

25.11.24

Present: Mr. M. G. Vacher alongwith Ms. Silky Vacher, ld.
Counsel for the plaintiff
Mr. Sahil Aggarwal, ld. Counsel for defendnat no.1
and 2 with newly added defendant Akhil

Ld. Counsel for defendants states that he has to file written statement on behalf of the newly added defendant Akhil but, they have not been supplied with the copy of the plaint and annexed documents. This fact has been objected to by ld. Counsel for the plaintiff.

To cut short the controversy, ld. Counsel for the plaintiff is directed to supply the soft copy of the plaint and annexed documents to the counsel for the defendant on his mobile number i.e. 7417519996.

Put up the case for filing of the written statement on behalf of the newly added defendant, as last and final opportunity for 11.12.2024.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Sh. Anubhav, Ld. Counsel for appellant

Steps not taken.

It is submitted by Ld. Counsel for the appellant that they do not have any other address of the respondent.

Heard.

At this stage, it is submitted by Ld. Counsel for the appellant that he shall be filing application for service of respondent by way of substitute service.

Put up the case for substitute service of respondent on 10.03.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Sahil Aggarwal, Id. Cousnel for the plaintiff
Mr. M. G. Vacher, Id. Counsel for defendant

Put up the case for arguments on the application u/o.
XXXIX rule 10 CPC for 11.12.2024.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Sahil Aggarwal, Id. Counsel for the plaintiff
Mr. M. G. Vacher, Id. Counsel for defendant

It is submitted by Id. Counsel for the defendant that they have filed review application. However, the same is not on record it may be in some other connected file. Staff is directed to trace out the application and file the same in the review application in this case file.

Ld. Counsel for the defendant is directed to supply the copy of the said application to the Id. Counsel for the plaintiff.

Put up the arguments on the review application on 11.12.2024.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Vikasdeep, Id. Counsel for the plaintiff through VC
None for defendant

Defendant has been served by way of publication in the newspaper 'Veer Arjun' dated 21.08.2024. However, none is present on behalf of the defendant nor any written statement has been filed neither any advance copy has been supplied to the Id. Counsel for the plaintiff.

In these circumstance, defendant is proceeded exparte.
Put up for exparte PE on 21.04.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Sh. Piyush Guglani, Id. Counsel for DH
(through VC)

Ld. Counsel seeks some more time to file fresh address
of JD.

Heard.

Put up the case in this regard as last and final
opportunity for 20.03.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Parveen Yadav Id. Proxy Cousnel for the plaintiff
with AR Mr. Pankaj Kumar
Mr. Afesh Kumar alongwith Mr. Harmit Singh,
Id. Counsel for defendant

At this stage an application has been filed on behalf of
the defendant u/o. VII rule 11 CPC.

Copy of the same is supplied to the Id. Counsel for the
plaintiff. Let reply to the same be filed with advance copy to the Id.
Counsel for the defendant and arguments on the same on
20.02.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Sujeet Beniwal, Id. Counsel for the plaintiff
Mr. Sushil Kumar, Id. Counsel for the defendant no.1
Ld. Counsel for the defendant no. 1 has also filed vakalatnama on behalf of defendant no.2.

Written statement on behalf of defendant no.1 has already been filed and copy of the same has been supplied to the Id. Counsel for the plaintiff.

At this stage, it is submitted by Id. Counsel for the defendant no.1 that since he has filed vakalatnama on behalf of defendant no. 2 also, he also adopts the written statement filed on behalf of defendant no.1 as written statement on behalf of defendant no.2.

Heard.

In view of the submissions made by Id. Counsel for defendants, the earlier written statement filed on behalf of the defendant no.1, shall also be read as written statement filed on behalf of defendant no.2.

Ld. Counsel for the plaintiff states that he does not wish to file replication to the written statement filed by the defendants.

Counsel for the parties submit that issues may be framed in the present matter.

