

IN THE COURT OF SH AKBAR SIDDIQUE,
DISTRICT JUDGE 04, NORTH DISTRICT
ROHINI COURTS : DELHI

CS DJ 255/20

Rashmi Anand

.....Plaintiff

Versus

State

.....Defendant

DATE: 05.08.2026

ORDER ON APPLICATION UNDER ORDER VII RULE 11, CODE
OF CIVIL PROCEDURE, 1908, FILED BY THE DEFENDANT NO 2.

1. Vide this order, I shall dispose of the application, U/o 7 Rule 11 Code of Civil Procedure, 1908, (*Herein after referred to as 'CPC'*) filed by Defendant no 2, seeking rejection of plaint filed by Plaintiff.

FACTUAL MATRIX IN BRIEF

2. The plaintiff claims to be the owner of property bearing no. 60 land measuring Area 66.89 sq. mtrs situated at Priyadarshni Vihar, Part I, Near Gupta Colony, in the layout plan of redevelopment scheme of Kingsway Camp, Delhi-110009. It is the case of plaintiff that the defendant no.2 allegedly got executed a Sale Deed dt 30.06.2016 duly registered with Sub Registrar VI A, New Delhi for total sale consideration of Rs. 25,10,000/-.
3. Pertinently, there are two Defendants in the present suit. Defendant no.1 is the state of NCT of Delhi, which is perma party against which no effective remedies have been sought by Plaintiff.

4. Present application has been filed by the Defendant no 2, on the ground that the present suit does not disclose any cause of action. The plaintiff is seeking relief of cancellation of Sale deed dt. 30.06.2016, executed by Plaintiff in favor of Defendant no 2. Further, on bare reading of para 12 of the plaint, it is categorically clear that the plaintiff acknowledges and admits the knowledge of Sale Deed on 30.06.2016. Ergo, the period of limitation to seek declaration/cancellation of Sale deed dt. 30.06.2016, commenced from that day itself and the present suit is stated to be filed on 29.08.2020.
5. Ergo, the present suit is hopelessly time barred and required to be dismissed on this ground alone.
6. The applicant, in order to buttress his arguments, regarding the issue of limitation invites the attention of this court to the judgment of the Hon'ble Supreme Court, in *Rajeev Gupta & Ors vs. Prashant Garg & Ors CA no. 11061/2024 and Mallavva & Anr Vs. Kalsammanavara Kalamma (since then by LRs & Ors), 2024 INSC 1021.*
7. The Ld. Counsel for applicant, further assiduously relies on the aforesaid judgments and argues that when a composite suit is filed for cancellation of sale deed and possession, the limitation would have to be computed from the primary relief of cancellation which is three years and not the ancillary relief of possession which is 12 years. Thus, in view of the aforesaid present suit is barred by limitation.
8. Additionally, it is argued by Ld. Counsel for applicant that once the sale deed is admitted to have been executed with or without consideration, the same cannot be cancelled or recalled. Further, Ld. Counsel relies on the judgment of the Hon'ble Supreme Court in *Dahiben Vs. Arvind Bhai Kalyanji Bhanushali, AIR 2020*

Supreme Court 3310. Thus, the present suit is filed by plaintiff does not disclose any cause of action. Accordingly, the present application is liable to be allowed and plaint be rejected.

9. **Conversely,** the present application is opposed by Plaintiff on the ground that present application is based on false and frivolous contentions as raised by the Defendant no 2.

10. The Ld. Counsel for plaintiff contends that at the time of consideration of application U/o 7 Rule 11, CPC, only the averment in the plaint is to be considered. Further, the attention of this court is drawn to the judgment of the Hon'ble Supreme Court in **Saleem Bhai & Ors vs. State of Maharashtra,** **MANU/SC/1185/2002.**

11. It is further argued by Ld. Counsel that the present suit is not barred by limitation as the relief of possession is also prayed by plaintiff. Thus, the period of limitation is to be computed with respect to the prayer of possession not from the cancellation of sale deed.

12. Thus, the present application is liable to be dismissed.

ANALYSIS & CONCLUSION

13. I have heard the Ld. Counsel for the parties and considered the rival contentions and carefully perused the documents on record.

14. Before advertizing further, I deem it appropriate to refer to the Order VII Rule 11, CPC, as this provision is the cynosure of the present application. The Order VII Rules 11 of CPC, which deal with the grounds for rejection of a plaint, as under:

“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 provision of rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper 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 for 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.

15. In the instant case, an application is filed, by the Defendant no 2, under Order VII Rule 11(d), of the Code where the ground of rejection of the plaint was that the suit appears from the statement in the plaint to be barred by any law. In totality, it is the case of applicant that the present suit filed by the Plaintiff is hopeless time barred.

16. It is a settled law that at the time of deciding the application, U/o VII Rule 11 CPC, it is paramount to consider the averment in the plaint only and nothing else can be considered at the time of deciding the said application. Further, more light can be shed on this point by considering the of Hon'ble Supreme Court in the case **Mohd. Saleem Bhai Vs. State of Maharashtra (2003) 1 SCC 557**, which mandates that at the time of deciding the application U/o 7 Rule 11 CPC only the pleadings/averment in the plaint is to be considered. The Hon'ble Supreme Court has held as follows:

“9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11

CPC at any stage of the suit - before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from non-exercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court, however, did not advert to these aspects”.

17. Therefore, the mandate of Mohd. Saleem Bhai (Supra) shall be taken into consideration at the time of deciding the present application.

18. Further, the law applicable for deciding an application filed under Order VII Rule 11 of CPC, was outlined by Hon’ble Supreme Court in the decision in *Dahiben v. Arvinbhai Kalyanji Bhanusali (Gajra) dead through legal representatives (2020) 7 SCC 366* and the same read as follows:

“23.1 ...

