



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 01st JULY, 2026

IN THE MATTER OF:

I.A. 11149/2020 & I.A. 16018/2022

IN

+ **CS(OS) 583/2019**

SHRI GURBIR SINGH ALAG & ANR.Plaintiffs

Through: Mr. P. V. Kapur, Sr. Adv., Mr. Pradeep Bakshi, Sr Adv., Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Sidhant Kapur, Mrs. Kaveri Kapur and Mr. Jagdeep Singh Lamba, Advocates

versus

SHRI ROBINDER SINGH ALAG & ANRDefendants

Through: Mr. Prashant Katara and Mr. Soin Khan, Advs.
Mr Sandeep Tyagi, Senior Panel Counsel for D-2/UOI

+ **CS(OS) 39/2022**

ROBINDER SINGH ALAGHPlaintiff

Through: Mr. Prashant Katara and Mr. Soin Khan, Advs.

versus

GURBIR SINGH ALAG & ANRDefendants

Through: Mr. P. V. Kapur, Sr. Adv., Mr. Pradeep Bakshi, Sr Adv., Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Sidhant Kapur, Mrs. Kaveri Kapur and Mr. Jagdeep Singh Lamba, Advocates



CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 11149/2020 in CS(OS) 583/2019

1. This is an application under Order XII Rule 6 of CPC on behalf of the Plaintiffs against Defendant No.1 for Judgment on Admissions made by Defendant No.1 in their pleadings and the documents annexed therewith.
2. Since the present application is one under Order XII Rule 6 of CPC, it is necessary to highlight the averments made in the Plaint, the nature of admissions in the written statement, the documents which have been admitted and the manner in which they have been admitted, without which it would not be proper to adjudicate upon the application.
3. The Suit bearing CS(OS) 583/2019 has been filed by the Plaintiffs for declaration, possession, mesne profit/damages and injunction in respect of the property comprising of the First Floor of the Property bearing No. C-460, Defence Colony, New Delhi - 110024, alongwith one room above the mezzanine and the store room at the terrace of the Second Floor (*hereinafter referred to as the 'Suit Property'*). The Plaintiffs have also prayed for a declaration that the Conveyance Deed dated 27.12.1995 executed by Defendant No.2 does not in any manner affect the terms and conditions of the concluded family arrangements and settlements including the Memorandum of Family Settlement dated 21.06.1991 already entered into in respect of the Suit Property conveying / conferring rights in the Suit Property jointly upon the Plaintiffs and Late Mrs. Gurjit Kaur who is the mother of the Plaintiffs and Defendant No.1.
4. The averments made in the Plaint are as under:



- i. It is stated that the Plaintiffs and the Defendant No.1 are the sons of Late Major Amolak Singh, who passed away on 03.05.1962 at NEFA Border, Arunachal Pradesh, leaving behind his wife - Mrs. Gurjit Kaur, who passed away on 10.03.2017. The Plaintiffs and Defendant No.1 are the sons of Late Major Amolak Singh and Late Mrs. Gurjit Kaur. It is stated that the Suit Property was given on lease vide a Lease Deed dated 30.07.1976 by the Land and Development Office, which is Defendant No.2, in favour of Mrs. Gurjit Kaur, Plaintiffs and Defendant No.1. A copy of the Lease Deed shows that the Lease Deed has been granted in favour of Mrs. Gurjit Kaur for self and on behalf of Plaintiffs and Defendant No.1, who are sons of Late Major Amolak Singh. It is stated that the Suit Property is 325 sq. yards comprising of a two storied building.
- ii. It is stated in the Complaint that the Suit Property was in the name of an HUF - Mrs. Gurjit Kaur (KARTA) comprising the Plaintiffs, Defendant No.1 and Mrs. Gurjit Kaur. It is stated that the said HUF continued to be in existence till 1984.
- iii. It is stated in the Complaint that the Defendant No.1 had chosen to shift to Middle East in 1982 and had married out of community and expressed his desire to separate from the said HUF and accordingly, a Memorandum of complete partition was executed on 14.04.1984, recording the oral partition effected earlier amongst Plaintiffs, Defendant No.1 and Mrs. Gurjit Kaur. It is stated that since the Suit Property being incapable of physically divided by metes and bounds, the parties continued to be co-owners of the same with 1/4th undivided share each in the Suit Property and entitled to separate income arising



therefrom. It is stated that the parties jointly continued to enjoy the Suit Property and income from the Suit Property as 1/4th co-owners till 1991 when the Defendant No.1 expressed his desire to sell his 1/4th share in the Suit Property and disassociate himself from the other co-owners of the Suit Property.

