

**IN THE COURT OF SH. RAVINDER SINGH-II,
DISTRICT JUDGE-04, NORTH DISTRICT,
ROHINI COURTS, DELHI.**

**CS No. 744/2018
CNR No: DLNT01-008713-2018**

SH DALEL SINGH DABAS

..... Plaintiff

VERSUS

SH RAJ KUMAR BAKSHI

.....Defendants

Order/11.09.2025

1. Vide this order, I shall decide the application filed on behalf of the defendant under Order VII Rule 11 read with Section 151 CPC *inter alia* praying for rejection of the plaint. The principal contention of the defendant is that the plaint does not disclose any cause of action and is an abuse of the process of law, as the plaintiff has attempted to create an illusory cause of action by way of clever drafting.

2. Before dealing with the rival contentions, it is apposite to briefly note the case of the plaintiff as set out in the plaint. The plaintiff has filed the present suit for specific performance of an agreement to sell dated 22.04.2013 executed between the parties in respect of the suit property i.e. Plot No. 768, Block & Pocket A-3, measuring 26 sq. meters, situated in Sector-36, Rohini Residential Scheme, Rohini, Delhi. It is the case of the plaintiff that the defendant represented himself as allottee of the aforesaid plot under the Rohini Residential Scheme, 1981, against application no. 78176 and priority no. 2446, and expressed his

desire to sell the same for his bona fide needs. The plaintiff pleads that the total sale consideration was fixed at Rs. 21,75,000/-, out of which a sum of Rs. 3,00,000/- was paid in cash as earnest money at the time of execution of the agreement. It was further agreed that Rs. 17,75,000/- would be paid within thirty days of issuance of the demand letter by the DDA and the balance Rs. 1,00,000/- at the time of execution of transfer documents. According to the plaintiff, the demand letter was issued by DDA in August 2018, but the defendant deliberately concealed the same and instead attempted to resell the property to third parties. The plaintiff, therefore, claims that he was compelled to file the present suit seeking specific performance of the agreement dated 22.04.2013, or in the alternative, refund of the earnest money with interest.

3. The defendant, however, has moved the present application contending that the plaint deserves to be rejected under Order VII Rule 11 CPC. The grounds urged are manifold. *Firstly*, it is submitted that the plaint discloses no cause of action inasmuch as, by the plaintiff's own averments in paras 1 and 2 of the plaint, it is admitted that the defendant was only shown a letter of allotment which itself recorded that the demand letter was yet to be issued by the DDA. Thus, on the date of the alleged agreement, the defendant had neither leasehold rights nor an allotment. In support of this contention, reliance is placed on *Church of Christ Charitable Trust and Educational Charitable Society v. Ponniamman Educational Trust* (Civil Appeal No. 4841 of 2012), wherein the Hon'ble Supreme Court held that if a plaint only creates an illusion of cause of action by clever drafting, it deserves rejection.

4. *Secondly*, the defendant submits that under the Rohini Residential Scheme, 1981, allotments and development were suspended for years owing to litigation. Reliance is placed on the judgments of the Hon'ble Supreme Court in *Rahul Gupta v. DDA* (I.A. Nos. 29–36 in SLP (C) Nos. 16385–88/2012, order dated 10.03.2015) and *Rahul Gupta v. DDA* (Contempt Petition (C) Nos. 764–767/2016) to contend that actual allotments commenced only after 2016, and therefore no cause of action could possibly arise in 2013.

5. *Thirdly*, the defendant urges that the plaint is barred by statutory provisions. Reference is made to Clause 6(a) of the Form C Perpetual Lease and Clauses 9 and 10(1) of the Rohini Residential Scheme which prohibit transfer, sale or alienation of the property within ten years. Reliance is placed on *Naraynamma & Ors. v. Govindappa & Ors.* (Civil Appeal Nos. 7630–7631 of 2019), wherein it was held that any agreement contrary to statutory bar is void and unenforceable.

