

Item No. 22

CS DJ No. 3301/24

Atma Dayal @ Pasquale Atma Dayal v. Satyajit Dey

19.11.2025

**Present:** Ms. Maldeep Sidhu, learned counsel for plaintiff.

**Sh. Vinayak Sharma, learned counsel for defendant  
(Fresh Vakalatnama filed).**

Submissions heard. Record perused.

Arguments heard on application under Order 8 Rule 1 and 4 CPC filed by the plaintiff.

As per record, defendant was served through ordinary process on 18.02.2025. Written statement was filed on 20.02.2025.

After some arguments, learned counsel for plaintiff seeks to withdraw the aforesaid application.

**Accordingly, the application under Order 8 Rule 1 and 4 CPC filed by the plaintiff is dismissed as withdrawn.**

Arguments heard on application under Order 39 Rule 1 & 2 CPC moved on behalf of plaintiff.

During the course of arguments, it is submitted by learned counsel for defendant that defendant is not intending to create any third party interest in the suit property in any manner whatsoever.

**In view of the submissions, the application under Order 39 Rule 1 and 2 CPC stands allowed.**

The defendant is hereby restrained from creating any third party interest in the suit property i.e. House No. C-436, Defence Colony, New Delhi - 110025 till disposal of the present suit.

Arguments heard on application under Section 151 CPC seeking stay of the suit moved by the defendant.

Learned counsel for defendant submits that he may be allowed to withdraw the said application.

**In view of the submissions, application under Section 151 CPC seeking stay of the suit moved by the defendant is dismissed as withdrawn.**

Arguments heard on application under Order 7 Rule 11 CPC filed by the defendant.

It is submitted that plaintiff has under valued the suit.

Having heard the submissions and perused the record, I am not satisfied with the contentions of learned counsel for defendant.

As per the plaint, plaintiff has valued the suit for the purpose of jurisdiction at Rs. 5 lacs to claim damages in respect of use and occupation and at Rs. 1 Crore for relief of recovery of possession. The objection regarding pecuniary jurisdiction of this Court to entertain the present suit alongwith other objections has already been taken by the defendant in written statement.

As per the settled proposition of law, for consideration of application under Order 7 Rule 11 CPC, averments contained in the plaint only are to be considered.

At this stage, it suffices to say that the issue of under valuation of the suit as pleaded by the defendant cannot be adverted to in application under Order 7 Rule 11 CPC, the same being a matter of trial.

**Application under Order 7 Rule 11 CPC is accordingly, devoid of merit and is dismissed.**

Learned counsel for defendant seeks some time to file the reply to the application under Order 15A CPC.

In view of the same, one last and final opportunity is given to file reply to the aforesaid application.

The reply be filed on or before the next date of hearing with advance copy to the opposite side.

Both the parties are directed to file affidavit of admission / denial of documents on or before the next date of hearing and will exchange the copies with each other.

List the case for admission / denial of documents, framing of issues and arguments on the application under Order 15A CPC on 18.02.2026.

**[Kuldeep Narayan]**  
**District Judge – 02**  
**South-East, Saket, Delhi**  
**19.11.2025 / bh**