chand Sant and the registered Will dated 24.09.2019 of Late Smt. Vijaya Sant, which, according to the Defendant, are valid, genuine, voluntary and binding. The Defendant asserts that both Wills were executed by the parents out of their own free will, without any coercion, undue influence or pressure, and that the Wills are complementary and harmonious in nature and are required to be read conjointly, as they reflect a consistent and conscious intention of the parents to preserve the family assets through the Defendant alone.

6. According to the Defendant, Late Shri Shiv Chand Sant, during his lifetime, not only executed the registered Will dated 26.08.2015, but also consciously shared copies thereof with all his children against handwritten acknowledgments in the years 2016 and 2017, and the Plaintiffs had accepted the Will without any protest, demur or challenge. It is stated that the Plaintiffs had even expressed gratitude to their father upon receipt of the



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Will and that there was not even a whisper of any allegation of coercion or undue influence during the lifetime of the father. He further contended that the belated challenge to the Will has been raised only after the demise of the parents, with a *malafide* intention of unjust enrichment. In so far as the Ashok Vihar property is concerned, the Defendant's case is that the father expressly wished that the residential property be preserved and continue to be used by the Defendant as his sole residence, and that the right to rent out any portion thereof was first to vest in the father, thereafter in the mother, and ultimately in the Defendant alone.

7. It is pleaded that even during his lifetime, the father had empowered the Defendant by executing a registered General Power of Attorney in September 2020 to manage, supervise and rent out the property. The Defendant asserts that the first floor of the Ashok Vihar property has been lawfully rented out and that the Plaintiffs have no right to claim *mesne profits* or any share in the rental income in view of the clear testamentary disposition. With regard to the Nai Sarak property, the Defendant asserts that the same is not an owned property but a rented premises, which was historically used by the publication business of the family. It is stated that the publication business originally commenced as a partnership between the father and his elder brother, Late Shri Ramesh Chand Sant, and that after the demise of the said brother in 1987, the Defendant joined the business full-time in or around 1990 by discontinuing his studies. It is specifically stated by Will dated 26.08.2015, that the father of the Plaintiffs and the Defendant bequeathed the entire publication business, along with all movable and immovable assets accrued therefrom, exclusively to the Defendant, thereby excluding the Plaintiffs from any claim of rendition of accounts. The



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Defendant has further stated that the Will dated 24.09.2019, executed by the mother reinforces the father's testamentary intent, as the mother expressly declared the Defendant as the head of the family, acknowledged his financial, educational and matrimonial support to the Plaintiffs, and bequeathed all her remaining jewellery, bank accounts and financial assets exclusively to the Defendant.

8. The present Application under Order XII Rule 6 of CPC has been filed by the Plaintiffs seeking a preliminary decree of partition on the ground that on a plain reading of the Defendant's Written Statement and documents filed by him, there are clear, categorical and unequivocal admissions entitling the Plaintiffs to a preliminary decree of partition to the extent of 44.44% undivided share in the Ashok Vihar property, i.e., 22.22% share in favour of each Plaintiff. The Plaintiffs contend that the Defendant himself has set up and relied upon the alleged Will dated 26.08.2015, purportedly executed by Late Shri Shiv Chand Sant, and has filed a copy of the said Will along with his Written Statement. It is further pleaded that after filing the Written Statement, the Defendant has initiated separate probate proceedings under Sections 276 and 278 of the Indian Succession Act, 1925 in respect of the same Will, by filing PC NO.07/2024, before the Rohini Courts and the said proceedings are pending. According to the Plaintiffs, the Defendant has thus unequivocally admitted the existence of the Will and its contents, and cannot now resile from the legal consequences flowing therefrom. The Plaintiffs have set out a detailed computation of shares even on the assumption that the alleged Will dated 26.08.2015 is proved.

9. It is stated that as per the said Will dated 26.08.2015, Late Shri Shiv Chand Sant bequeathed 50% of the Ashok Vihar property in favour of the



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Defendant, while the remaining 50% was bequeathed jointly in favour of the Plaintiffs and their mother, Late Smt. Vijaya Sant. The Plaintiffs have further pleaded that it is an admitted position that Late Smt. Vijaya Sant predeceased Late Shri Shiv Chand Sant, having passed away on 09.08.2020, whereas the father passed away subsequently on 17.12.2020. Consequently, according to the Plaintiffs, the bequest in favour of the mother under the Will did not operate, and her 16.66% share devolved equally upon the Plaintiffs and the Defendant, resulting in each of them receiving an additional 5.55% share in the Ashok Vihar Property. On the basis of the aforesaid computation, the Plaintiffs assert that even as per the Defendant's own case under the Will, the Defendant's share in the Ashok Vihar property works out to 55.55%, while each Plaintiff's share works out to 22.22%, aggregating to 44.44% collectively.

