

19 CS DJ ADJ 1056/24 PUSHPA Vs. MANOJ KUMAR & ANR.

22.11.2025

Present: Sh. N.K. Sungro and Sh. Vishnu, Ld. Counsels for plaintiffs  
alongwith plaintiff.  
Defendant no.1 in person.  
Sh. Rohit Sharma and Sh. Puran Kumar, Ld. Counsels for  
defendant no.2.

1. Vide this order this Court shall dispose off application Under Order VII Rule 11 CPC filed on behalf of defendant no. 2.

2. Briefly stated, the plaintiff has filed the suit for possession, mandatory injunction, eviction and recovery of mesne profit and damages in respect to the property bearing No. RZ-B-13A, Gali No.1, New Janki Puri, Uttam Nagar, West Delhi, Delhi-110059. It is contended that plaintiff is absolute owner of the suit property while defendant no.1 and 2 are the real son and daughter-in-law. It is further contended that defendants were living at suit property by virtue of implied consent of the plaintiff till 10.10.2021, but after 10.10.2021, said consent was later on withdrawn due to quarreling and aggressive nature of defendant no. 2.

3. It is further contended that under compelling circumstances, plaintiff preferred petition before District Magistrate under Senior Citizen Act, wherein defendant were directed not to interfere in the peaceful living and possession of the property of the complainant i.e. plaintiff herein. It is further contended that despite said directions, defendant no.2 did not allow plaintiff to live peacefully rather dragged her in multiple litigation and plaintiff was forced

to live at rented accommodation with her younger son. Hence, present suit is filed seeking following reliefs:

- “A. Pass a decree of MANDATORY INJUNCTION in favour of the plaintiff and against the defendants(D1 & D2), thereby directing the defendants to remove their bags, luggage and all the household articles and locks from the suit property i.e. RZB 13 A, GALI NO.-1, NEW JANKI PURI, UTTAM NAGAR, WEST DELHI, DELHI - 110059 with immediate effect, further to direct the defendant to not cause any further damage to the structure of the suited property, in the interest of justice; and*
- B. Pass a decree of RECOVERY OF MESNE PROFIT ALONG WITH DAMAGES in favour of the plaintiff and against the defendants, thereby directing the defendants to pay a sum of Rs. 10,000/- p.m. to the plaintiff for the illegal use of suit property i.e. RZB 13 A, GALI NO.-1, NEW JANKI PURI, UTTAM NAGAR, WEST DELHI, DELHI 110059, from 10.10.2021 till the vacation/ decree of suited property, in the interest of justice; and*
- C. Pass a decree of POSSESSION in favour of the plaintiff and against the defendants, thereby directing the defendants to remove their bags, luggage and all the household articles and locks from the suit property i.e. RZ B 13 A, GALI NO.-1, NEW JANKI PURI, UTTAM NAGAR, WEST DELHI, DELHI effect, in the interest of justice; 110059 with immediate effect, in the interest of justice:*
- D. Pass a decree of EVICTION in the favour of plaintiff and against the defendants and with a direction to handover the peaceful possession of suited property to the plaintiff as in the condition when it unlawfully taken from the possession of the property;*
- E. Pass the cost and litigation expenses of Rs. 51,000 of the suit in favour of the plaintiff and against the defendant;*

*Grant any other or further relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the*

*case in favour of the plaintiff and against the defendant in the interest of justice.”*

4 By way of application under Order VII Rule 11 CPC defendant no. 2 is seeking rejection of plaint mainly on the ground that no cause of action arose in favour of the plaintiff and against the defendant no.2, as the plaintiff is not the absolute owner of the suit property, further the defendant no.2 is the daughter-in-law of the plaintiff and the suit property is shared household and defendant no.2 has the right to reside in the same. That entitlement of the defendant no.2 to reside in the suit property emanates from her status of daughter-in-law and the suit property being a shared household. It is further submitted that, as per the averments in the plaint, the plaintiff is the absolute owner of the property and has filed the suit in the capacity of owner, which is misleading and false as the documents GPA, Deed of Sale, Agreement, Affidavit-cum-declaration, possession Letter, Deed of Will, Receipt etc. furnished by the plaintiff does not passed or transfer any right, title or interest in the suit property. Thus, the suit of the plaintiff is hit by the provisions of the Indian Evidence Act and Transfer of Property Act and thus, is liable to be dismissed at the threshold itself. Ld. counsel for defendant relied upon following judgment:

- a) *Seema Bansal Vs Durga Dass Bansal & Ors (Hon'ble Delhi High Court) RFA 704/2019 & CM APPLs 32947/2019, 9568/2020, 7544/2021 & 20759/2022 | 07-08-2024;*
- b) *Shakeel Ahmad Vs Syed Akhlaq Hussain (Hon'ble Supreme Court) Civil Appeal No. 1598/2023 dt. 01.11.2023;*
- c) *Ms. Ananathamurthy Vs J. Manjula etc. (Hon'ble Supreme Court) Civil Appeal Nos. 3266-3267 of 2025 Dt. 27.02.2025;*
- d) *R. Hemalatha Vs Kashthuri (Hon'ble Supreme Court) Civil Appeal No. 2535/2023 dt. 10.04.2023;*

- e) *Balram Singh Vs Kelo Devi (Hon'ble Supreme Court) Civil Appeal No. 6733 Of 2022 dt. 23.09.2022;*
- f) *Rajiv Ghosh Vs Satya Narayan Jaiswal (Hon'ble Supreme Court) SLP (Civil) No. 9975 of 2025 dt. 07.04.2025.*

