

SHANTI SARUP PUNJANI Vs. MAHESH SWAROOP PUNJANI AND ORS.

28.08.2024

ORDER

At 04.00 p.m.

Present: None.

Ld. Counsel for defendants No. 2, 8, 9 & 10 states that no issues be framed. A judgment on admission be passed.

Ld. Counsel for defendants No. 2, 8, 9 & 10 argues that property in dispute original belongs to grand father of parties to suit i.e. late Sh. Bihari Lal Punjani.

The defendant No.1 relies upon will dated 23.10.1976 which is disputed by plaintiff and the defendants No.2, 8, 9 and 10.

Ld. Counsel for the defendants No.2, 8, 9 and 10 states that allegedly as per the Will dated 23.10.1976 executed by Sh. Bihari Lal, the Faridabad property devolved upon the widow of Bihari Lal.

It is argued that strangely in proceedings in CS 517/2019 pending in court of Faridabad, the alleged Will dated 23.10.1976 was not pleaded by the defendant No.1.

It is argued that in order dated 17.01.2020 passed by Civil Judge, Junior Division. It is mentioned that after the death of Bihari Lal plaintiffs being legal heirs have inherited the said plot in equal shares.

Per contra, counsel for the defendant No.1 in the present suit states that the Will dated 23.10.1976 is specifically pleaded in amended written

statement filed by defendant No.1 dated 12.01.2024.

Ld. Counsel for the defendant No.1 states that vide Will dated 23.10.1976, the widow of Bihari Lal was given the Faridabad property. She died on 17.11.1998. She did not execute any Will qua Faridabad property. The same therefore devolved on all legal heirs, therefore, no question of propounding the Will dated 23.10.1976 arose, before the court of Faridabad. It is further brought to the notice of this Court that fraud was played upon defendant no 1. His S.P.A. was taken and pleadings made in Court before Faridabad by playing fraud. He has intimated the court concerned about the fraud as well by moving an appropriate application.

This court has heard parties at length on 28.08.2024. Pleadings have been perused.

SCOPE OF INTERVENTION BY THE COURT

It was held in case titled as ***Anupama Bansal v. Suraj Bhan Bansal RFA(OS) 46 of 2019 and C.M. No. 21578 of 2019 of our own High Court of Delhi***. It has summarized the law on the subject, to quote : 19 to 25

“19. We may first examine the provision of Order XII Rule 6 of the CPC that is reproduced herein below for ready reference:-

“Order XII - Admissions

XXX XXX XXX

Rule 6:- (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub- rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date of which the said judgment was pronounced.”

The law on the aspect as to what should constitute "pleadings or otherwise", the words used under Order XII Rule 6 CPC, for passing a judgment on admission, is well settled. There are a line of decisions rendered by the Supreme Court and the High Courts that if there is sufficient material on record including express/implied admissions, that can validate passing of a decree on the basis of such admissions, there is no impediment for the Court to accelerate the suit proceedings to a closure by passing a decree on admitted claims.

*The scope and ambit of Order XII Rule 6 CPC was discussed by the Supreme Court in the landmark case of **Uttam Singh Duggal and Co. Ltd. Vs. Union Bank of India reported as AIR 2000 SC***

2740, where it was observed as under:-

"12. As to the object of the Order 12 Rule 6, we need not say anything more than what the Legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said rule, it is stated that „where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled. “ We should not unduly narrow down the meaning of this rule as the object is to enable a party to obtain speedy judgment. Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission to succeed.” (emphasis added)

*22. In **ITDC Ltd. Vs. M/s. Chander Pal Sood and Son reported in 84 (2000) DLT 337 DB**, a Division Bench of this Court interpreted the provisions of Order XII Rule 6 CPC in the following words:-*

"17. Order 12 Rule 6 of Code gives a very wide discretion to the Court. Under this rule the Court may at any stage of the suit either on the application of any party or of its own motion and without determination of any other question between the parties can make such order giving such judgment as it may think fit on the basis of admission of a fact made in the pleadings or otherwise whether orally or in writing...."

*Another Division Bench of this Court had the occasion to interpret the expression, 'otherwise' used in Order XII Rule 6 CPC in **Rajiv Srivastava vs. Sanjiv Tuli and Anr. reported as 119 (2005) DLT 202 (DB)** and observed as below:-*

"10. The use of the expression „otherwise “ in the aforesaid context came to be interpreted by the Court. Considering the expression the Court had interpreted the said word by stating that it permits the Court to pass judgment on the basis of the statement made by the parties not only on the pleadings but also de hors the pleadings i.e. either in any document or even in the statement recorded in the Court. If one of the parties “ statement is

recorded under Order 10 Rules 1 and 2 of the Code of Civil Procedure, the same is also a statement which elucidates matters in controversy. Any admission in such statement is relevant not only for the purpose of finding out the real dispute between the parties but also to ascertain as to whether or not any dispute or controversy exists between the parties. Admission if any is made by a party in the statement recorded, would be conclusive against him and the Court can proceed to pass judgment on the basis of the admission made therein."

*In **Delhi Jal Board vs. Surendra P. Malik reported as 104 (2003) DLT 151**, a Division Bench of this Court had laid down the following tests for pronouncing a judgment on admission:-*

"9. The test, therefore, is (i) whether admissions of fact arise in the suit, (ii) whether such admissions are plain, unambiguous and unequivocal, (iii) whether the defense set up is such that it requires evidence for determination of the issues and (iv) whether objections raised against rendering the judgment are such which go to the root of the matter or whether these are inconsequential making it impossible for the party to succeed even if entertained. It is immaterial at what stage the judgment is sought or whether admissions of fact are found expressly in the pleadings or not because such admissions could be gathered even constructively for the purpose of rendering a speedy judgment." (emphasis added)

As can be seen from the above discussion, the aim and object of enacting Order XII Rule 6 CPC is to empower the court to pronounce a judgment on admission, when such admissions are considered sufficient to entitle the plaintiff in a suit, to a decree. The underlying object of enacting the said provision is to ensure speedy justice and save the parties from undergoing the travails of a protracted trial. Such admissions can be in the form of pleadings or otherwise, i.e., in the documents, correspondence etc. placed on record. Admissions can be oral or in writing. They can be constructive admissions without being specific or expressive, which fact can be inferred from vague and evasive denials in the written statement, while responding to specific pleas taken in the plaint.

FINDINGS :

From perusal of pleadings of defendant no. 1, it transpires that Will dated 23.10.1976 is set up, which is in favour of answering defendant no. 1 executed by Sh. Bihari Lal Punjani.

There is no admission in pleadings in this case that Sh. Bihari Lal died intestate. The contention of Counsel for defendants no. 2, 8, 9 and 10 that judgment on admission be passed, as in court before Faridabad, Will dated 23.10.1976 was not set up is misconceived in law.

In present case, specific pleadings of fraud have been made by defendants no. 1, 3 to 7, 11, 12, 13 & 15 in page 27 & 28 of the written statement (in reply on merits to para 15A). Thus reason for not setting up will before court in Faridabad is specifically explained.

A judgment on admission is discretionary. It can only be passed in case of clear and unequivocal admission. It is considered that no case for judgment on admission is made out. Facts are not admitted, but strongly disputed by defendant no 1. Issues are required to be framed.

Now to come up for framing of issues, on 28.10.2024.

(VIKRAM BALI)
DISTRICT JUDGE-2/NORTH/
ROHINI COURT/DELHI/28.08.2024