

IN THE COURT OF SH. SOMITRA KUMAR
DISTRICT JUDGE-06, EAST DISTRICT,
KARKARDOOMA COURTS, DELHI.

CS 268/23

IN THE MATTER OF :

AYSHA

.....PLAINTIFF

VERSUS

SMT. AMBEY JOSHI

.....DEFENDANT

ORDER ON APPLICATION UNDER ORDER VII RULE 11
CPC, FILED BY THE DFEENDANT.

27.11.2025

1. Matter is fixed for order on the application U/o 7 Rule 11 (a) & (d) CPC praying for rejection of plaint.
2. Arguments already advanced in the matter.
3. The present suit is a suit for recovery of Rs.5,00,000/- from the defendant along with interest @ 14% per annum. It is averred by the plaintiff in the plaint that plaintiff was a tenant of the defendant as per registered agreement dated 11.11.2019, duly registered with the office of Sub-

Registrar-VIII A, Delhi vide regn No.6369, Book No.1, Vol No.1726, on pages 95 to 100, dated 15.11.2019, for the period of 11 months with effect from 11.11.2019 to 10.10.2020 for a monthly rent of Rs.4,000/- to be payable every month in cash.

4. It is further averred that as per the terms of the said agreement, plaintiff deposited a sum of Rs. 2 lakhs in cash with defendant and handed over a cheque of Rs. 3 lakhs to the defendant bearing no. 963127 dated 06.11.2019 drawn on Corporation Bank at Laxmi Nagar, Delhi thereby plaintiff paid a total security amount of Rs. 5 lakhs to the defendant. It is further averred that at the request of the defendant for payment of Rs. 3 lakhs in cash, the plaintiff arranged for Rs. 3 lakhs in cash and paid the entire security amount of Rs. 5 lakhs in cash to the defendant.
5. It is further averred that the said security amount of Rs. 5 lakhs was to be returned to the plaintiff without any interest by cheque after the adjustment of any dues at the time of vacating of the rented premises. It is further averred that the plaintiff after expiry of the registered rent agreement on 10.10.2020, approached the defendant and handed over the keys of the rented premises and demanded her money of Rs. 5 lakhs back from the plaintiff. However, defendant delayed and avoided the payment of the same. Thereafter, plaintiff sent legal notice dated 05.12.2020 to the defendant calling upon her to return the security amount of Rs. 5 lakhs along with interest. However, the defendant instead of returning his amount, sent a false and

manipulated reply dated 21.02.2020. Hence, the present suit for recovery of Rs. 5 lakhs along with interest is filed by the plaintiff against defendant.

6. The instant application under Order 7 Rule 11 (a) & (d) CPC has been filed on behalf of the defendant stating that the plaint of the present suit does not disclose any cause of action by averring that plaintiff neither handed over the aforesaid cheque to the defendant nor did he deposit Rs. 3 lakhs in cash with her as a security amount. Therefore, security amount received from the plaintiff is only Rs. 2 lakhs.
7. It is further averred in the instant application that present suit is barred by law as a suit bearing no. 51 of 2021 filed by the defendant against the plaintiff has been decreed for the relief of possession against the plaintiff herein in respect of her property No. J-70, measuring 50 sq. Yards, out of khasra no.54/7, situated at abadi of J-Extension, Laxmi Nagar, Delhi-92 and qua the remaining relief of recovery of mesne profits, permanent and mandatory injunction, the said suit is still pending. Therefore, in view of pendency of the earlier suit filed by the defendant herein against the plaintiff herein on the same cause of action, the present suit is not maintainable and the plaint is liable to be rejected under Order 7 Rule 11 (d) of CPC being barred under Section 10 of CPC.
8. It is further averred that in view of the pendency of the aforesaid suit filed by the defendant against the plaintiff,

the present suit is also barred by provisions of Order II Rule 2 of CPC.

9. Reply is filed on behalf of the plaintiff to the instant application, vehemently opposing the application and it is submitted on behalf of the plaintiff that the grounds of rejection of plaint, raised by the defendant in the instant application, are not maintainable, in view of provision of Order 7 Rule 11 CPC and prayed that the present application be dismissed with heavy costs.
10. Submissions heard. Record perused.
11. As regards ground of rejection of plaint on the ground that plaint does not disclose any cause of action, it is seen that plaintiff has specifically averred in the plaint about the payment of Rs. 5 lakhs in cash to the defendant in two installments. Firstly, at the time of execution of the registered rent agreement and secondly at a later stage, when plaintiff at the request of the defendant made a payment of Rs. 3 lakhs in cash. Therefore, it is a matter of trial whether plaintiff had made payment of Rs. 3 lakhs in cash to the defendant or not.
12. It is settled law that while deciding application under Order 7 Rule 11 CPC, only averments in the plaint are to be seen, not the defence of the defendant. Therefore, in view of the averments in the plaint, the court is of the view that the plaint discloses necessary cause of action for filing the present suit. Thus, the ground of rejection of plaint that plaint does not disclose cause of action is not maintainable at this stage of proceedings.

13. As regards second ground that present suit is barred by the law under Section 10 of CPC in view of pendency of the earlier suit bearing no. 51 of 2021 before the Ld. Civil Judge, East, Karkardooma Courts filed by defendant herein against the plaintiff for recovery of mesne profits, permanent and mandatory injunction. It is seen that the present suit is based on totally different cause of action vis-a-vis the aforesaid earlier suit. The present suit is a suit for recovery of Rs. 5 lakhs which plaintiff claims to have paid to the defendant as security, whereas, the aforesaid earlier suit is a suit for recovery of possession, mesne profits, permanent and mandatory injunction in respect of the property bearing no. J-70, measuring 50 sq. Yards, out of khasra no.54/7, situated at Abadi of J-Extension, Laxmi Nagar, Delhi-92. Therefore, issues involved in both the suits are not directly and substantially same. Hence, the provision of Section 10 of CPC is not applicable to the facts of the present case. Hence, this ground for rejection of plaint is also not maintainable.
14. As regards the ground that the present suit is barred under Order II Rule 2 of CPC, it is seen that the said provision is not applicable to the present suit, as the earlier suit bearing no. 51/2021 was filed by the defendant and not the plaintiff and the earlier suit filed by the defendant does not create a bar under Order II Rule 2 of CPC. Further, the plaintiff is well within her rights to maintain a separate suit for recovery against the defendant based on averments in the plaint.

15. For the foregoing reasons, no ground is made out for rejection of the plaint under Order 7 Rule 11 (a) & (d) CPC. Hence, the instant application under Order 7 Rule 11 (a) & (d) read with Section 151 CPC is dismissed.
16. Nothing stated hereinabove, shall tantamounts to the expression of any opinion on the merits of the case.

**Announced in the open Court
on 27th day of November, 2025**

**(SOMITRA KUMAR)
DJ-06, EAST/ KKD COURTS
DELHI/27.11.2025**