17.04.2026

All the proceeding conducted through VC.

Present Shri Karan Sinha and Shri Sunny Maurya, Ld. Counsels for plaintiff through VC.

Shri Prasun Kumar and Ms. Priyanka Lalawat, Ld. Counsels for defendant through VC.

Arguments on application under Order 7 Rule 11 CPC heard.

Order on application under Order VII Rule 11 CPC

The present order disposes of the application filed by the defendants under Order VII Rule 11 CPC seeking rejection of the plaint on the grounds of (i) undervaluation and insufficiency of Court fee, (ii) lack of pecuniary jurisdiction, (iii) bar of limitation, (iv) non-joinder of necessary parties, and (v) absence of cause of action.

The plaintiff has filed a detailed reply opposing the application and asserted that the plaint discloses a clear cause of action arising in the year 2024, that the suit is properly valued, and that the objections raised involve disputed questions of fact not amenable to adjudication at this stage.

Court observations and findings

It is settled law that while deciding an application under Order VII Rule 11 CPC, the Court is required to look only at the averments made in the plaint and the documents filed along with it. The defence raised by the defendants is wholly irrelevant at this stage.

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The Hon'ble Supreme Court in ***Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557***, has held that for the purpose of deciding an application under Order VII Rule 11, the Court has to consider only the plaint and not the written statement or defence. Similarly, in ***Popat and Kotecha Property v. State Bank of India Staff Association, (2005) 7 SCC 510,*** it has been held that rejection of plaint is a drastic power and must be exercised sparingly and only where the plaint is ex facie barred by law.

Objection regarding Limitation (Order VII Rule 11(d) CPC)

The defendants have contended that the suit is barred by limitation as the gift deed in question was executed in the year 2001 and the present suit has been filed after more than 23 years. However, a perusal of the plaint shows that the plaintiff has specifically pleaded that the cause of action arose in February 2024 when the defendants issued a notice seeking to revoke the gift deed. The defendants allegedly interfered with the plaintiff's possession and attempts were made to create third party rights.The plaint further avers that the cause of action is continuing.

At this stage, the Court cannot go into the correctness or otherwise of these assertions. If the plaint discloses a cause of action within limitation on its face, the suit cannot be rejected. The issue of limitation, in the present case, is a mixed question of law and fact requiring evidence. In ***Balasaria Construction (P) Ltd. v. Hanuman Seva Trust, (2006) 5 SCC 658,*** it has been held that where the question of limitation is not apparent on the face of the plaint and requires examination of facts, the plaint cannot be rejected under Order VII Rule 11(d) CPC.

Accordingly, the objection regarding limitation is rejected at this stage.

Objection regarding Undervaluation and Court Fees (Order VII Rule 11(b) & (c))

The defendants have argued that the suit property is worth more than Rs. 4 crores as per circle rate and that the plaintiff has deliberately undervalued the suit to avoid payment of proper Court fee and to oust the jurisdiction of the higher Court.

On the other hand, the plaintiff has pleaded that she is in constructive possession of the suit property. The suit has been valued in accordance with the nature of reliefs claimed (declaration and injunction). Appropriate Court fees have been affixed and in any case, she is ready to make good any deficiency if so directed. The plaintiff valued the suit for purpose of physical possession @ Rs. 1,24,56,858/-, however, she submits that she is constructive possession of the property.

It is well settled that in cases involving declaration with consequential relief, the valuation depends upon the nature of possession and relief claimed. The question whether the plaintiff is in constructive possession or not, and what should be the correct valuation, cannot be conclusively determined without evidence. Further, even assuming that there is any deficiency in Court fee, Order VII Rule 11(c) CPC mandates that the Court must grant an opportunity to the plaintiff to make good the deficiency before rejecting the plaint.

In ***Commercial Aviation and Travel Co. v. Vimal Pannalal, (1988) 3 SCC 423***, it has been held that valuation is primarily the prerogative of the plaintiff, subject to correction by the Court, and cannot be a ground for rejection unless the plaintiff fails to comply with directions to correct it. Thus, the objection regarding undervaluation and Court fee does not warrant rejection of the plaint at this stage.

Objection regarding Pecuniary Jurisdiction

The objection regarding pecuniary jurisdiction is intrinsically linked with the issue of valuation. Since the valuation itself is disputed and not conclusively determinable at this stage, the question of jurisdiction also cannot be decided conclusively in an application under Order VII Rule 11 CPC. Jurisdiction is to be determined on the basis of the valuation as disclosed in the plaint, unless it is demonstrably arbitrary or illusory, which is not evident in the present case. Accordingly, this objection is rejected at this stage.

Objection regarding Non-Joinder of Necessary Parties

The defendants have contended that the suit is bad for non-joinder of necessary parties. However, it is a settled principle that non-joinder of parties is not a ground for rejection of plaint under Order VII Rule 11 CPC. At best, the Court may direct impleadment of necessary parties under Order I Rule 10 CPC. Moreover, the plaint discloses that the dispute is primarily between the plaintiff and the defendants regarding the validity and effect of the gift deed and possession of the suit property. Thus, this objection is misconceived and untenable under Order VII Rule 11 CPC.

Objection regarding Absence of Cause of Action

The plaint narrates the execution of a registered gift deed, the alleged acts of interference by the defendants in 2024; the alleged dispossession and the threat of creation of third party rights. These averments, if taken at face value, clearly disclose a cause of action. It is settled law that so long as the plaint discloses some cause of action, however weak, it cannot be rejected under Order VII Rule 11(a) CPC.

In view of the above discussions, the Court finds that the plaint discloses a clear cause of action. The question of limitation is not apparent on the face of the plaint; valuation and Court fee involve disputed questions requiring evidence; pecuniary jurisdiction cannot be decided conclusively at this stage and non-joinder of parties is not a ground for rejection of plaint. Accordingly, the application filed by the defendants under Order VII Rule 11 CPC stands **dismissed**. However, it is clarified that the issue of valuation and Court fee shall remain open for determination at an appropriate stage. The parties shall be at liberty to raise all permissible pleas during trial.

Affidavit regarding admission/ denial be filed by both the parties within 15 days with advance copy to the Ld. Counsel for opposite party.

Proposed issues, if any be filed by both the parties for 20.07.2026.

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DISTRICT JUDGE-08
WEST/DELHI/17.04.2026