

06.04.2026

Present: Sh. Markandey Gupta, ld. counsel for the plaintiff
along with Plaintiff no. 1 in person.
Defendant no. 1 & Defendant no. 3 in person.

Defendant no. 1 & 3 submits that their counsel is busy
in another court.

Arguments heard on the application filed under order 7
rule 11 CPC from ld. counsel for the plaintiff.

Put up for arguments on behalf of defendants at 1:00 P.M.

(SHIV KUMAR)
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06.04.2026 at 2:15 P.M.

Present: Sh. Markandey Gupta, ld. counsel for the plaintiff
through VC.
Plaintiff no. 1 in person.
Sh. ld. counsel for defendant no. 1 & 3 alongwith
Defendant no. 1 & Defendant no. 3 in person.

Ld. counsel for the defendants submits that he is not
pressing his earlier application (IA1/24) filed u/o 7 rule 11 CPC.
Endorsement of ld. counsel for the defendants is taken on the said
application and the same stands dismissed being not pressed.

Ld. counsel for the defendant submits that plaintiff has
not mentioned the proper value of the suit property. He further
submits that plaintiff is not in possession of the suit property so he is
liable to pay ad valorem court fees. He further submits that partition

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of all the suit properties have already been taken place as per oral settlement between the parties. He further submits that property mentioned at para no. 4(a) of the plaint does not exist and wrong details of the property has been given. He further submits that 100 sq. yards out of 200 sq. yards of property mentioned at para no. 4 (b) of the plaint has already been sold by the father of the plaintiff. He further argued that the suit is also not maintainable due to non-joinder of necessary parties.

He further submits that property mentioned in para no. 4(b) of the plaint does not situate within the jurisdiction of this court. On asking of the court, ld. counsel for the defendant submits that property mentioned in para no. 4 (a) of the plaint falls within the jurisdiction of this court.

Heard. Case file perused.

It is settled law that for deciding application filed u/o 7 rule 11 CPC, only averments of the plaint and documents of the plaintiff are relevant and the defence of the defendant cannot be considered at this stage.

In para no. 19 of the plaint, the plaintiff has mentioned the value of the suit for the purpose of jurisdiction as Rs. 1.40 crore. At the stage of deciding the above said application, the averments of the plaint are presumed to be correct and the valuation given by the plaintiff is considered correct valuation. However, the defendant has the right to lead evidence for proving that the valuation given by the plaintiff is not the correct valuation. The plaintiff is claiming joint

possession of the suit property in the plaint. It is also settled law that possession of one co-owner is deemed possession of all the co-owners. No ouster of possession has been pleaded in the plaint by the plaintiff, so the plaintiff is not required to pay ad-valorem court fees.

It is also settled law the plaint cannot be rejected on the ground of non-joinder of necessary parties. The burden is upon the defendant to prove oral settlement as well as selling of part of property by the father of the plaintiff. One of the suit properties is situated within the jurisdiction of this court, so, as per section 17 CPC, this court has jurisdiction to try the present suit.

In view of the above said facts and observations, this court does not find any merit in the application filed by the defendants under order 7 rule 11 CPC and the same appears to be filed malafidly in order to delay the proceedings. Therefore the present application under order 7 rule 11 CPC (IA no. 2/26) stands dismissed with cost of Rs. 7500/- to be paid to the plaintiff.

Parties are directed to file affidavit of A/D of documents within 21 days with advance copy to each other

Put up for completion of pleadings, filing of affidavit of A/D of documents on 20.07.2026.

(SHIV KUMAR)
DJ-02 (W)THC:Delhi
06.04.2026