- iv. The Plaint further records that in accordance with the desire of the Defendant No.1 to sell his share in the Suit Property and to completely disassociate himself from others in respect of the Suit Property, all the four co-owners entered into an oral arrangement amongst themselves by which it was agreed that the terrace floor over the First Floor i.e. the unconstructed Second Floor of the Suit Property would be sold towards the total share of the Defendant No.1 and pursuant thereto an Agreement to Sell dated 29.05.1991 was entered into in respect of the unconstructed Second Floor with the Purchaser with the understanding that the entire sale proceeds shall go to the Defendant No.1 towards his complete share in the Suit Property.
- v. The Plaint records that the factum of the Oral Family Settlement and the sale of the unconstructed Second Floor was recorded by means of a Memorandum of Family Settlement dated 21.06.1991, *inter alia*, acknowledging and confirming the sale of the unconstructed Second Floor of the Suit Property in favor of the Purchaser. It was further recorded, accepted and acknowledged that from the entire sale proceeds, a build up Second Floor of Property bearing No. D-145, Lajpat Nagar-1, New Delhi was purchased for the Defendant No.1 for his residence and balance of the sale proceeds were also received by



the Defendant No.1 only who has acknowledged the receipt of the same.

- vi. It is stated along with that the said Memorandum of Family Settlement dated 21.06.1991, the Defendant No. 1 also executed a Deed of Relinquishment dated 21.06.1991, *inter alia*, affirming the settlement arrived at between the parties and the execution of the Memorandum of Family Settlement and reaffirmed relinquishing / releasing his rights and interests in the Suit Property in favour of the Plaintiffs and Mrs. Gurjit Kaur absolutely and equally forever and that neither him nor none of his heirs will have any right, title or interest in the Suit Property in the future. However, it is the case of the Plaintiffs that despite several requests the Deed of Relinquishment was not got registered by the Defendant No.1.
- vii. The Plaint records that in part performance, the possession of the unconstructed Second Floor was handed over to the Purchaser and it was also agreed and undertaken that the necessary Sale Deed shall be executed in favor of the Purchaser. It was further agreed that, in the event, the authorities declare the plot as freehold, then the parties shall take all the necessary steps in that respect. It is stated that the Agreement to Sell was executed with the Purchaser in accordance with the then prevalent practice, however, the Sale Deed with respect to the portion of the Suit Property could not be executed at that time. It is stated that the execution of the Sale Deed became possible only after the year 1992 when the Government of India came out with a policy for converting lease hold property to free hold property. It is stated that as per practice, subsequent to the conversion, the necessary



Conveyance Deed was to be executed and registered in the name of the recorded owners in the records of Defendant No.2. It is stated that pursuant to the approval of the Application for converting the property into freehold, the Conveyance Deed dated 27.12.1995 was executed for and on behalf of the President of India in favor of the mother, the Plaintiffs and the Defendant No.1. However, the execution of the registered Conveyance Deed dated 27.12.1995 in the names of the original four persons, in whose favour the leasehold rights had been transferred, i.e. the mother, the Plaintiffs and the Defendant No. 1 herein, was never intended to, and did not in any manner supersede, affect or alter the already binding and concluded family arrangements and settlements, Relinquishment Deed, etc., as the same had been totally and fully acted upon by all the parties, including the Defendant No. 1 who had totally severed himself from the property had had given up his all his rights, title and interests, in Suit Property.

