

**IN THE COURT OF SH. VINAY SINGHAL:
DISTRICT JUDGE-09: (CENTRAL):
TIS HAZARI COURTS: DELHI.**

In the matter of:-

CS DJ-612992-16

CNR NO: DLCT010001082006

**SH. MAHENDER SINGH (SINCE DECEASED)
THROUGH HIS LEGAL HEIRS:-**

- (i) SMT. KRISHNA
WIFE OF LATE MAHENDER SINGH**
- (ii) Ms. ANITA GANDAS
D/O LATE MAHENDER SINGH**
- (iii) SHRI ATUL GANDAS**
- (iv) SHRI ANUJ GANDAS**

**BOTH SONS OF LATE MAHENDER SINGH
AT ALL HOUSE NO. 25/9,
KISHANGARH,
NEW DELHI-110070PLAINTIFFS**

Versus

- 1. SHRI PARTAP SINGH
S/O OF LATE SHRI PRABHU
R/O HOUSE NO. 33-A, KISHANGARH,
NEW DELHI-110070**
- 2. SHRI GAJENDER
S/O OF LATE SHRI PRABHU
R/O HOUSE NO. 33/9, KISHANGARH,
NEW DELHI-110070**
- 3. SHRI JITENDER SINGH**
- 4. SHRI GOARDHAN SINGH**

**BOTH SONS OF LATE ISHWAR SINGH,
RESIDENT OF HOUSE NO. 33/9,
KISHAN GARH, NEW DELHI**

- 5. SHRI MANJEET SINGH**
LATE SHRI ISHWAR SINGH,
FLAT No. 282, TOP FLOOR, BACK SIDE,
YOUNG PROFESSIONAL SOCIETY,
SECTOR-11, DWARKA, NEW DELHI

.....DEFENDANTS

Date of Institution of Suit	:	19.08.2006
Date of pronouncement of Judgment	:	28.10.2025

**AND IN THE MATTER OF
(COUNTER CLAIM NO. 52-2025)**

SH. PRATAP SINGH
S/O LATE SH PRABHU
R/O HOUSE NO. 33-A, KISHANGARH,
NEW DELHI-110070

VERSUS

**SH. MAHENDER SINGH (SINCE DECEASED)
THROUGH HIS LEGAL HEIRS:-**

- (i) SMT. KRISHNA**
WIFE OF LATE MAHENDER SINGH
- (ii) Ms. ANITA GANDAS**
D/O LATE MAHENDER SINGH
- (iii) SHRI ATUL GANDAS**
- (iv) SHRI ANUJ GANDAS**

BOTH SONS OF LATE MAHENDER SINGH
AT ALL HOUSE NO. 25/9,
KISHANGARH,
NEW DELHI-110070

Date of Institution of Counter Claim :	05.10.2006
Date of pronouncement of Judgment :	28.10.2025

SUIT FOR DECLARATION AND INJUNCTION-SUIT
NO.612992-16

&

SUIT/COUNTER CLAIM FOR DECLARING DOCUMENTS
NAMELY GPA DATED 09.11.1995, UNDERTAKING DATED
16.01.1996 AS NULL AND VOID EXECUTED BY LATE SH
PRABHU-COUNTER CLAIM NO.52-2025

JUDGMENT

1. Vide this order the application u/o 12 Rule 6 CPC r/w section of the limitation Act 1963 filed on behalf of defendant No.1 stand allowed.
2. Brief facts necessary for the disposal of the application are being discussed in the following Paras.

PART-A

(PLAINTIFF'S CASE)

3. Sh Prabhu was the father of both the plaintiffs and defendant No.1 & 2 beside being the grandfather of defendant No.3 to 5.
4. As per the plaint Sh Prabhu was having landed property within the revenue state of village Kishan Garh, Mehrauli, Delhi,

