

30 CS DJ ADJ 888/22
JAKESH KUMAR Vs. JAGDISH RAJ AND OTHERS

11.05.2026

Present: None.

Application under Order 7 Rule 11 CPC

This is an application under Order 7 Rule 11 CPC. Defendant no. 4 to 8 have moved the present application. The chief grounds culled out from the said application are as follows:-

(1) That no cause of action has occurred in favour of the plaintiff and against the defendants.

(2) That plaintiff has not approached the court with clean hands.

(3) That the plaintiff has prima facie breached the terms and conditions of agreement to sell and therefore the suit is liable to be rejected.

(4) That no site plan has been filed of the suit property, hence, the plaint is liable to be rejected.

(5) That the plaint is barred by section 41 of the Specific Relief Act.

(6) That the agreement relied upon is illegal and void being ambiguous.

(7) That the suit is barred by limitation.

Contents of the plaint perused. Plaintiff has filed the present suit claiming that plaintiff had entered into an agreement to sell with defendant no.2 on 25.11.2005 in respect of sale of property bearing DDA Built up Extendable Flat no. 719, Type-A, Block-D, Pocket-3, situated at Bindapur, New Delhi. The total sale consideration was fixed at Rs.60,000/-, which was paid to the defendant no.2. The agreement to sell

and purchase was registered with Sub Registrar-II, Basai Darapur and plaintiff was put in possession.

The plaintiff remained in possession till 2019 when defendant no. 3 to 8 dispossessed him by breaking open the locks. The plaintiff approached defendant no. 2 for executing the title documents having already performed his part of contract. It is claimed that defendant no. 3 had induced the plaintiff to sell the property and had taken the original documents on said pretext and had handed over Rs.2,50,000/- to the plaintiff which was to be adjusted.

It is averred as to how defendant no.1 had initially sold the property to one Agya Wanti in the year 2003. Agya Wanti had sold the property to Guruwachan Kaur in the year 2005 and the Guruwachan Kaur had sold the property to Suman Arya in the year 2005 i.e. defendant no.2 and how ultimately plaintiff came in possession through defendant no.2.

It is averred that the said defendant no. 1, despite the agreement dated 18.12.2003 with Agya Wanti, sold the property to defendant no.4 to 7 in the year 2019 and how thereafter the defendant no. 4 to 7 sold it to defendant no.8.

I have considered the claim made in the plaint. The averments may be in a haphazard manner, but the case of the plaintiff is clear, that on the basis of registered agreement to sell plaintiff was put in possession. Plaintiff claims through defendant no.2 who claims through defendant no.1. How defendant no.1 sold the property to defendant no. 4 to 7 and dispossessed the plaintiff is all pleaded. In my view, all averments form part of cause of action. The plaint therefore discloses cause of action.

The present suit was filed in the year 2022 which includes the Covid period. If execution of sale deed by defendant no. 1 to defendant no. 4 to 7 is taken as part of cause of action for filing the

present suit, it cannot be said, at this stage, that the suit of the plaintiff would be barred by limitation. Even if the plaintiff was in possession of the suit property, in part performance of the contract, having complied with his part of the agreement as per the plaint, his dispossession and subsequent sale deed will form intrinsic part of cause of action and plaint cannot be rejected. Limitation, existence of cause of action etc. are mixed questions of law and facts.

Merely because site plan has not been filed, plaint need not be rejected. Property can always be identified by description and the defect is curable or a matter of trial.

Application is accordingly dismissed.

Defendant is at liberty to press these aspects as issues at the relevant stage.

Application is disposed off.

List for further proceedings on **24.08.2026**.

(HARJYOT SINGH BHALLA)
DJ-03, SOUTH-WEST, DWARKA
NEW DELHI/11.05.2026a