

CS 76/24

SUMIT GARG Vs. HEMANT GUPTA

08.04.2026

Present: Sh. VS Chauhan, Ld. Counsel for plaintiff.
Sh. Vivek Bhadoria and Sh. Shashank Aggarwal,
Ld. Counsels for defendant no. 2.
Defendants no. 1 & 3 are exparte.
None for defendant no. 4.

Arguments on the application of the defendant no. 2 under Order 7 Rule 11 CPC heard.

It is claimed by defendant no. 2 that the present suit has been filed without any cause of action since the documents on which the plaintiff is claiming his title are inadmissible in evidence and are not sufficient to prove the title of the plaintiff.

Ld. Counsel for plaintiff submits that he is claiming declaration of ownership on the basis of his possession but this fact is opposed since there is no pleading to that effect. However, the dispute is regarding khasra number. The plaintiff and defendant are claiming that the suit plot falls in different khasra number.

This dispute can only be decided in trial. Another objection taken by the defendant is that the demarcation report of the suit property cannot be declared null and void by this court and the remedy lies only before the revenue court. Admittedly, the area where the suit property is situate has been notified and is now an urbanized land. Ld. Counsel for defendant submits that the appeal against the earlier demarcation before the revenue court is not barred.

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This is thus, again a disputed question whether this court can declare the said demarcation null and void. Furthermore, the SDM/defendant no. 4 who conducted the said demarcation is also a party to the present suit and filed a reply but the said reply is vague and incomplete. In my view, the questions raised in the present application cannot be decided by simple arguments and the plaintiff deserves a chance to prove his claim and reliefs.

The legal consequences shall be considered at relevant stage however, it is made clear that in case plaintiff fails to prove his legal title or ground to prove his case, the defendant shall be compensated for unnecessary dragged in litigation.

Application is accordingly disposed of.

With the consent of both the Ld. counsels an additional issue no. 1A is hereby framed as under:-

Issue no. 1A - Whether the plaintiff has properly identified the suit property? OP Parties

Let the plaintiff file his affidavit in evidence within three weeks with advance copy to Ld. Counsel for defendant.

Put up for PE on 25.05.2026.

(SANJAY SHARMA-I)
Principal District & Sessions Judge,
North-East District, KKD, Delhi/08.04.2026