5. In the entire plaint, the exact description in the form of Khasra No. etc. stand not mentioned by the plaintiff.
6. It is stated that Sh. Prabhu during his life time, in order to avoid any kind of future dispute amongst his sons, decided to partition the Estate belonging to him and for the said purpose executed certain General Power of Attorney on 09.11.1995 and also executed an undertaking dated 16.01.1996 which were duly registered with concerned Sub Registrar Office & thereby partitioned his properties amongst his sons.
7. As per the plaintiff, all the sons of Sh Prabhu accepted the said partition of the properties of Sh Prabhu and occupied portions of their respective shares in the said properties.
8. As per the plaintiff, subsequently, the intention of defendant No.1 became dishonest and the said defendant No.1 negated the execution of the said GPA and undertaking and asserted his right over the portion other than the one which were allotted to him by Sh Prabhu during his life time.
9. Hence, the present suit seeking the following relief :-
 1. Pass a decree for declaration in favour of the plaintiff and against the defendants thereby declaring that the parties to the present suit are in possession of their respective shares/portions of the General Power of Attorney dated 09.11.1995 and as depicted and shown in the Site Plan duly signed by all the parties to the Undertaking and General Power of Attorney and

situated within the revenue estate of Village Kishangarh, New Delhi, as being their personal and exclusive property

2. Pass a decree for declaration in favour of the plaintiff and against the defendants thereby declaring that the parties are bound by the aforesaid undertaking dated 16.01.1996 and General Power of Attorney of Attorney dated 09.11.1995 and also Site Plan duly signed by the parties to the aforesaid documents.
3. Pass a decree for permanent injunction in favour of the plaintiff and against the defendants thereby restraining the defendants more particularly defendant No.1 from acting contrary to the terms of undertaking dated 16.01.1996 and General Power of Attorney dated 09.11.1995 and also the Site Plan duly signed by the parties to the aforesaid documents.

PART-B

(DEFENDANT'S CASE)

10. Defendant No.1 denied the contents of the plaint as made out by the plaintiff and in fact denied the right of Sh Prabhu-common ancestor of the parties to execute any GPA or undertaking, as claimed by the plaintiff.
11. Defendant No.1 was the person who in his Written Statement, disclosed the description with identification numbers of the properties, which are the subject matter of the present suit as Khasra No. 1673, 1233, 1232, 1231, 1240/1 and 1240/2.

12. As per defendant No.1 Sh Prabhu was not the owner of any of the above stated Khasra which are the subject matter of the suit.
13. It is stated that as far as Khasra No. 1673 is concerned, DDA is the recorded owner of the said Khasra since 1974.
14. It is also stated that as far as remaining Khasras are concerned, the same were acquired much prior to the execution of the documents viz GPA and undertaking qua which the present suit for declaration has been filed by the plaintiff.
15. It is also stated that the Khasra No. 1673, 1233, 1232, 1231, 1240/1 and 1240/2 were not even in existence in 1995, in the revenue record and accordingly the question of execution of GPA, undertaking as well as Will by Sh Prabhu in 1995 and 1996 could not have arisen, as the said Khasra No. ceased to exist in 1980-81.
16. It is also stated that in any other case the suit is liable to be rejected under order 7 Rule 11 CPC.
17. The defendant No.1 has also filed counter claim claiming thereby that the document qua which the plaintiff has sought the declaration, be declared as null and void.
18. The remaining defendants did not contest the suit and accordingly were proceeded ex-parte vide order dated 25.05.2007.

PART-C

(ISSUES)

19. Issues were framed in the present case vide order dated 21.01.2008.

PART-D

(PLAINTIFF EVIDENCE)

20. Plaintiffs examined plaintiff No.1 as PW-1 who proved on record the following documents :-

1.	EX-PW1/1	Certified copy of Undertaking dated 16 th January 1996.
2.	EX PW1/2	Certified copy of General Power of Attorney dated 11 th September, 1995
3.	EX PW1/3	Certified copy of site plan of the properties of the parties.
4.	EX PW1/4	Certified copy of Registered Will dated 30.08.1995

21. The PW-1 deposed along the lines of the stand taken in the suit.
22. During the course of his cross examination, the PW-1 deposed as under :-

1. The land was acquired when it was in the name of Sh Prabhu.
2. The compensation was received from the Govt. by Sh Prabhu.
3. Sh Prabhu had not told the Advocate to show him as

owner of the land but had told him that he is only cultivating the said land and is in possession in the said capacity.