- viii. The Plaint records that pursuant to the conversion of the property to the freehold and execution of the Conveyance Deed dated 27.12.1995, the Sale Deed in respect of Second Floor which was by then constructed by the Purchaser was executed on 07.06.1996 by the mother - Mrs. Gurjit Kaur and the Plaintiffs and on behalf of the Defendant No.1 by Mrs. Jatinder Kaur Shahpuri, wife of the Purchaser Mr. Daljit Singh Shahpuri as General Power of Attorney of the Defendant No. 1, in favor of the Purchaser.
- ix. It is the case of the Plaintiffs that pursuant to the sale of the terrace floor of the Suit Property as recorded in Memorandum of Family



Settlement dated 21.06.1991, the Plaintiffs and Mrs. Gurjit Kaur were left with rights in the remaining portion of the Suit Property as co-owners having 1/3rd each and continued to enjoy the same without no claim, right, title or interest from the Defendant No.1. It is stated that the said Memorandum of Family Settlement and Relinquishment Deed in respect of the Suit Property was duly acted upon and the income from the same was openly enjoyed by the Plaintiffs and Mrs. Gurjit Kaur without any interference from the Defendant No.1 and in fact, the First Floor of the Suit Property was leased out from time to time by all the said three parties and that all income from the same was enjoyed by all the three co-owners equally.

- x. The Plaint records that sometime in 2013, the Defendant No.1 who was residing in the Middle East till 2010-11 requested the Plaintiffs and the mother to permit him to reside on the First Floor of the said property along with Mrs. Gurjit Kaur, the mother, who was occupying the First Floor along with the Plaintiffs for a short time as the Defendant No.1 intended to move back to Middle East in the near future and the landlord of the tenanted premises, where he was then residing, had requested him to vacate the tenanted premises. It is the case of the Plaintiffs that the Defendant No.1 reiterated and reaffirmed the family settlement of 1991 and accepted that he had no right in the Suit Property and only wish to stay in the Suit Property without any rights and with the permission and wishes of the Plaintiffs and Mrs. Gurjit Kaur for a short time and would move out of the premises if so desired or demanded by the Plaintiffs or Mrs. Gurjit Kaur without any demur, complaint etc. It is stated that



believing the assurances of the Defendant No.1 to be true and correct, the Plaintiffs and the mother Mrs. Gurjit Kaur permitted the Defendant No.1 to stay in the First Floor along with the mother only till such time go back to Middle East and with a clear understanding that he or any of his family member do not have and shall not claim any right, title or interest in the Suit Property. It is the case of the Plaintiffs that Defendant No.1 is still in occupation of the First Floor of the Suit Property alongwith one room above the mezzanine and the store room at the terrace of the Second Floor.

- xi. The Plaint records that, on being enquired about the plans of shifting to Middle East, the Defendant No.1 started avoiding the topic or giving some vague answers without any specific timeline, and subsequently, started harassing the mother. It is stated that the mother - Mrs. Gurjit Kaur passed away on 10.03.2017 leaving behind a registered Will dated 21.04.2006 as her last and final Will.
- xii. It is stated that after the demise of the mother - Mrs. Gurjit Kaur, when the Plaintiffs again asked the Defendant No.1 to vacate the premises under his unauthorized and illegal occupation i.e. the First Floor of the Suit Property alongwith one room above the mezzanine and the store room at the terrace of the Second Floor, the Defendant No.1 started giving lame excuses and making false claims of having an alleged share in the Suit Property.
- xiii. The Plaint records that the Will dated 21.04.2006 of mother – Late Mrs. Gurjit Kaur has been duly accepted and acted upon by the parties wherein the assets, movable and immovable, mentioned therein had been distributed between the Plaintiffs and Defendant No.1. It is



stated that the Will dated 21.04.2006 had reiterated the fact of the division of the HUF and the sale of the terrace floor i.e. the Second Floor of the Suit Property, which was constructed by the Purchaser and proceeds thereof, was given to the Defendant No.1 and the Defendant No.1 relinquished his rights, title and interest in the Suit Property, bequeathing his share in the Suit Property. It is stated that the Will dated 21.04.2006 has been accepted and acted upon by the parties, and the Defendant No.1 has no right to make any further claim in the Suit Property. It is stated that the Defendant No.1 is creating nuisance due to which the Plaintiffs have been compelled to file the present Suit.