10. The Plaintiffs have specifically stated that the Defendant has admitted this position on record, including during the course of proceedings, and that such admission has also been noticed by the Court in its order dated 28.08.2024. It is the Plaintiffs case that these admissions are clear, unconditional and sufficient to warrant the passing of a preliminary decree of partition under Order XII Rule 6 of CPC, without waiting for a full-fledged trial. The Plaintiffs have further taken the stand that although they have disputed the genuineness and validity of the alleged Will dated 26.08.2015 and have claimed one-third share each in the Ashok Vihar property, the present Application is confined to the limited relief that, even if the Will set up by the Defendant is assumed to be valid for the sake of argument, the Plaintiffs are nonetheless entitled to a preliminary decree of partition to the extent of 44.44% share. It is stated that the Defendant cannot,



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in law, occupy and enjoy the entire Ashok Vihar property to the exclusion of the Plaintiffs, when their undivided share to the extent of at least 44.44% stands admitted.

11. The Plaintiffs have also stated that the Ashok Vihar property is situated in a prime locality and is capable of fetching substantial monthly rent, stated to be not less than ₹1,00,000 per month. On this basis, the Plaintiffs have claimed that, corresponding to their admitted 44.44% share, they are entitled to receive a sum of ₹44,500 per month towards use and occupation charges from the Defendant, till the final disposal of the suit, or in the alternative, to be put in possession of their proportionate share. The Plaintiffs have reserved their right to seek a final decree of partition after the passing of the preliminary decree and have asserted that the present Application has been filed bona fide and in the interest of justice. On these premises, the Plaintiffs have prayed for the passing of a preliminary decree of partition declaring their 22.22% undivided share each in the Ashok Vihar property, along with consequential directions for payment of use and occupation charges and such further orders as the Court may deem fit.

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

13. It is pertinent to mention that Application under Order VII Rule 11 of CPC filed by the Defendant stands dismissed. The Defendant has placed reliance on two Wills dated 26.08.2015 and 24.09.2019, executed by Sh. Shiv Chand Sant and Smt. Vijaya Sant respectively. In the Will dated 26.08.2015, it was desire of Sh. Shiv Chand Sant that after his death, the Defendant would lead the family and would look after the family and, therefore, he has given 50% of his share in the Ashok Vihar Property to the



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Defendant herein and the other 50% share has been equally divided between his wife and the Plaintiffs. The said Will also records that in case out of the 50% share given to the wife and the Plaintiffs herein, his wife gives her 1/3rd share to the Defendant herein then the Defendant can become the complete owner of the Ashok Vihar Property by paying monetary consideration to the Plaintiffs for their share in the said Property. In the said Will Late Sh. Shiv Chand Sant has desired that the Plaintiffs would co-operate in the working of this set-up. Smt. Vijaya Sant pre-deceased Sh. Shiv Chand Sant. In her Will she had bequeathed all her share in the Ashok Vihar Property to the Defendant. However, since the wife has pre-deceased the husband, the Will dated 24.09.2019 executed by Smt. Vijaya Sant has no value. However, pursuant to the death of Smt. Vijaya Sant, Sh. Shiv Chand Sant endorsed his Will dated 26.08.2015 thereby bequeathing the share allotted to his wife in the Will to Defendant herein. Since it is already stated in the Will dated 26.08.2015 that in case out of the 50% share given to the wife and the Plaintiffs herein, his wife gives her 1/3rd share to the Defendant herein then the Defendant can become the complete owner of the Ashok Vihar Property by paying monetary consideration to the Plaintiffs for their share in the said Property, therefore, it cannot be said that there is admission on the part of the Defendant that the Plaintiffs would be entitled to a share each in the Ashok Vihar Property as the Defendant has a right to pay monetary consideration to the Plaintiffs in lieu of their shares in the Ashok Vihar Property and become the owner of the whole property.

14. The purport and scope of Order XII Rule 6 of CPC has been succinctly explained by the Apex Court in Uttam Singh Duggal & Co. Ltd.