23. No document of title of my father- Sh Prabhu was annexed at the time when Ex PW1/1 to Ex PW1/4 were executed in the year, 1995.
24. It is correct that even in the present suit, no document of title showing Sh Prabhu as owner of the land has been annexed.
25. I interpret the GPA as the partition deed so executed by Sh Prabhu.
26. Khasra No. 1673, 1233, 1232, 1231, 1240/1 and 1240/2 were not in existence in the year, 1995 and in its place new Khasra number came into existence.
27. It is correct that these new Khasra numbers are not mentioned in the document Ex PW1/1 to Ex PW1/4.
28. It is correct that Khasra No. 1673 is recorded in the name of the DDA.
29. It is correct that Khasra No. 1233, 1232, 1231, 1240/1 and 1240/2 are acquired land.
30. One suit was filed by defendant NO.1 against plaintiff in 1996 and in the said suit the plaintiff has filed Ex PW1/1 to Ex PW1/4.
31. It is correct that the plaintiffs were aware that the defendant No.1 had challenged the Ex PW1/1 to Ex PW1/4 in 1996

itself.

32. The plaintiff have also examined other witnesses PW-2 to PW-5 & PW-7 to PW-10 who are not relevant for the purpose of this order being witnesses qua the execution of GPA/ undertaking etc.
33. The next relevant witness is PW-6 who is the JJA from Delhi High Court who proved on record the certified copies of the documents under challenge i.e GPA, undertaking etc as PW6/B to PW6/D.

PART-E

(SUBMISSIONS)

34. In the light of above deposition of PW-1, the present application u/o 12 Rule 6 CPC stand filed by the defendant No.1 on the following grounds :-
 1. The Khasra Numbers which have found mention in Ex PW1/1 to Ex PW1/4 were not in existence either in 1995 or 1996 and accordingly the mentioning of said Khasra Number in the Ex Pw1/1 to Ex Pw1/4 and the declaration so sought qua the said document, is an exercise in vain as no declaration can be granted qua Khasra no. which were and are not in existence either at the time of execution of document or as of date.
 2. As per the admission of PW-1, as discussed in Part-D above, in any other case all the above stated Khasras were not under the ownership of Sh Prabhu being admittedly acquired by Govt. / DDA much prior to the execution of document Ex PW1/1 to Ex Pw1/4 in

1995/ 1996 and as such when Sh Prabhu was not the owner of Khasras in question, the question of he having any authority to execute any document viz GPA/ Sale Deed/ Will could not/ cannot have arisen as a person can only transfer such title which exists with him and not such title which does not exists with him.

3. As per the admission/deposition of PW-1, as discussed in part -D above, the plaintiff was aware that the defendant No.1 has challenged the document Ex PW1/1 in the suit filed by him in 1996 and accordingly in terms of provisions of Section 3 of the Limitation Act, 1963, though no ground of Limitation has been taken up in the Written Statement, if the suit is barred by law of limitation, the same has to be dismissed, if so barred.
4. It is stated that as per the provision of Article 58 of Part-III of the Schedule to the Limitation Act, 1963, the limitation period to seek declaration qua Ex PW1/1 to Ex Pw1/4 was three years when the right to sue first accrued.
5. It is stated that as the PW1 admitted of having knowledge regarding challenge put up by the defendant No.1 qua Ex PW1/1 to Ex PW1/4 in 1996, the limitation period to seek declaration qua the Ex PW1/1 to Ex PW1/4 started running from 1996 itself and came to an end in 1999 and the present suit to

seek declaration having been filed in 2006, i.e 07 years after the expiry of limitation period, is barred by law of limitation and has to be dismissed/ rejected as such.

6. The plaintiff on the other hand has opposed the application in question contending that the same is not maintainable as there is no unconditional/ unequivocal admission on the part of the plaintiff which warrants the dismissal of the suit on the ground as made out in the application filed by defendant No.1.
7. It is stated that merely relying upon bits and pieces of the testimony of PW-1 taken from here and there, the suit itself cannot be rejected/ dismissal on an application u/o 12 ule 6 CPC and especially when the main evidences have been led by the parties and the case is at the stage of rebuttal evidence.