5. The Defendant No.1 has filed the written statement which was amended pursuant to the Order dated 16.02.2024. The Defendant No.1 has raised a preliminary objection by stating that the Memorandum of Family Settlement dated 21.06.1991 reiterating the earlier partition, and the unregistered Deed of Relinquishment dated 21.06.1991 pale into insignificance by virtue of Conveyance Deed dated 27.12.1995 wherein the Suit Property was conveyed in favour of the mother - Mrs. Gurjit Kaur, Plaintiffs and Defendant No.1. It is stated that without being the owner, the Defendant No.1 could not have relinquished any share in the Suit Property. It is further stated that it is the case of the Plaintiffs that Defendant No.1 has relinquished his share in the Suit Property vide the Deed of Relinquishment dated 21.06.1991 but on the other hand the Sale Deed dated 07.06.1996 has also been executed on behalf of Defendant No.1 through purported Power of Attorney. It is stated that if the Sale Deed has been executed in the year 1996 on behalf of Defendant No.1 then the so-called Relinquishment Deed



has no value. It is further stated in the written statement that the Will dated 21.04.2006 is surrounded by suspicious circumstances. It is stated that one of the two witnesses namely Ishwar Chand Garg who is supposed to be the Advocate having enrolment No.P-228/1972, however, the member directory as released by Punjab & Haryana High Court Bar Association depicts that no such name exists.

6. It is the case of Defendant No.1 that the Defendant No.1, being the elder son, was managing the entire household and was also taking care of mother and education of the Plaintiffs herein. It is stated that after construction of the house, certain disputes arose with the then tenant, who was occupying the ground floor, and with the efforts of Defendant No.1, a Suit for eviction was filed and decreed against the said tenant. It is stated that in the year 1982, the Defendant No.1 got a job offer from Doha, Qatar and considering the financial condition of the family, the Defendant No.1 relocated to Doha, Qatar. It is stated that the Defendant No.1 before leaving, handed over all the necessary documentation qua the Suit Property. It is stated that certain blank sheets duly signed by Defendant No.1 were also handed over to the family which would help in leasing out the Suit Property in his absence and with the sole intention of making sure that his family leads a comfortable life in his absence.

7. It is further stated in the written statement that Plaintiff No.1 got married in the year 1993 and Plaintiff No.2 got married in the year 1995. It is stated that mother - Mrs. Gurjit Kaur, continued her stay at the Suit Property with Plaintiff No.1 and his wife in a separate room. It is stated that subsequently, on 27.12.1995, the Defendant No.2 executed a Conveyance Deed which also included Defendant No.1. It is stated somewhere in the



year 2000, the Plaintiff No.1 got the first floor of the Suit Property vacated from the tenants and shifted the mother on the first floor. It is stated that in the year 2008-09, due to economic recession, the Defendant No.1 suffered a major financial setback and decided to shift to India. The Defendant No.1 along with his wife came to India in 2010 and started residing at the First Floor of the Suit Property, alongwith his mother which was not at the liking of Plaintiff No.1.

8. It is further stated in the written statement that the Plaintiff No.1 insisted the Defendant No.1 that instead of settling at the Suit Property, he should temporarily settle somewhere else so that the structure of the Suit Property can be demolished completely and re-constructed. It is stated that the Plaintiff No.1 also told the Defendant No.1 that he too will be shifting out for the purpose of re-construction. It is stated that in fact a builder was also identified by the Plaintiff No.1. It is stated that the cost of the construction was to be split between the brothers. It is stated that certain more blank papers along with certain cheques were also signed. It is stated that, thereafter, the Defendant No.1, having blind faith upon his younger brother, handed over the said blank papers along with certain cheques duly signed, and relocated on rent to Greater Kailash at R-189, 1st Floor, New Delhi with his wife and children, awaiting the beginning of re-construction. However, it is stated that despite lapse of considerable time, the re-construction did not commence and the matter was being delayed by Plaintiff No.1.