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v. United Bank of India, (2000) 7 SCC 120, wherein the Apex Court has held as under:

“12. As to the object of Order 12 Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the Objects and Reasons set out while amending the said Rule, it is stated that “where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled”. We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where the other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which it is impossible for the party making such admission to succeed.

13. The next contention canvassed is that the resolutions or minutes of the meeting of the Board of Directors, resolution passed thereon and the letter sending the said resolution to the respondent Bank cannot amount to a pleading or come within the scope of the Rule as such statements are not made in the course of the pleadings or otherwise. When a statement is made to a party and such statement is brought before the court showing admission of liability by an application filed under Order 12 Rule 6 and the other side has sufficient opportunity to explain the said admission and if such explanation is not accepted by the court, we do not think the trial court is helpless in refusing to pass a decree. We have adverted to the basis of the claim and the manner in which the trial court has dealt with the same. When the trial Judge



states that the statement made in the proceedings of the Board of Directors' meeting and the letter sent as well as the pleadings when read together, leads to unambiguous and clear admission with only the extent to which the admission is made in dispute, and the court had a duty to decide the same and grant a decree, we think this approach is unexceptionable.

14. Before the trial Judge, there was no pleading much less an explanation as to the circumstances in which the said admission was made, so as to take it out of the category of admissions which created a liability. On the other hand, what is stated in the course of the pleadings, in answer to the application filed under Order 12 Rule 6 CPC, the stand is clearly to the contrary. Statements had been made in the course of the minutes of the Board of Directors' meeting held on 30-5-1990 which we have already adverted to in detail. In the pleadings raised before the Court, there is a clear statement made by the respondent as to the undisputed part of the claim made by them. In regard to this aspect of communicating the resolution dated 30-5-1990 in the letter dated 4-6-1990 what is stated in the affidavit-in-opposition in application under Order 12 Rule 6 CPC is save what are matters on record and save what would appear from the letter (sic resolution) dated 30-5-1990 all allegations to the contrary are disputed and denied. This averment would clearly mean that the petitioner does not deny a word of what was recorded therein and what is denied is the allegation to the contrary. The denial is evasive and the learned Judge is perfectly justified in holding that there is an unequivocal admission of the contents of the documents and what is denied is extent of the admission but the increase in the liability is admitted.”

15. A perusal of the abovementioned paragraphs shows that for passing an Order under Order XII Rule 6 of CPC, the admission should be only



those which are made in the Pleat. The abovementioned paragraphs have been explained by the Apex Court in Karam Kapahi v. Lal Chand Public Charitable Trust, (2010) 4 SCC 753, wherein the Apex Court has held as under:

“42. In Uttam Singh Duggal & Co. Ltd. v. United Bank of India [(2000) 7 SCC 120] this Court, while construing this provision, held that the Court should not unduly narrow down its application as the object is to enable a party to obtain speedy judgment.

43. In Uttam Singh Duggal case [(2000) 7 SCC 120] it was contended on behalf of the appellant, Uttam Singh Duggal, that:

(a) Admissions under Order 12 Rule 6 should only be those which are made in the pleadings.

(b) The admissions would in any case have to be read along with the first proviso to Order 8 Rule 5(1) of the Code and the court may call upon the party relying on such admission to prove its case independently.

(c) The expression “either in pleadings or otherwise” should be interpreted ejusdem generis. (See para 11, p. 126-27 of the Report.)

Almost similar contentions have been raised on behalf of the Club. In Uttam Singh [(2000) 7 SCC 120] those contentions were rejected and this Court opined no effort should be made to narrow down the ambit of Order 12 Rule 6

44. In Uttam Singh [(2000) 7 SCC 120] this Court made a distinction between a suit just between the parties and a suit relating to the Specific Relief Act, 1963 where a declaration of status is given which not only binds the parties but also binds generations. The Court held that such a declaration may be given



merely on admission (SCC para 16 at p. 128 of the Report). But in a situation like the present one where the controversy is between the parties on an admission of non-payment of rent, judgment can be rendered on admission by the court.”

16. What amounts to admission in the Plaint under Order XII Rule 6 of CPC has been succinctly explained by the Apex Court in Vikrant Kapila v. Pankaja Panda, (2024) 18 SCC 695, wherein the Apex Court has held as under:

“30. The judicial discretion conferred on the court is structured on the definition of “admission” under Section 17 of the Evidence Act, 1872 and Rule 5 of Order 8, Rule 6 of Order 12 and Rules 1 and 2 of Order 15CPC.