6. *Fourthly*, it is contended that the suit is hit by the doctrine of *ex turpi causa non oritur actio*, as the plaintiff, being a Central Government employee in the DDA, violated Rule 18(2) of the Central Civil Services (Conduct) Rules, 1964 by entering into the alleged agreement without sanction. Reliance is placed on *Asha John Divianathan v. Vikram Malhotra & Ors.* (Civil Appeal No. 9546 of 2010), wherein the Hon'ble Supreme Court held that enforcement of a contract contrary to statutory rules amounts to enforcement of an illegal contract.

7. *Fifthly*, the defendant submits that the suit is barred by limitation. According to him, the cause of action, if any, arose on 22.04.2013, and the present suit filed much later is hopelessly time-barred. Reliance is placed on *S. Shivraj Reddy (D) through*

LRs v. Raghuraj Reddy & Ors. (SLP (C) No. 4237 of 2015), which reiterated that if a suit appears barred by limitation from the plaint itself, the Court must reject it at the threshold.

8. *Sixthly*, the defendant contends that the plaint is founded on an unregistered agreement which is inadmissible in evidence. Reliance is placed on *Suraj Lamp & Industries (P) Ltd. v. State of Haryana* (2012) 1 SCC 656, where the Apex Court held that transfer of property rights through unregistered GPA/SA/Will transactions is invalid in law.

9. *Lastly*, the defendant has urged that the present plaint is frivolous, vexatious and filed only to harass, and should be rejected as clarified by the Hon'ble Supreme Court in *Raghwendra Singh v. Ram Prasanna Singh* (Civil Appeal No. 2960 of 2019).

10. Per contra, learned counsel for the plaintiff has opposed the application submitting that it is misconceived and premature. It is argued that under Order VII Rule 11 CPC, only the averments in the plaint are relevant, and the truth or falsity of those averments cannot be examined at this stage.

11. It is further contended that the plaint clearly discloses a cause of action since it narrates that the defendant entered into an agreement, received earnest money, and later refused to honour the same after the issuance of demand letter by DDA in 2018. It is submitted that questions relating to validity of the agreement, applicability of statutory rules, bar under CCS Conduct Rules, or limitation are all matters of fact which can only be determined after evidence is led. It is argued that the issue of limitation, in particular, involves mixed questions of fact and law as the plaint

itself pleads that cause of action continued till 2018 and thereafter when notice was issued.

12. The plaintiff has also distinguished the reliance on *Suraj Lamp* by submitting that the said judgment only held that GPA/SA/Will transactions do not convey title, but an agreement to sell simpliciter does not require compulsory registration and remains enforceable in law.

13. I have considered the rival contentions and perused the record.

14. The scope of considering an application Order VII Rule 11 CPC is well settled. It is trite law that for deciding an application under Rule 11 of Order VII CPC, the averments in the plaint are germane and the pleas taken by the defendant in the written statement would be wholly irrelevant. Further it is no longer res integra that that only the plaint and documents filed therewith can be considered while dealing with the application under Order VII Rule 11, not the defendant's defence.

15. Recently, in *Kum. Geetha vs. Nanjundaswamy & Ors.*, 2023 INSC 964, the Hon'ble Supreme Court reiterated that the true test is to read the plaint meaningfully and as a whole and if upon such reading, the plaint discloses a cause of action, the application under Order VII Rule 11 must fail.

16. Applying these settled principles to the present case, In the present case, the plaint discloses that the defendant executed an agreement, received consideration and subsequently concealed issuance of demand letter and attempted to resell the property. These averments, if accepted at face value, disclose a cause of action. Whether the agreement was contrary to DDA Rules or CCS Rules, whether it is void in law, or whether the suit is barred

by limitation, are all issues which can only be decided upon evidence at trial and not at this stage.

17. Accordingly, I find no merit in the application of the defendant under Order VII Rule 11 CPC. The application is, therefore, dismissed.

18. It is clarified that nothing stated in this order shall be construed as an expression on the merits of the case, which shall be decided independently at trial on the basis of evidence led by the parties.

**Announced in Open Court
On Dated 11.09.2025**

**(Ravinder Singh II)
DJ-04, North, Rohini Courts,
Delhi/11.09.2025**