9. It is stated in the written statement that after some time, the Defendant No.1 was informed by Plaintiff No.1 that that the prior set of documents and cheques have been misplaced and further a new set of documents would be



required. It is stated that the Defendant No.1 was already paying a substantial amount of money as rent, however, believing that the construction of the Suit Property would start, the Defendant No.1 provided one more set of documents. It is stated that since the construction did not commence, the Defendant No.1 alongwith his wife and son shifted back at the Suit Property in the year 2013. It is stated that the mother Mrs. Gurjit Kaur passed away on 10.03.2017 and after about a year of her demise, the Defendant No.1 sought for return of documents as no construction commenced and when started pushing harder for document, police complaints were filed against Defendant No.1 by the Plaintiffs. It is stated that instructions to stop payments were issued by Defendant No.1 to the bank. It is stated that Defendant No.1 received a Legal Notice from one Noni Builders Pvt. Ltd. regarding dishonor of cheques under Section 138 of the Negotiable Instruments Act, 1881. It is stated that, thereafter, negotiations were entered into and fresh cheques were issued and handed over by Defendant No.1.

10. A perusal of written statement reveals that dispute with the Noni Builders Pvt. Ltd. is still pending before the competent Court. Other criminal complaints are also pending between the Plaintiffs and Defendant No.1 before various Departments and Courts.

11. It is the case of Defendant No.1 that blank documents which had been given by Defendant No.1 has been misplaced by Plaintiff No.1. Admission/denial of documents has taken place. In the affidavit of admission/denial of documents, as far as Memorandum of Complete Partition dated 14.04.1984, Memorandum of Family Settlement dated 21.06.1991 and Relinquishment Deed dated 21.06.1991 are concerned, the



Defendant No.1 has admitted the signatures in these documents but has denied the contents of the documents by stating that signatures have been taken on blank papers.

12. Two applications have been filed one being I.A. 11149/2020 filed under Order XII Rule 6 of CPC on behalf of the Plaintiffs against Defendant No.1 for Judgment on Admissions made by Defendant No.1 in pleadings, written statement and in the admission/denial of documents, and the other application being I.A. 16018/2022 filed under Order VII Rule 11(a) and (d) of CPC by the Defendant No.1 seeking rejection of the Plaint.

13. As far as I.A. 11149/2020 which is an application under Order XII Rule 6 of CPC, the relevant paragraphs of the said application are being reproduced as under:

“2. That the Defendant No.1 has filed his Written Statement along with the supporting documents in the present case. Even though the Defendant No. 1 in the present Suit vide his Written Statement has tried to render a selective narration of facts misinterpreted in such a fashion that suits his convenience for the time being. However in the documents filed by the Defendant No. 1 along with the written statement several facts have been admitted by the Defendant No.1 unequivocally. Also in the Affidavit of admission / denial filed along with the Written Statement, the defendant has admitted his signatures on the following documents:

(i) Memorandum of complete partition dated 14.04.1984

(ii) Memorandum of Family Settlement dated 21.06.1991

(iii) Deed of Relinquishment dated 21.06.1991



Also, the defendant has unequivocally admitted the Agreement to Sell dated 29.05.1991 in the present suit.

3. That the Defendant No. 1 has also admitted the Sale Deed dated 07.06.1996 executed pursuant to the Agreement to Sell dated 29.05.1991, thereby acknowledging and admitting the entire case of the Plaintiffs. In fact, the Defendant No. 1 is left with no defense in the light of the categorical admissions made by him in the present suit.

4. It is submitted that the Defendant No. 1 was party to the Memorandum of Family Settlement dated 21.06.1991 which he has signed on his own volition and has relinquished his rights, title and interest in the suit property and pursuant thereto he is left with no rights or title in the Suit Property.

5. Further, the Defendant No. 1 has also admitted that pursuant to the death of the mother Late Mrs. Gurjit Kaur the movable and the immovable assets that came to the share of the Defendant No.1 as per the registered Will dated 21.04.2006 were also received by him. The receipts are duly admitted by the Defendant in the present Suit. However maliciously and malafidely, it is now being falsely alleged by the Defendant No.1 that he has no knowledge about the registered Will of the mother whereas the defendant all along had the knowledge of the duly registered last and final Will dated 21.04.2006 duly executed by the mother and has received his share under the will.

6. That the conduct of the Defendant No.1 is dishonest, malafide and malicious. The Defendant No. 1 who was all throughout in the knowledge and possession of all the documents duly signed and executed by him along with other family members is estopped in law from falsely and recklessly denying the same. Also, the



defences raised by the Defendant No. 1 in his written statement are absolutely sham and patently false which deserve to be rejected outrightly.”

