

30 CS DJ 694/24
SAURABH KUMAR
Vs.
ABHISHEK KUMAR AND ANR.

24.11.2025

Present: Ms. Monika Ghai, Counsel for the plaintiff.
Sh. Shagun Mehta, Counsel for the defendants.

Reply to the application under Order VII Rule 11 of CPC has been filed by the plaintiff. Copy already supplied through a soft mode.

Hard copy has been supplied in the court today to the counsel for the defendant.

Be awaited for 02:00 PM for arguments on the afore-said application.

(VIKRAM BALI)
DISTRICT JUDGE-2/NORTH/
ROHINI COURT/DELHI/24.11.2025

At 02:00 PM

Present: Ms. Monika Ghai, Counsel for the plaintiff.
Sh. Shagun Mehta, Counsel for the defendants.

1. Counsel for the defendant presses his application under Order VII Rule 11 of CPC dated 20.08.2025 for rejection of plaint.
2. Counsel for the defendant points out that plaintiff has filed the present suit for partition of suit property i.e. G-6/15, LIG Flat, Ground Floor, Sector 15, Rohini. Second defendant is father

of plaintiff and defendant no.1. Mother of parties Smt. Salochana Kumari had expired on 25.05.2023

First argument

3. It is argued by counsel for the defendant that DDA is the original lessor of the suit property. DDA is necessary party. Since, DDA has not been impleaded, the plaint may be rejected.

4. Per contra, counsel for the plaintiff contends that since the main prayer in the suit for partition and no relief from DDA is being claimed for partition. DDA is not a necessary party.

Second argument

5. It is argued by counsel for the defendant that plaint is not properly valued for the purpose of valuation and the court fees as plaintiff is out of possession.

6. Per contra, Counsel for the plaintiff contends that court fee of Rs.11,360/- on the basis of plaintiff's share of 16.66% has been paid. Plaintiff is even otherwise ready to file proper court fees, if so directed.

Third argument

7. It is argued by counsel for the defendant that case is bad for partial partition. All the properties of late Smt. Salochana Kumari have not been made subject matter of the present suit.

8. Per contra, counsel for the plaintiff contends that at this stage only averments in plaint are to be seen. The defence of the defendant will require in evidence and trial.

SCOPE OF INTERVENTION BY COURT :

9. Instead of referring to all the judicial precedent laid down by the apex court in this regard, it would be apposite to refer to the case of **Saleem Bhai v. State of Maharashtra, reported in(2003) 1 SCC 557. ,the Hon'ble Supreme Court**, while discussing the factors to be considered by the Courts in exercise of power under ORDER 7 Rule 11 CPC , has held that:

“Order VII Rule 11 C.P.C. reads 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 by the plaintiff, 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, failed 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 provisions 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 great injustice to the plaintiff."

A perusal of Order VII Rule 11 C.P.C 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 VII Rule 11 C.P.C 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 VII C.P.C, 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 VII Rule 11 C.P.C. 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.”

APPLYING THE ABOVE CONSIDERATIONS TO FACTS OF PRESENT CASE ;

10. This court has heard the rival submissions of the parties and perused the relevant record with their assistance.

11. Perusal of the record shows that plaintiff has filed the present suit for partition of suit property i.e. G-6/15, LIG Flat, Ground Floor, Sector 15, Rohini. Second defendant is father of plaintiff and defendant no.1. Mother of parties Smt. Salochana Kumari had expired on 25.05.2023

Finding on first argument

12. The submissions on behalf of the defendant that DDA is the original lessor of the suit property. DDA is necessary party. Since, DDA has not been impleaded, the plaint may be rejected as without merits. These submissions are rejected. The

main prayer in the suit for partition and no relief from DDA is being claimed for partition. DDA is not a necessary party.

Finding on second argument

13. The submissions on behalf of defendant that plaint is not properly valued for the purpose of valuation and the court fees as plaintiff is out of possession, so plaint be rejected are without merits. Perusal of the record shows that court fee of Rs.11,360/- on the basis of plaintiff's share of 16.66% has been paid. Plaintiff is even otherwise ready to file proper court fees, if so directed. Perusal of the para no.30 of the plaint shows that pecuniary valuation is Rs.55 lakhs. This court has jurisdiction. Though the plaintiff's share is not described in para no.30 of the plaint. Same finds mentioned in prayer a itself. Perusal of the Section 7 (iii) b of Court Fees Act 1870 shows that to enforce the right to share in any property on ground that it is joint family property.... The plaintiff shall state the amount at which the values the relief sought.

Finding on third argument

14. The submission on behalf of the defendant that case is bad for partial partition. All the properties of late Smt. Salochna Kumari have not been made subject matter of the present suit so plaint be rejected is without merits. This submission is rejected. The submission is in nature of defence. At this stage only averments in plaint are to be seen. The defence of the defendant will require in evidence and trial. The application under Order VII Rule 11 of CPC dated 20.08.2025 stands dismissed.

15. However, nothing stated in the order shall affect the merits of the case.
16. Counsel for the plaintiff had pressed her application under Order XXXIX Rule 1 & 2 of CPC.
17. Counsel for the defendant had stated that even make submission of the same on the next date of hearing.
18. At request of counsel for the plaintiff, to come up for disposal of application under Order XXXIX Rule 1 & 2 of CPC on **23.02.2026**.
19. Meanwhile, defendants are restrained from creating any third party interest in the suit property till the NDOH.

(VIKRAM BALI)
DISTRICT JUDGE-2/NORTH/
ROHINI COURT/DELHI/24.11.2025