

**IN THE COURT OF SH. VIKAS GARG, ADJ-05 (EAST),
KARKARDOOMA COURTS, DELHI.**

CS No. 559/18

Aditi Gupta

..... Plaintiff.

Vs.

Anil Grover

..... Defendant.

11.03.2024.

Order on application of defendant u/o 7 Rule 11 r/w Section 151 of the Code of Civil Procedure:-

1. This order of mine shall dispose off an application of defendant u/o 7 Rule 11 r/w Section 151 of the Code of Civil Procedure.
2. The plaintiff filed present suit for possession, recovery of arrears of rent of Rs. 4,80,000/- and future rent. As per plaintiffs, Sh. Nitin Gupta was owner of the suit property and after his death, plaintiffs are only his surviving legal heirs. During his life time Sh. Nitin Gupta has given suit property on rent to the defendant for monthly rent of Rs. 30,000/-. It is stated by the plaintiff in plaint that no rent has been paid by the defendant after the death of Sh. Nitin Gupta on which tenancy was terminated through sending a legal notice by the plaintiff. It is further stated in the plaint that defendant sent a false reply on the said notice. Plaintiff prayed for possession of the suit property and decree for arrears of rent.
3. It is stated by the defendant in the application U/o 7 rule 11 r/w

Section 151 of CPC for rejection of plaint. It is stated that by way of the instant application the defendant /applicant seeks the indulgence of this Hon'ble Court to reject the suit of the plaintiff thorough out with heavy cost in favour of the applicant / defendant and against the plaintiffs. It is further stated that the suit of the plaintiff is based upon untrue facts, surmises and conjectures, without any cause of action against the answering defendant and the plaintiffs by way of the instant suit has tried to raise castles in the air. It is further stated that suit of the plaintiff is false frivolous, fictitious, baseless, untenable, wholly misconceived and not maintainable for the reason that there is no cause of action against the defendants and the suit of the plaintiff is devoid of merit and without any cause of action. It is further stated that suit of the plaintiff is false frivolous, fictitious, baseless, untenable, wholly misconceived and not maintainable for the reason that the plaintiffs are not owner of the suit premises and GPA, Will etc allegedly executed by one Mr. Ashok Dhingra in favour of Late Nitin Gupta does not make the plaintiffs as owner of the suit premises and more over on the basis of these documents even Late Nitin Gupta was not owner of the suit premises. Hence the suit is liable to be dismissed under Order 7 Rule 11 of CPC. It is further stated that the suit of the plaintiff is false frivolous, fictitious, baseless, untenable, wholly misconceived and not maintainable for the reason that the property bearing no. 34 – 35 G.F. Veer Sarwarkar Block, Shakar Pur , Delhi 110092 is a multistory building and there are many occupants and the defendant is not owner in respect of any of the shop situated at property bearing no. 34 - 35 G.F. Veer Sarwarkar Block, Shakar Pur , Delhi 110092. It is further stated that there are two shops bearing private no. 01 & 02 on the ground floor in the property bearing no. 34 - 35 G.F. Veer Sarwarkar Block, Shakarpur, Delhi 110092 and on 28.06.2001 by way of registered GPA vide registration no. 3956 in addl. book no. 4, vol. no. 350 dated 28.06.2001 at pages 90 to 93 , agreement to sell, receipt, possession letter and will vide registration no. 3936 in addl.

book no. 3, vol. no. 191 dated 28.06.2001 at pages 65 to 66 , the aforesaid shops bearing private no. 01 & 02 on the ground floor were sold to Sachin Minocha by Sh. Nitin Gupta prop. of M/s Kanak Associates and Sh. Ashok Dhingra and Sachin Minocha sold the aforesaid shops bearing private no. 01 & 02 on the on the ground floor by way of registered GPA vide registration no. 3999 in addl. book no. 4, vol. no. 351 dated 29.06.2001 at page no. 40 to 43, agreement to sell, receipt, possession letter and by way of registered will vide registration no. 3979 in addl. Book no. 3, vol. no. 191 dated 29.06.2001 at pages 144 to 145 to Sh. Hitesh Grover and Sh. Hitesh Grover executed the sale deed in favour of his wife Smt. Sakhsi Grover vide registration no. 19670 in book no. 1, vol. no. 5002 dated 26.10.2010 at pages 101 to 109 and now the aforesaid Smt. Sakhsi Grover is absolute owner in possession of the two shops bearing private no. 01 & 02 on the ground floor in the property bearing no. 34-35 G.F. Veer Sarwarkar Block, Shakar Pur, Delhi 110092. It is further stated that thee is one shop bearing private no. 3 on the ground floor in the property bearing no. 34-35 G.F. Veer Sarwarkar Block, Shakarpur, Delhi 110092 and on 14.05.2001 by way of registered GPA vide registration no. 2878 in addl. Book no. 4, vol. no. 333 dated 14.05.2001 at pages 31 to 34, agreement to sell, receipt, possession letter and registered will vide registration no. 2898 in addl. Book no. 03, vol. no. 182 dated 14.05.2001 at pages 124 to 125, the aforesaid shop bearing private no. 03 on the ground floor were sold to Sundaresan Gopalan by Sh. Nitin Gupta prop. Of M/s Kanak Associates and Sh. Ashok Dhingra and Sundaresan Gpalan sold the aforesaid aforesaid shop bearing private no. 03 on the ground floor by way of registered sale deed vide registration no. 953 in addl. Book no. 1, vol. no. 3210 dated 14.01.2008 at pages 179 to 185 to Smt. Sonali Grover w/o Sh. Anil Grover and now the aforesaid Smt. Sonali Grover is absolute owner in possession of the one shop bearing private no.03 on the ground floor in the property bearing no. 34-35 G.F.

