

**IN THE COURT OF SH. PANKAJ ARORA:
DISTRICT JUDGE-16, CENTRAL DISTRICT:
TIS HAZARI COURTS: DELHI**

CSDJ no. 219/25

Sh. Soni Landmark Township Pvt. Ltd.Plaintiff

Versus

Smt. Pragya Aggarwal & Ors.Defendants

ORDER

1. Vide this order, this court shall proceed to dispose of the application U/o 7 Rule 11 of CPC moved on behalf of defendants for rejection of the suit.

2. It is submitted on behalf of appellant/defendant that the plaint is liable to be rejected in accordance with the provision of Order 7 Rule 11 of CPC as the plaint fails to disclose the cause of action against the defendants and also being barred by law. A plain reading of the plaint discloses that the plaint does not contain any provision in which the relief is claimed by the plaintiff and as per the various rulings of the Hon'ble Supreme Court, the plaint should contain all the necessary provisions. It is further submitted that the plaint contains many false averments with regard to facts and circumstances on affidavit without any specific date and/or place etc. of the occurrence of the alleged incidents/instances and at many places in the plaint, the instances have been either merely mentioned without any proof/evidence or have been mentioned cryptically and therefore, the plaint is

liable to be rejected on this ground also. Further, the plaintiff, in order to mislead the Court, has created a fake cause of action from August 2022 in the present suit which is a money suit and the period of limitation in a money suit is to be calculated from the date of transaction(s) and the plea of origin of cause of action set up by the plaintiff is August 2022 which is absolutely false. The transaction dates back to August, 2017 and the plaintiff had extended a total sum of Rs. 21.00 Lakhs to the Defendants until December 2017. Further, the limitation of three years to initiate recovery proceedings before the Court ended on various dates between August 2020 and December 2020. However, with the limitation suspension from 15.03.2020 until 28.02.2022, the remaining period of limitation available to the plaintiff was between August, 2022 until December 2022 for filing recovery suit for the aforesaid amount of Rs. 21.00 Lakhs whereas the present suit has been filed only in the month of February of the year 2025 i.e. after a delay of more than two and half years from the date of expiry of limitation. Hence, the present suit for recovery for a sum of Rs. 21.00 is way beyond the period of limitation and plaintiff cannot be admitted to any relief. Further, the amount of Rs. 5.00 Lakhs was extended to the Defendants by the plaintiff in July, 2019. The period of limitation for filing recovery suit for Rs. 5.00 Lakhs was to expire in July, 2022. Even after exclusion of the period of limitation suspension from 15.03.2020 until 28.02.2022, the suit was required to be filed before the end of the month of July, 2024 i.e. three years as per Limitation Act, 1963. The present suit has been filed only in February, 2025 which is way beyond the limitation period of filing suit for recovery of money and the suit for recovering Rs. 5.00 Lakhs is, therefore, barred by limitation.

3. It is further submitted that, the amount of Rs. 4.00 lakhs was extended to the Defendants by the plaintiff in February, 2021. No benefit of limitation suspension is extended in favour of the transactions entered into within the limitation suspension period was in force from 15.03.2020 to 28.02.2022 which is available only to transactions that were subject to limitation prior to 15.03.2020. Therefore, the period of limitation for recovery of Rs. 4.00 Lakhs by the plaintiff had already expired in February, 2024. The present suit was filed by the plaintiff only in February, 2025 which is way beyond the expiry of limitation period as provided under Limitation Act, 1963 and therefore, recovery of Rs. 4.00 Lakhs is also barred by limitation. Only in order to bypass/ circumvent the period of limitation, cause of action has been falsely manufactured by the plaintiff with effect from August 2022 by the plaintiff which is absolutely false and is a gross abuse of the process of the Court. No cause of action arises in favour of the plaintiff to file the present suit and the instant suit deserves to be dismissed in accordance with Order VII Rule 11 of the Code. In support of his submissions, Ld. Counsel for defendants has relied upon the following authorities:-

(1) Church of Christ Charitable Trust and Educational Charitable Society Vs. Ponniamman Educational Trust, (2012) 8 Supreme Court Cases 706;

(2) R. Nagaraj (D) through LRs & Anr. Vs. Rajmani and Ors, 2025 SCC Online SC 762; and

(3) Sopan Sukhdeo Sable and Ors. Vs. Assistant Charity Commissioner & Ors. (2004) 3 Supreme Court Cases 137.