Pleadings are complete. On pleadings of the parties, following issues are framed:

1. Whether the plaintiff is entitled to the decree of cancellation of Sale Deed dated 15.06.2021 executed in favour of defendant no.1 and 2? OPP
2. Whether the plaintiff is entitled to the decree of permanent injunction, as prayed? OPP
3. Whether the suit is not properly valued for the purpose of Court fee and jurisdiction? OPD
4. Relief.

No other issue arises or is pressed for by the parties.

Let list of witnesses alongwith affidavits of the witnesses be filed by both the parties within 15 days from today with advance copy to the opposite party.

Put up for PE on 03.04.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: None for DH

Steps not taken.

In the interest of justice, let fresh warrant of attachment be issued against JD on filing of PF, affidavit regarding no stay alongwith list of articles to be attached, returnable for 21.02.2025 and for bailiff to appear before Id ACJ for 20.12.2024.

Steps be taken within two weeks.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Ms. Chitra Malhotra, Id.Counsel for the plaintiff
(through VC)

Defendant has been served by way of publication in 'Veer Arjun' dated 31.07.2024. However, none is present on behalf of the defendnat nor any written statement has been filed neither any advance copy has been supplied to the Id. Counsel for the plaintiff.

In these circumstance, defendant is proceeded exparte.

Put up for exparte PE on 21.04.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. S. K. Sharma, Id. Counsel for the plaintiff with
PW1 in person

Mr. Jugnu Saini, Id. Counsel for defendant

An application u/s. 151 CPC alongwith additional affidavit of PW-1 filed. It is submitted by Id. Counsel for the plaintiff that with earlier affidavit of evidence of PW-1 there are certain documents, which are already exhibited on record, but could not be included in the affidavit of evidence. Copy of the additional affidavit of evidence has been supplied to the Id. Counsel for the defendant and the Id. Counsel for the defendant has no objection if the additional affidavit of evidence of PW1 is taken on record.

Heard.

Application is allowed. Additional affidaivt of PW1 is taken on record.

Plaintiff has tendered his affidavit of evidence alongwith additional affidavit of evidence, as PW1 and his cross examination is deferred as the copy of the additional affidavit in evidence has been supplied to the counsel for the defendant today only.

Put up the case for cross-examination of PW1 and further PE on 07.04.2025.

Plaintiff is at liberty to summon the witness, if any, as per the list of witnesses, if any, for next date of hearing.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Vineet Rana, Id. Counsel for the plaintiff
Mr. Anjani Kumar, Id. Counsel for the defendant with
son of the defendant in person

Summoned witness are present with summoned record and they have been examined as PW-5 Gaurav Pandey, Manager, Punjab National Bank Karala, Delhi and PW-6 Sh. Ashok Kumar, Clerk, Punjab and Sindh Bank, Kanjhawala, Delhi, cross examined and discharged. Summoned documents have been filed and taken on record.

Heard.

Ld. Counsel for the plaintiff seeks to drop another summoned witness i.e. Sonu Kumar, Union Bank of India Kanjhawla, as this witness has been summoned with wrong record.

Today, Id. Counsel for the plaintiff has supplied copy of the list of witnesses and affidavit of evidence of Plaintiff.

In the meanwhile, Id. Counsel for the plaintiff shall be at liberty to summon any other witness as per the list of witnesses, apart from the plaintiff on filing of PF/RC and diet money to be paid on spot.

Put up for 05.02.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Narender Sharma, Id. Counsel for the plaintiff
Mr. Rahul Thakural, Id. Proxy Counsel for the
defendant.

Plalintiff has examined herself as PW 1 and has tendered her affidavit of evidence. However, Id. Proxy Counsel for the defendant seeks adjournment as the main Counsel is not available today being out of Delhi. Adjournment sought is vehemently opposed by Id. Counsel for the plaintiff on the ground that advance copy of the affidavit of evidence has already been supplied to the Id. Counsel for the defendant and that counsel for the defendant was very much aware that PW 1 had to come from Jodhpur, Rajasthan. However, in the larger interest of justice, cross examination is deferred as requested subject to cost of Rs. 5000/- as to and fro plus diet charges of PW1.