14. It is the case of the Plaintiffs that once the signatures have been admitted by Defendant No.1, the Plaintiffs are entitled to a decree. It is the case of the Plaintiffs that Defendant No.1 in his written statement and supporting documents has admitted several facts unequivocally.

15. Further, Defendant No.1 in his affidavit of admission/denial of documents filed along with the written statement has admitted his signatures on the Memorandum of Partition dated 14.04.1984, Memorandum of Family Settlement dated 21.06.1991, Deed of Relinquishment dated 21.06.1991. Further, Defendant No.1 has unequivocally admitted the Agreement to Sell dated 29.05.1991 filed in the present Suit.

16. Learned Senior Counsel for the Plaintiffs state that Defendant No.1 has also admitted the Sale Deed dated 07.06.1991 executed pursuant to the Agreement to Sell dated 29.05.1991, thereby acknowledging the entire case of the Plaintiffs and leaving Defendant No.1 with no defence in light of the admissions made by him in the present Suit.

17. It is stated that Defendant No.1 has also received movable and immovable assets that came to the share of Defendant No.1 in pursuance of the registered Will dated 21.04.2006. However, even after receiving the said assets, Defendant No.1 has malafidely denied his knowledge of the existence of the registered Will dated 21.04.2006.

18. It is further stated that Defendant No.1 has placed on record an Action Taken Report filed by SI Rakesh Kumar, Police Station Defence Colony on an alleged complaint made in the Court of Metropolitan Magistrate, Saket



Court by Defendant No.1. It is the case of the Plaintiffs that Defendant No.1 has admitted to his signatures in the Action Taken Report on the Memorandum of complete Partition dated 14.04.1984, Memorandum of Family Settlement dated 21.06.1991, Relinquishment Deed dated 21.06.1991 and the Agreement to Sell dated 29.05.1991.

19. Learned Counsel for the Plaintiffs states that in view of the aforementioned admissions made by Defendant No.1 in the present Suit and in light of admissions in various documents including the Action Taken Report filed by Defendant No.1 himself provides sufficient basis to pass a Judgment on the basis of these admissions in favour of the Plaintiffs and against Defendant No.1.

20. *Per contra*, learned Counsel for Defendant No.1 contends that the blank papers were given on regular intervals and those blank papers have been misused and there was no intention on the part of Defendant No.1 to relinquish any share in the Suit Property. He states that signatures have been admitted. He further contends that that it is only the signatures that are admitted by Defendant No.1 and not the contents of the documents which contain the signatures of Defendant No.1. He states that admitting only to the signatures on these documents do not prove the veracity of the documents and the matter will have to go for trial and will have to be proved in accordance with law. He states that Defendant No.1 has not admitted any of the facts mentioned in the Plaint which would entitle the Plaintiffs a Judgment on admissions. He further contends that the Will dated 21.04.2006 is surrounded by suspicious circumstances and the fact that the Will has not been challenged by Defendant No.1 would not amount to an admission on the part of Defendant No.1 accepting the contents of the Will.



21. Defendant No.1 in its written statement has clearly stated that by virtue of the Conveyance Deed dated 27.12.1995, all the parties along with their mother became the owners of 25% undivided share each in the Suit Property. It is only by virtue of this Conveyance Deed that Defendant No.1 along with the Plaintiffs were finally vested with the title of the Suit Property and before this day, it was not in hands of the parties to sell, transfer, alienate the ownership of the Suit Property.

22. Material on record indicates that Defendant No.1 in its affidavit of admission/denial filed along with the written statement has only admitted the signatures on the Memorandum of complete Partition dated 14.04.1984, Memorandum of Family Settlement dated 21.06.1991, Deed of Relinquishment dated 21.06.1991. Further, Defendant No.1 has admitted the Agreement to Sell executed on 29.05.1991 in favour of Mr. Daljit Singh Shahpuri.

23. Order XII Rule 6 of the CPC which provides for Judgment on admissions is meant for expeditious disposal of appropriate cases where admissions are unconditional, unequivocal and unambiguous or when the admission is based upon undisputed inference. Order XII Rule 6 of the CPC reads as under:-

“6. Judgment on admissions.—

(1) Where admissions of fact have been made either in the pleading 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.”