4. The application u/o 7 Rule 11 of CPC is vehemently opposed on behalf of plaintiff by filing reply, wherein it is submitted that on 04.09.2017, agreement to sell between the parties was executed, whereby the plaintiff agreed to purchase the subject property. The said agreement provides that the sale deed shall be executed between the parties within the three months of the outcome of eviction case being E-584/2017. On 22.01.2024, the eviction case was decided vide judgment dated 22.01.2024 against Smt. Nirmala Gupta, through whom the defendants are claiming their derivative title. It was so held in the said judgment that the agreement to sell dated 30.12.1982 claimed by Smt. Nirmala Gupta is a void document. Eviction order was passed against Smt. Nirmala Gupta. On 06.05.2024, review petition filed by the tenant against the judgment dated 22.01.2024 was dismissed. On 11.12.2024, the Hon'ble Delhi High Court confirmed the eviction order dated 22.01.2024 and dismissed the revision petition filed by Smt. Nirmala Nath (through her LRs). It is further submitted that from the aforesaid dates, it is clear that the sale deed cannot be executed by the defendants, who were / are claiming their title through Nirmala Gupta in the absence of any title. The contract between the parties stood frustrated on 11.12.2024 and/or in any case on 22.01.2024. There was no reason or occasion for execution of the sale deed or completion of transaction before 22.01.2024 as the contract itself provides that the sale deed is to be executed upon final disposal of eviction case. Cause of action to file the present suit arose for the first time on 22.01.2024 in terms of Article 27 of the Schedule attached to the Limitation Act. If for any reason this court comes to conclusion that the present suit is not covered by Article 27, then in that event the present suit is to be covered by

Article 113 of the Schedule. Even in that case the cause of action has accrued for the first time only on 22.01.2024.

5. This court has heard arguments and perused the record.

6. It is well settled that in order to determine the cause of action, only the averments made in the plaint are required to be seen and the defence raised by the defendants in the written statement cannot be looked into. Even though the agreement to sell dated 04-09-2017 being relied upon by the plaintiff was executed on 04-09-2017 yet, there is recital in the said agreement that the sale deed shall be executed between the parties within three months of the outcome of eviction petition bearing no. E-584/2017 filed by one Smt. Kamla Gupta against Smt. Nirmala Gupta on 05-07-2017. Indisputably, the above-stated eviction petition bearing no. E-584/2017 was disposed of on 22-01-2024. The present suit has been filed on 19-02-2025. Thus, the period of limitation in the present suit is a mixed question of facts and law.

7. It has been held in the case of **Khaja Quthubuliah Vs. Govt. of A.P., AIR 1995 AP 43, 46; Mariyamma (Smt.) Vs. N.V. Srinivasa Murthy, AIR 2003 NOC 375 (Kant)** that “A plaint cannot be rejected on the ground of limitation especially when it is a mixed question of fact and law.”

8. In view of the foregoing discussion, this court is of the opinion that the plaint reveals a valid cause of action and the same is not apparently time barred. The authorities relied upon by Ld. Counsel for defendants are not applicable in view of peculiar facts of the present case. Accordingly, the application u/o U/o 7 Rule 11 of CPC moved on behalf of defendants for

rejection of the suit stands dismissed.

Announced in the open Court
on 19-12-2025

(PANKAJ ARORA)
DISTRICT JUDGE-16/ CENTRAL:
TIS HAZARI COURT:DELHI/ 19-12-2025