Veer Sarwarkar block, Shakarpur, Delhi-110092. It is further stated that the suit of the plaintiff is false frivolous, fictitious, baseless, untenable, wholly misconceived and not maintainable for the reason that the plaintiffs are neither the owner of the property bearing no. 34-35, G.F. Veer Sharwarkar Block, Shakarpur, Delhi-110092 nor the plaintiffs are landlord of the aforesaid property and at no point of time there was any landlord tenant relationship between the plaintiffs and the defendant more particularly when the defendant is not owner of the any shop in the aforesaid suit property bearing no. 34-35, G.F. Veer Sharwarkar Block, Shakarpur, Delhi-110092. It is further stated that there are two shops bearing private no. 01 & 02 on the ground floor in the property bearing no. 34-35 G.F. Veer Sarwarkar Block, Shakarpur, Delhi-110092 and on 28.06.2001 by way of registered GPA vide registration no. 3956 in addl. Book no. 04, vol. no. 350 dated 28.06.2001 at pages 90 to 93, agreement to sell, receipt, possession letter and will vide registration no. 3936 in addl. Book no. 3, vol. no. 191 dated 28.06.2001 at pages 65 to 66, the aforesaid shops bearing private no. 01 & 02 on the ground floor were sold to Schin Minocha by Sh. Nitin Gupta prop. Of M/s Kanak Associates and Sh. Ashok Dhingra and Sachin Minocha Sold the aforesaid shops bearing private no. 01 & 02 on the ground floor by way of registered GPA vide registration no. 3999 in addl. Book no. 4, vol. 351 dated 29.06.2001 at pages 40 to 43, agreement to sell , receipt , possession letter and. by way of registered will vide registration no. 3979 in addl. book no. 3, vol. no. 191 dated 29.06.2001 at pages 144 to 145 to Sh. Hitesh Grover and Sh. Hitesh Grover executed the sale deed in favour of his wife Smt. Sakhsi Grover vide registration no. 19670 in book no. 1, vol. no. 5002 dated 26.10.2010 at pages 101 to 109 and now the aforesaid Smt. Sakhsi Grover is absolute owner in possession of the two shops bearing private no. 01 & 02 on the ground floor in the property bearing no. 34 - 35 G.F. Veer Sarwarkar Block, Shakar Pur , Dellhi 110092. It is further stated submitted

that there is one shop bearing private no. 03 on the ground floor in the property bearing no. 34 - 35 G.F. Veer Sarwarkar Block, Shakar Pur, Delhi 110092 and on 14.05.2001 by way of registered GPA vide registration no. 2878 in addl. book no. 4 , vol. no. 333 dated 14.05.2001 at pages 31 to 34, agreement to sell , receipt , possession letter and registered will vide registration no. 2898 in addl. book no. 03, vol. no. 182 dated 14.05.2001 at pages 124 to 125 , the aforesaid shop bearing private no. 03 on the ground floor were sold to Sundaresan Gopalan by Sh. Nitin Gupta prop. of M/s Kanak Associates and Sh. Ashok Dhingra and Sundaresan Gopalan sold the aforesaid shop bearing private no. 03 on the ground floor by way of registered sale deed vide registration no. 953 in addl. book no. 1, vol. no. 3210 dated 14.01.2008 at pages 179 to 185 to Smt. Sonali Grover w/o Sh. Anil Grover and now the aforesaid Smt. Sonali Grover is absolute owner in possession of the one shop bearing private no. 03 on the ground floor in the property bearing no. 34 - 35 G.F. Veer Sarwarkar Block, Shakar Pur , Delhi 110092. It is further stated that the suit of the plaintiff is false frivolous, fictitious, baseless, untenable, wholly misconceived and not maintainable and barred by law in view of law laid down in Specific Relief Act and Transfer of Property Act as the relief claimed in the suit in respect of the suit premises cannot be allowed and is barred by law Specific Relief Act and Transfer of Property Act. It is further stated that the suit of the plaintiff has not approached this Hon'ble Court with clean hands and approached this Hon'ble Court has suppressed various material facts and has been filed with ulterior motives to avoid to pay stamp duty to be paid the Govt. and the same is an offence.