PART-F

(FINDINGS/CONCLUSION)

35. Heard. Considered.
36. Before proceeding further to decide the application, the court deems it fit to reproduce the provisions of order 12 Rule 6 CPC as under :-
 1. Where admissions of fact have been made either in the pleadings or otherwise, whether orally or in writing, the court may at any stage of the suit, either

on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

2. Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.
37. A perusal of the provisions of order 12 Rule 6 CPC as discussed above makes it very much clear that whenever any admission of facts have been made either in the pleading or otherwise, the court may at any stage of the suit, either on the application of any party XXX without waiting for determination of any other question between the parties, makes such order or gives such judgment as it may think fit, having regard to such admissions.
38. In this background of the scope of Order 12 Rule 6 CPC, in the light of discussion made in Part-D above, the following undisputed admissions have been made by the PW-1 during the course of his deposition:-
- A. The plaintiff No.1 deposing as PW-1 admitted of having the knowledge qua the challenge put up by the defendant No.1 to the Ex PW1/1 to Ex PW1/4 (qua which the present suit for declaration has been filed, in the year, 1996 itself).

1. The limitation period to seek the declaration qua Ex PW1/1 to Ex PW1/4 as per Article 58 of the Schedule to the Limitation Act, 1963, was/is three years when the right to sue accrued.
2. The right to sue accrues from the date when the opposite party against whom declaration is being sought puts a challenge qua the document in question.
3. Admittedly, the challenge was put by defendant No. 1 in 1996 and the said challenge was in the knowledge of plaintiff since 1996 itself and hence, the limitation started running from 1996 and came to an end in 1999 itself as per article 58.
4. The present suit having been filed in 2006, accordingly is clearly barred by law of limitation.

B. It is also an admission on the part of PW-1 as discussed in Part-D above, that the land which is subject matter of Ex PW1/1 to Ex PW1/4, was not under the ownership of Sh. Prabhu- common ancestor of the parties but rather is owned by DDA and acquired by the Govt.

1. In these circumstances, when the plaintiff No.1 has himself admitted that Sh Prabhu was not the owner of the property in question, the question of execution of EX Pw1/1 to Ex PW1/4 qua them, could not have arisen and the said document having been executed by Sh Prabhu, qua the property of which he was not the owner, can be stated to be a fraud/falsehood on his

part.

2. In fact in suit No. 2148/08 decided by the Court of Sh. Sanjay Sharma, the then Ld JSCC, West vide judgment dated 09.08.2011, it has been held that in fact Khasra No. 1673 belongs to DDA.
3. The remaining Khasras have also been admitted to be acquired by the Govt.
4. Accordingly, in the view of admission w.r.t Khasras in question being not under the ownership of Sh Prabhu, the execution of GPA Ex PW1/1 to Ex PW1/4 by Sh Prabhu can be stated to be a falsehood and no declaration qua those document can be issued.

C. Furthermore, it is also an admission on the part of plaintiff No.1 deposing as PW-1 that the Khasra No. as mentioned in EX PW1/ to Ex PW1/4 were not even in existence since 1980-81, the mentioning of the said Khasras in the said Exhibits also warrants for denial of a decree of declaration as sought for.

39. In these circumstances, in view of the above findings it is very much clear that the admissions made by plaintiff No.1 deposing as PW-1 do amount to admissions of fact on his part which makes out a ground for rejection of suit itself under the provisions of Order 7 Rule 11 (a) and (d) of CPC.
40. Hence, the suit of the plaintiff stand dismissed as such.
41. Furthermore, in view of the above discussion and reasoning,

the counter claim of the defendant No.1 stand decreed as a necessary consequence of the dismissal of the suit of the plaintiff.

42. No order as to cost.

Ordered accordingly.

Let decree sheet be prepared accordingly.

File be consigned to record room.

Announced in the Open Court

on 28.10.2025

**(Vinay Singhal)
District Judge-09 (Central)
Tis Hazari Courts, Delhi.
28.10.2025**