31. An “admission” means, “a statement, oral or documentary or contained in electronic form, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned”. [P. Ramanatha Aiyar's Advanced Law Lexicon, 5th Edn., Vol. 1 (A-C), p. 140.]

32. Admission in pleadings means a statement made by a party to the legal proceedings, whether oral, documentary, or contained in an electronic form, and the said statement suggests an inference with respect to a fact in issue between the parties or a relevant fact. It is axiomatic that to constitute an admission, the said statement must be clear, unequivocal and ought not to entertain a different view. Coming to admission in pleadings, these are averments made by a party in the pleading viz. plaint, written statement, etc. in a pending



proceeding of admitting the factual matrix presented by the other side. To constitute a valid admission in pleading, the said admission should be unequivocal, unconditional, and unambiguous, and the admission must be made with an intention to be bound by it. Admission must be valid without being proved by adducing evidence and enabling the opposite party to succeed without trial. A court, while pronouncing a judgment on admission, keeps in its perspective the requirements in Order 8 Rule 5, Order 12 Rule 6 and Order 15 Rules 1 and 2CPC read with Sections 17, 58 and 68 of the Evidence Act.

33. The logic behind such jurisprudential examination of an admission is that a judgment pronounced on admission, not only denies the right of trial on an issue but denies the remedy of appeal. Hence, discretion has to be exercised judiciously and objectively while making a judgment on admission in a pleading. The existence of the power to pronounce a judgment on admission under Rule 6 of Order 12 [Order 12 Rule 6“6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”] and Rules 1 and 2 of Order 15 [Order 15“1. Parties not at issue.—(1) Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.2.



One of several defendants not at issue.— [Renumbered as sub-rule (1) by Act 104 of 1976, S. 65.] [(1)] Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or of fact, the Court may at once pronounce judgment for or against such defendant and the suit shall proceed only against the other defendants. [Ins. by Act 104 of 1976, S. 65.] [(2)] Whenever a judgment is pronounced under this rule, decree shall be drawn up in accordance with such judgment and the decree shall bear the date on which the judgment was pronounced.]”], is not an issue in the appeal but rather the issue is whether pronouncing judgment on alleged admission is valid and legal.

34. When the admissions are categorical and unequivocal, the remedies available against such a decree are limited. In a given case, as in the present appeal, if there is an argument on whether there is an admission of a fact or a document, before examining the merits of the matter, this Court ought to verify whether admission exists or not and also whether the circumstances relied upon by the learned Single Judge can be constituted as admission for rendering a judgment.”

17. Applying the abovementioned law to the facts of the present case, this Court is of the view that the relief sought by the Plaintiffs is not severable from the larger disputes raised in the Suit. The Plaintiffs seek not only partition, but also a declaration invalidating the Wills, rendition of accounts, *mesne* profits and injunctions. The *inter se* rights of the parties are inextricably linked to the determination of the validity of the testamentary documents, the nature of possession, and the extent of control exercised by



the Defendant. These issues cannot be conveniently or safely adjudicated on the basis of pleadings alone and require appreciation of oral and documentary evidence.

18. The discretionary power under Order XII Rule 6 of CPC is intended to shorten litigation only in cases where there is no real controversy between the parties. It is not meant to supplant a trial in cases involving complex questions of succession, testamentary intent and competing claims of title. In the present case, the Defendant has not surrendered his defence, nor has he accepted the Plaintiffs' claim of entitlement to a defined share by way of partition. On the contrary, the pleadings disclose substantial and triable issues which go to the root of the matter.

19. Insofar as the Plaintiffs claim for use and occupation charges is concerned, the same is wholly dependent upon prior determination of title and shares. In the absence of a clear and admitted entitlement, no direction for payment of use and occupation charges can be issued at this stage. The said relief is consequential in nature and must await final adjudication of the suit.

20. Applying the settled principles governing the exercise of jurisdiction under Order XII Rule 6 of CPC, this Court is of the considered view that it would neither be safe nor just to pass a judgment on admissions in the present case. The admissions relied upon by the Plaintiffs fall short of the stringent standard required for grant of a preliminary decree on admission.

21. Accordingly, the present Application under Order XII Rule 6 of CPC is dismissed. All rights and contentions of the parties are left open. The suit shall proceed to trial and be decided on its own merits in accordance with law.



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22. List on 18.05.2026.

SUBRAMONIUM PRASAD, J

JANUARY 21, 2026
Rahul/JR