

14 CS DJ ADJ 10/21  
DURGA PARSAD Vs. RAJ KUMAR

24.07.2025

Present: Sh. Rakesh Kumar Singh, Ld. Counsel for Plaintiff  
through VC.

Sh. Neeraj Kumar Jha, Ld. Counsel for Defendant.

It is noticed that the application under Order 7 Rule 14 already stands disposed off on 15.01.2024. Therefore, all references to application under Order 7 Rule 11 of CPC in order dated 11.02.2025 and order dated 18.11.2024 have to be ignored, being typographical error.

**Application under Order 11 Rule 14 of CPC.**

There is an application under Order 11 Rule 14 of CPC filed on behalf of the defendant on 14.11.2024.

Ld. Counsel for plaintiff, who is appearing through VC, is fairly not opposing the said application.

Therefore, subject to just exceptions and preserving the right of the plaintiff to oppose the reading of the documents in evidence on the grounds that may be available in law, the application is hereby allowed and documents are taken on record.

Application is disposed off accordingly.

Part arguments have been heard.

**Application under Section 11 of CPC.**

It has been pointed out that the previous costs have not been paid by the defendant. It is settled law that payment of costs is a condition precedent for a party to pursue his case in court. The application under Section 11 of CPC, therefore, cannot be taken up and decided in favour of the defendant, because of non payment of costs by the defendant.

There is yet another way to look at the matter.

The court would have to, ultimately, determine what was the subject matter of the previous suit and what came to be decided, as well as, whether the settlement in the Mediation, which was then made part of the decree, is a decree or order, which is executable or which calls for filing of fresh suit, by the very nature of the compromise. Issues would have to be framed in the present matter first, considering the provisions of CPC, which calls the court to firstly, identify all the issues and then decide which of them can be treated as an issue of law and can lead to disposal of the case at the initial stage itself.

Therefore, application under Section 11 of CPC is disposed off with liberty to the defendant to press for framing of issue of bar of Section 11 of CPC at the stage of framing of issues, as also, to argue, at that stage, whether the same is a question of law or a mixed question of law and facts and whether or not the proceedings can be disposed off at that stage itself, treating the same as a pure question of law.

Application is disposed off.

In case costs are not paid by the next date of hearing, the court will be constrained to strike off the defence of the defendant, lest it is used as a tool by the defendant to delay the proceedings.

List this matter for filing of affidavit of admission/denial of documents of the other side and framing of issues on **22.09.2022**.

Parties may file their proposed issues as well.

**(HARJYOT SINGH BHALLA)**  
**DJ-03, SOUTH-WEST, DWARKA**  
**NEW DELHI/24.07.2025**