

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

**CS DJ 436/25**

**Tarawati**

**....plaintiff**

**Versus**

**Ramu**

**...Defendant**

**ORDER/02.06.2026**

1. Vide the present Order, I shall dispose of the application Under Order VII Rule 11 CPC, read with Section 151 CPC filed on behalf of Defendant, Ramu, in the present matter.
2. The application u/o VII Rule 11 CPC has been filed by the Defendant on the following grounds:

**2.1.** The suit of the plaintiff is primarily founded on the relief of declaration of ownership on the basis of customary ownership documents like Power of Attorney, Agreement to Sell, Affidavit, Will etc.

**2.2.** Further, it is the case of the Defendant that Plaintiff's case barred by law i.e. the suit for declaration is not maintainable as per Section 54 of Transfer of Property Act.

**2.3.** The suit of Plaintiff is hit by the Judgment of the Hon'ble Supreme Court in the case of Suraj Lamps Pvt Ltd Vs State of Haryana. The customary documents does not create any right, title or interest in the suit property.

2.4. *Per contra*, it is the case of the Plaintiff that she is the owner in possession of the suit property. Further, it is submitted by the Ld. Counsel for the applicant/plaintiff that the suit of the Plaintiff raises serious triable issues, ergo, the present application is not maintainable.

2.5. It is further argued by Ld. Counsel for the Plaintiff/Applicant that the possession of the suit property is with the Plaintiff and the Defendant threatens to dispossess the Plaintiff from the suit property, thus, the prayer of Declaration and Permanent injunction is maintainable.

2.6. Ergo, the application of the Defendant is liable to be dismissed.

### **ANALYSIS & CONCLUSION**

3. I have heard the Ld. Counsel for the parties and considered the rival contentions and carefully perused the documents on record.
4. It is a settled law that at the time of deciding the application U/o 7 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’.*

5. Therefore, the mandate of Mohd. Saleem Bhai (Supra) shall be taken into consideration in deciding the present application.
6. 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. Arvindbhai 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.*

7. Now in order to decide the present application the important paragraphs of plaint have been assayed and taken into consideration and following point emerge for the consideration of this court:

7.1. It is averred in the plaint that the plaintiff is a housewife and residing at the address mentioned above alongwith her family. The is the sole and exclusive owner of plot measuring 200 Sq. Yrds in Khet. No.52, Khatauni Khata No.139, situated at DCM Colony in the area of Village Ibrahimpur, Delhi.

7.2. It is further stated that initially owner of the suit property was Sh. Dharam Singh, S/o Sh. Bale Ram R/O 62 DCM Colony, Ibrahimpur, Delhi. The abovesaid Dharam Singh has sold out the suit property to the plaintiff by executing General power of Attorney, Agreement to Sell, Affidavit, Possession Letter, Receipt and Will all dated 14-03-1996 against consideration amount of Rs.40,000/- (Rupees Forty Thousand Only).

7.3. It is further averred that since the date of purchase of the suit property i.e. open plot, the plaintiff has been in continuous and uninterrupted possession of the suit property and from last about two months the plaintiff has noticed that some encroachers in connivance with some land grabbers of the locality are trying to get possession over the suit property. The plaintiff earlier also has made complaint with local police station in this regard and the plaintiff has noticed that the defendant is also trying to encroach some portion of the suit property and put some articles over the open land without any

permission and knowledge of the plaintiff. The plaintiff requested the defendant to remove his articles from the suit property but the defendant requested the plaintiff to grant him some time to search suitable accommodation to place his goods and thereafter he will vacate the portion of the aforesaid plot. plot.)

7.4. It is averred that after passing of sometime the plaintiff again instructed the defendant to vacate the portion occupied by him on the aforesaid plot/suit property then the defendant again postponed the matter for the reason best known to him. Finally, the defendant flatly refused to vacate the portion of the suit property occupied by him. The plaintiff also visited to the local police station and made a complaint to get vacate the portion occupied by the defendant on the aforesaid suit property. The police official advised the plaintiff to proceed civil proceedings to get possession of the portion occupied by the defendant and on 01-03-2025, the plaintiff visited at the aforesaid plot and instructed the defendant and other person who are trying to grab the suit property, to remove the goods and to vacate the aforesaid portion of the suit property but instead of vacating the said portion of the suit property, the defendant along with other encroachers have threatened the plaintiff that he will not vacate the portion occupied by him. The defendant further threatened that he has already got prepared forged documents in respect of the portion occupied by the defendant and he will not vacate the portion occupied on the suit property.

7.5. It is further stated that the acts of the defendant and his associates are illegal, arbitrary and malicious and they have absolutely no That finally the plaintiff got served the legal notice dated 28-04-2025 upon the defendant and directed him to remove the articles/goods stored by him on the portion of the suit property. After receiving the notice by the defendant and with intervention of the members of the society, the defendant removes his articles/goods from the suit property.

7.6. It is stated that now on 30-05-2025, the plaintiff received a telephonic call from one of the native who is residing nearby the suit property that the defendant and some other person are trying encroach the suit property by putting boundary of bamboos. The plaintiff immediately visited to the suit property and found that some people were trying to install bamboos around the suit property. The plaintiff removes the said bamboos with the help of her daughter and neighbors. The defendant again threatened the plaintiff that he will encroach the suit property which is the open land with the help of musclemen and as stated earlier that the plaintiff is the lawful and exclusive owner of the suit property which she purchased from its previous owner, who executed the documents of transfer of ownership in respect of the suit property in favour of the plaintiff.

8. On perusal of the plaint, it is clear that the Plaintiff claims to be the owner of the suit property on the basis of Khasra Girdawari, Power of Attorney, Agreement to Sell, Will etc dated 14.03.1996. Further, the Plaintiff claims to be in the

possession of suit property. Thus, taking the averment in the plaint as correct, the Plaintiff has raised good triable issues.

9. The Plaintiff prays for Declaration as owner of the suit property and plaintiff also prays for Permanent Injunction on the basis of aforesaid documents.

10. I am of the view that the Plaintiff being in possession of suit property has better title to contest the present suit and it can only by way of serious trial be unearth as to who is having the actual possession of the suit property. Further, the argument of the Defendant that the Plaintiff does not have any right, title or interest in the suit property as Plaintiff is claiming the title on the basis of customary documents is liable to be rejected as Plaintiff is in possession of the suit property and the documents of the Plaintiff show that she is in possession since 1996. Thus, it will not be propitious to exercise extraordinary powers under Order VII Rule 11 CPC and unseat the Plaintiff from the suit property.

11. Consequently, in view of the aforesaid discussions and deliberation, the application under Order VII Rule 11, r/w Section 151 Code of Civil Procedure, filed by defendant no 1/applicant is hereby dismissed.

12. Put up for further proceedings on **03.09.2026**

**Announced in the open  
court on 02.06.2026**

**(Akbar Siddique)  
DJ-04, North, Rohini Courts,  
Delhi/02.06.2026**