At this stage, Id. Counsel for the plaintiff has filed an application for summoning Sub Registrar, as mentioned in the list of witnesses, earlier filed on record. Same is allowed.

Put up for cross examination of PW1 and RPE on 17.02.2025, for which plaintiff's Counsel shall file PF and diet money to be paid at the spot.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Sahil Malik, Id. Counsel for the plaintiff with
Plaintiff in person as PW1
Mr. Hemant Rathore, Id. Proxy Counsel for the
defendant

Affidavit of evidence of PW 1 is already on record.
Advance copy already supplied. However, Id. Proxy counsel for the
defendant states that the counsel for the defendant being a 'Heart
Patient' is unwell today and seeks adjournment.

Adjournment is not opposed by Id. Counsel for the
plaintiff.

Put up the case for PE on 14.04.2025 with further
directions to the counsel for the plaintiff to file evidence affidavit of
other witnesses also, if any, with advance copy to the Id. Counsel
for the defendant.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Harsh Dua, ld. Counsel for the plaintiff with
plaintiff Manoj Gulia in person
Ms. Kritika Mitra, ld. Proxy Counsel for the defendant.

The cost of Rs. 5000/- imposed upon the defendant vide order dated 12.08.2024 is paid by the ld. Counsel for the defendant online to the ld. Counsel for the plaintiff.

Today the case is fixed for arguments on the application u/o. VII Rule 11 CPC . The said application has been filed way back on 20.04.2015. It is mostly the Counsel for the defendant, who has been seeking dates for addressing arguments on this application.

I have gone through the said application filed on behalf of the defendant u/o. VII Rule 11 CPC. The only ground taken up by the defendant in the application is that the mortgaged deed in question is tampered and fabricated one and hence, the suit merits dismissal and further that the suit is bad for non joinder of the parties, the plaintiff is a stranger to the defendant.

Heard. Perused the record.

It is settled law that while dealing with an application u/o. VII Rule 11 CPC, the court has to see only the plaint and not the written statement. Even otherwise, grounds taken up in the application u/o. VII Rule 11 CPC are not covered in the ingredients

as provided u/o. VII Rule 11 CPC. The present application u/o. VII Rule 11 CPC has been filed by the defendant, just to delay the proceedings. In these circumstances, I find no merits in the application u/o. VII Rule 11 CPC dated 20.04.2015 and the same deserves dismissal.

Put the case for filing replication, if any, with advance copy to the Id. Counsel for the defendant no.1, completion of proceedings, admission and denial of documents, framing of issues on 17.02.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Mr. Harsh Dua, Id. Counsel for the plaintiff
Ms. Kritika Mitra, Id. Proxy Counsel for the defendant.

Put up with the connected case on 17.02.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.24

Present: Ld. Proxy Counsel for the plaintiff
Defendant is already exparte

Case is fixed for exparte final arguments.

However, adjournment is sought by ld. Proxy Counsel for the plaintiff on the ground that due to some unforeseen circumstance, main counsel for the plaintiff could not be available today.

Put up the case for addressing exparte final arguments on 25.01.2025.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

25.11.2024

Present: Sh. H. S. Sharma, Id. Counsel for Plaintiff with
plaintiff in person
Defendant in person with Proxy Counsel

Final arguments from both the sides heard.

Put up for judgement at 04.00 p.m.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.

At 04.00 p.m.

Present: None

Vide my separate judgement announced in the open court, the suit is decreed in favour of the plaintiff and the plaintiff is awarded Rs. 5 lacs with cost of the suit alongwith interest @ 9% p.a. from 30.10.2015 till realisation of the decreetal amount.

Decree sheet be prepared accordingly.

File be consigned to record room.

(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/25.11.24.