4. Plaintiff has replied to the application u/o 7 Rule 11 r/w section 151 CPC. It is stated in the reply that the application under reply is not maintainable in the eyes of law as the same is gross misuse of process of law

and liable to be dismissed with exemplary costs. It is further stated that the defendant has not come before this Hon'ble Court with clean hands and has suppressed the true and material facts from this Hon'ble Court. It is further stated that defendant has taken a false plea of his ownership qua tenanted premises which was let out by the husband of plaintiff no. 1 but after the death of Mr. Nitin Gupta, defendant has procured the documents after forging the signatures of Mr. Nitin Gupta and only because of this reason the defendant after his death started cleaning ownership right over the suit property. It is further stated that the present application is not maintainable because after coming in notice with regard to the forgery of the documents, the plaintiffs have immediately moved an application for amendment before this Hon'ble Court and has challenged the documents of defendant, which are forged one.

5. I have heard the rival contentions of the parties and perused the record. Ld. Counsel of the applicant/defendant argued on lines of her application and stated that the suit of plaintiff is liable to be rejected. He relies upon the judgments titled as T. Muralidhar Vs. PVR Murthy, (RFA (OS) No. 115/2014 & CM No. 12344/2014) decided on 07.11.2024 and T. Arivandandam Vs. T.V. Satyapal and Ors (Special Leave Petition (Civil) No. 4483 of 1977) decided on 14.10.1977. Whereas Ld. counsel for the respondent/plaintiff argued on the line of his reply and plaint.

6. It is relevant to discuss the law regarding application u/o 7 Rule 11 of CPC as reiterated by Hon'ble Apex Court in case titled as ***Kum. Geetha, D/O Late Krishna & Ors Versus Nanjundaswamy & Ors dated 31th October 2023 (CIVIL APPEAL No. 7413 of 2023, (Arising out of S.L.P. (C) No. 8147 of 2016))*** wherein Hon'ble Apex Court observed:

“6. Before considering the legality of the approach adopted by the High Court, it is necessary to consider Order VII Rule 11, CPC 2 and the precedents on the subject. The relevant principles have been succinctly explained in a recent decision of this Court in **Dahiben v. Arvindbhai Kalyanji Bhanusali**,³ as follows:

“23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action 2 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 written 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;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of Rule 9: Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-papers 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. 3 (2020) 7 SCC 366. should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, 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. 23.4. In *Azhar Hussain v. Rajiv Gandhi* [*Azhar Hussain v. Rajiv Gandhi*, 1986 Supp SCC 315. Followed in *Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba*, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p. 324, para 12) “12. ... 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, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the court readily exercises the power to reject a

plaint, if it does not disclose any cause of action.” 23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

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 [[Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I](#), (2004) 9 SCC 512] , read in conjunction with the documents relied upon, or whether the suit is barred by any law.

...

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. [[Sopan Sukhdeo Sable v. Charity Commr.](#), (2004) 3 SCC 137]

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](#) [[Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I](#), (2004) 9 SCC 512] which reads as : (SCC p. 562, para 139) “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.” 23.12. In *Hardesh Ores (P) Ltd. v. Hede & Co.* [*Hardesh Ores (P) Ltd. v. Hede & Co.*, (2007) 5 SCC 614] the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. [D. Ramachandran v. R.V. Janakiraman](#) [[D. Ramachandran v. R.V. Janakiraman](#), (1999) 3 SCC 267; See also [Vijay Pratap Singh v. Dukh Haran Nath Singh](#), AIR 1962 SC 941] . 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. 23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of *Saleem Bhai v. State of Maharashtra* [*Saleem Bhai v. State of Maharashtra*, (2003) 1 SCC 557] . The plea that once issues

are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain case [[Azhar Hussain v. Rajiv Gandhi](#), 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823].

23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint”

7. In simple terms, the true test is first to read the plaint meaningfully and as a whole, taking it to be true. Upon such reading, if the plaint discloses a cause of action, then the application under Order VII Rule 11 of the CPC must fail. To put it negatively, where it does not disclose a cause of action, the plaint shall be rejected.”

7. So it is clear from above discussions that while deciding the application u/o 7 Rule 11 CPC, court cannot refer any documents except plaint and documents attached with the plaint. In the plaint of the present case, cause of action is clearly arose in favour of plaintiff whereas defendant gave his own version in the application u/o 7 Rule 11 CPC. That version cannot be referred while deciding application u/o 7 Rule 11 CPC. There is no force in the arguments of the counsel for the defendant that no cause of action is disclosed by the plaintiff. The authorities referred by defendant are not relevant in the present facts and circumstances of the case. In view of the same, application of defendant is devoid of any on merits and same is hereby dismissed.

8. Accordingly, application stands disposed off.

(Vikas Garg)
ADJ-05/East/KKD
Delhi/11.03.2024