23.2. The remedy under Order VII 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 should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order VII 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** 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 power 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 if 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 VII Rule 11 are required to be strictly adhered to. 23.6. Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint 10, read in conjunction with the documents relied upon, or whether the suit is barred by any law. 23.7. Order VII Rule 14(1) provides for production of documents, on which the plaintiff places reliance in his suit, which reads as under: “14. Production of document on which plaintiff sues or relies.— (1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint. (2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is. (3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. (4) Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory.” (emphasis supplied) 23.8. Having regard to Order VII Rule 14 CPC, the documents filed alongwith the plaint, are required to be taken into consideration for deciding the application under Order VII Rule 11 (a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of

the plaint. 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.

19. On examination of the pleadings in the plaint, it is discernible which can be discussed as follows:

- a. In the year 2016, the Plaintiff agreed to transfer to Defendant no 2, two of her properties bearing no. 7, Priyadarshini Vihar, First floor & A1 Lower Ground Floor New Gupta Colony to defendant no. 2 for consideration of transfer of his properties.
- b. The Defendant no 2 allegedly in a fraudulent manner got the Sale Deed dated 30.06.2016, executed but for a sale consideration of ₹28,00,000/- for bearing no. A1 Lower Ground Floor New Gupta Colony and ₹27,35,000/- for property bearing no. 7, Priyadarshini Vihar, First floor not in exchange of his properties. Pertinently, no sale consideration was ever paid to the plaintiff by the defendant.
- c. As per the plaint, on 22.07.2016, when the Plaintiff reached the suit property, the Defendant no 2, resisted and asserted his ownership on the suit property and in the process the Defendant no 2 produced the copy of Sale Deed allegedly executed by the plaintiff in favor of Defendant no 2.
- d. Further, it is the case of the plaintiff that the plaintiff filed multiple complaints against the Defendant no 2, which resulted into a registration of FIR against Defendant no 2. Pertinently, Defendant no 2 filed a quashing petition before the Hon'ble High Court of Delhi thereafter vide order dated 17.07.2018, the

High Court was pleased to allow the defendant to withdraw the said petition.

- e. It is specifically mentioned in para 9 of the plaint that the plaintiff was not aware about the fraud which was played upon her by the defendant no 2. Only after receiving the copy of quashing petition filed by Defendant no 2 before Hon'ble High Court of Delhi, then only the plaintiff came to know about the complete detail details of the fraud which has been played upon the plaintiff.

20. Before advertizing, further, I deem it appropriate to refer to the judgement of the Hon'ble Supreme Court in **DALIBEN VALJIBHAI & ORS VERSUS PRAJAPATI KODARBHAI KACHRABHAI & ANR, 2024 INSC 1049, wherein it is held as follows:**

9. Having considered the judgment of the High Court in detail, we are of the opinion that the findings of the High Court are primarily factual. The High Court seems to have got carried away by the fact that the suit was filed 13 years after the execution of the sale deed. The question is whether the plaintiffs had the knowledge of the execution of the sale deed. The High Court expected that the plaintiffs must have given meticulous details of the fraud perpetuated in the plaint itself.

11. This Court had to deal with a similar situation in P.V. Guru Raj Reddy v. P. Neeradha Reddy¹. A suit instituted by the plaintiff in the year 2002 for cancellation of sale deed of year 1979 on the ground that the knowledge of fraud was acquired only in 1999, was objected to by the defendant in an application under Order 7 Rule 11 on the ground that it is barred by limitation. This Court held:

“5. Rejection of the plaint under Order 7 Rule 11 of CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order 7 Rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that have to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order 7 Rule 11, the stand of the defendants in the written statement or in the application for

rejection of the plaint is wholly immaterial. It is only if the averments in the plaint ex facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.

6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie disclose that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order 7 Rule 11 the stand of the defendants in the written statement would be altogether irrelevant.”

12. Further, in Chhotanben v. Kirtibhai Jalkrushnabhai Thakkar where again a suit for cancellation of sale deed was opposed through an application under Order 7 Rule 11, on ground of limitation, this Court specifically held that limitation in all such cases will arise from date of knowledge. The relevant portion is as follows:

“15. What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order 7 Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10- 1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1

and 2) calling upon them to stop interfering with their possession and to partition the property and provide exclusive possession of half (½) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7 Rule 11(d). That view commends to us. ...

19. In the present case, we find that the appellant-plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original Defendants 1 and 2 by keeping them in the dark about such execution and within two days from the refusal by the original Defendants 1 and 2 to refrain from obstructing the peaceful enjoyment of use and possession of the ancestral property of the appellants. We affirm the view taken by the trial court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold in exercise of the power under Order 7 Rule 11(d) CPC.”

21. In view of the mandate of DALIBEN VALJIBHAI & ORS (Supra), the period of limitation is to be computed from the date of knowledge of the alleged Sale Deed, not from the date of execution of the assailed sale deed. In the present case it has been specifically pleaded by the plaintiff that the knowledge of the alleged sale deed came to her knowledge when the quashing petition was filed by the defendant before the Honorable High Court of Delhi.

22. The knowledge of the alleged Sale deed as can be gathered from the pleadings in the plaint, it is a mixed question of law and fact. I am of the humble opinion that it is not a fit case to exercise

extraordinary powers u/o VII Rule 11 CPC and an opportunity be granted to plaintiff to prove her case by leading cogent evidences.

23. Thus, in view of the above, the present application filed by the Defendant no 2 is dismissed.

**Announced in open court
on 05.08.2026**

**(Akbar Siddique)
DJ-04, North, Rohini Courts,
Delhi/05.08.2026**