5. *Per contra*, Ld. counsel for plaintiff strongly opposed the plea taken on behalf of defendant no.2. It is submitted that plaintiff has duly placed on record ownership documents and defendant no.2 has no right, title or interest in the suit property. It is further submitted that present suit is based upon ownership, hence, plea of share house hold has no merit. It is further submitted that plaintiff duly valued the suit and paid requisite court fees. Hence, present application may be dismissed with heavy cost. Ld. counsel for plaintiff relied upon recent judgment passed by Hon'ble High Court of Delhi in Manju Lata Vs. Laxmi Devi<sup>1</sup> wherein it was held that:

*'11. By virtue of the embargo imposed under Section 17(2) of the Act, 2005, the legislative intent behind adding such limitation, in the opinion of this Court, is to make it manifestly clear that a woman seeking protection on the pretext of a shared household is restricted from claiming a right of residence as and when this right has been terminated by way of procedure established under law. To put it in other words, the intention behind this provision is purely to grant the right of residence as a protective measure, so as to exclude the possibility of a woman being removed from her matrimonial home at the whims and fancies of her in-laws. Accordingly, the protection under Section 17(1) of the Act, 2005 acts as a shield against unlawful dispossession of a woman, not as a sword to create proprietary rights, which would go beyond the intention, scope and ambit of the Act, 2005.'*

---

<sup>1</sup> 2025:DHC:7192-DB

6. This court has carefully gone through the material available on record as well as submissions by the parties.

## ANALYSIS AND FINDING

7. Application u/o VII Rule 11 CPC is a demurrer's claim. It is settled law that at the stage of considering an application under Order VII Rule 11 CPC, the Court is only required to examine the plaint and the list of documents filed on behalf of the plaintiff along with the suit. Other pleas raised by the parties including those in the written statement are not relevant to decide the said application.

8. In case tiled as *Dahiben vs Arvinbhai Kalyanji Bhanusali*<sup>2</sup> (2020) 7 SCC 366) Hon'ble Supreme Court of India held as follows:-

*“The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.”*

9. The core contention of defendant No. 2 is two-fold:  
*Firstly*, the plaintiff is not the absolute owner and the documents relied upon are legally insufficient to confer title; and  
*Secondly*, the suit property constitutes a “shared household” within the meaning of Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 (DV Act), and by virtue of Section

---

<sup>2</sup> (2020) 7 SCC 366

17 read with Section 19, the daughter-in-law enjoys an indefeasible right of residence which cannot be defeated through a civil suit.

***On the question of title:***

10. The plaintiff has pleaded that she is the absolute owner of the suit property bearing No. RZ-B-13A, Gali No. 1, New Janki Puri, Uttam Nagar, Delhi-110059 and has placed on record a chain of title documents. Whether these documents (GPA, Agreement to Sell possession letter, etc.) are sufficient in law to vest absolute ownership or better title in the plaintiff is a question that goes to the root of the merits of the case. Such a question cannot be adjudicated in an application under Order VII Rule 11 CPC. Further, defendant No. 2 has not placed even a single document on the judicial record at this stage to *prima facie* demonstrate that the plaintiff has no semblance of title or that title vests exclusively in some third party or in defendant No. 2 herself. Disputes regarding validity, enforceability or legal effect of title documents are triable issues to be decided after evidence.

***On the plea of “shared household” and alleged bar under the DV Act:***

11. This Court finds that the law on this point is no longer *res integra* as proceedings for suit for possession, mandatory injunction, eviction and recovery of mesne profit and damages is different from the proceedings under Domestic Violence Act as in the suit for possession, party has to establish his/her title or better title qua the suit property for which possession is sought while for obtaining residential order in domestic violence proceedings, no such requirement of proof of title is required rather, aggrieved person has to establish ‘share household’ only. In this aspect, reliance is placed upon the judgment

passed by Hon'ble Supreme Court in *Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414* wherein the Hon'ble Supreme Court held that proceedings under the DV Act cannot act as an embargo in a civil proceedings. The operative part of the said judgment reads as under:

*"157. From the above discussions, we arrive at following conclusions:-*

*(i) The pendency of proceedings under Act, 2005 or any order interim or final passed under D.V. Act under Section 19 regarding right of residence is not an embargo for initiating or continuing any civil proceedings, which relate to the subject matter of order interim or final passed in proceedings under D.V. Act, 2005.*

*(ii) The judgment or order of criminal court granting an interim or final relief under Section 19 of D.V. Act, 2005 are relevant within the meaning of Section 43 of the Evidence Act and can be referred to and looked into by the civil court.*

*(iii) A civil court is to determine the issues in civil proceedings on the basis of evidence, which has been led by the parties before the civil court.*

*(iv) In the facts of the present case, suit filed in civil court for mandatory and permanent injunction was fully maintainable and the issues raised by the appellant as well as by the defendant claiming a right under Section 19 were to be addressed and decided on the basis of evidence, which is led by the parties in the suit."*

12. In the present case, the plaintiff is suing in her capacity as the owner of the property seeking possession and eviction. The suit is founded on title, not on jural relationship of landlord-tenant. The limited right of residence

available to defendant No. 2 under the DV Act cannot non-suit the true owner from maintaining a civil action for recovery of possession.

13. The objections regarding alleged undervaluation of the suit and deficiency in court fee are also not tenable at this stage and matter of trial.

14. For the foregoing reasons, this Court is satisfied that the plaint discloses a valid cause of action hence, maintainable and cannot be rejected at the threshold. In view thereof, **application under order VII Rule 11 CPC stands dismissed.**

15. Put up for PE and for arguments on application U/o XII Rule 6 CPC on **21.01.2026.**

(SHILPI M JAIN)  
DJ-05 (SW)/Dwarka Courts  
New Delhi: 22.11.2025