24. The law on Judgment on admission has been settled by the Apex Court by way of judicial pronouncements. The Apex Court in Uttam Singh Duggal & Co. Ltd. v. United Bank of India, (2000) 7 SCC 120, has observed as follows:

“11. Learned counsel for the appellant contended that Order 12 Rule 6 comes under the heading “Admissions” and a judgment on admission could be given only after due opportunity to the other side to explain the admission, if any, is given; that such admission should have been made only in the course of the pleadings or else the other side will not have an opportunity to explain such admission, that even though the provision reads that the court may at any stage of the suit make such order as it thinks fit, the effect of admission, if any, can be considered only at the time of trial; that the admission even in pleadings will have to be read along with Order 8 Rule 5(1) CPC and the court need not necessarily proceed to pass an order or a judgment on the basis of such admission but call upon the party relying upon such admission to prove its case independently; that during pendency of other suits and the nature of contentions raised in the case, it would not be permissible at all to grant the relief before trial as has been done in the present case; that the expression “admissions” made in the course of the pleadings or otherwise will have to be read together and the expression “otherwise” will have to be interpreted ejusdem generis.

12. As to the object of Order 12 Rule 6, we need not say anything more than what the legislature itself has



said when the said provision came to be amended. In the Objects and Reasons set out while amending the said Rule, it is stated that “where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled”. We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where the other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which it is impossible for the party making such admission to succeed.”

25. The Apex Court in Himani Alloys Limited v. Tata Steel Limited, **2011 (15) SCC 273**, has observed as follows:

“11. It is true that a judgment can be given on an “admission” contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear “admission” which can be acted upon. (See also *Uttam Singh Duggal & Co. Ltd. v. United*



Bank of India [(2000) 7 SCC 120] , Karam Kapahi v. Lal Chand Public Charitable Trust [(2010) 4 SCC 753 : (2010) 2 SCC (Civ) 262] and Jeevan Diesels and Electricals Ltd. v. Jasbir Singh Chadha [(2010) 6 SCC 601 : (2010) 2 SCC (Civ) 745] .) There is no such admission in this case.”

26. The Apex Court in S.M. Asif v. Virender Kumar Bajaj, (2015) 9 SCC 287, has observed that the power under Order XII Rule 6 of CPC is discretionary and cannot be claimed as a matter of right. The Apex Court also held that when Defendant has raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order Order XII Rule 6 of CPC. The Relevant portion of the said judgment reads as under:

“8. The words in Order 12 Rule 6 CPC “may” and “make such order ...” show that the power under Order 12 Rule 6 CPC is discretionary and cannot be claimed as a matter of right. Judgment on admission is not a matter of right and rather is a matter of discretion of the court. Where the defendants have raised objections which go to the root of the case, it would not be appropriate to exercise the discretion under Order 12 Rule 6 CPC. The said rule is an enabling provision which confers discretion on the court in delivering a quick judgment on admission and to the extent of the claim admitted by one of the parties of his opponent's claim.”

27. The Apex Court in Balraj Taneja v. Sunil Madan, (1999) 8 SCC 396, has observed as under:

“21. There is yet another provision under which it is possible for the court to pronounce judgment on



admission. This is contained in Rule 6 of Order 12 which provides as under:

“6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading 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.”

22. This rule was substituted in place of the old rule by the Code of Civil Procedure (Amendment) Act, 1976. The Objects and Reasons for this amendment are given below:

“Under Rule 6, where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on the admitted claim. The object of the rule is to enable a party to obtain a speedy judgment at least to the extent of the relief to which, according to the admission of the defendant, the plaintiff is entitled. The rule is wide enough to cover oral admissions. The rule is being amended to clarify that oral admissions are also covered by the rule.”

28. The Apex Court in Hari Steel & General Industries Limited v. Daljit Singh, 2019 (20) SCC 425, after placing reliance upon Himani Alloys Ltd



(supra), S.M. Asif (supra) and Balraj Taneja (supra), has observed as follows:

27. In the judgment in Balraj Taneja v. Sunil Madan [Balraj Taneja v. Sunil Madan, (1999) 8 SCC 396] , while considering the scope of Order 8 Rule 10 and Order 12 Rule 6 CPC, this Court has held that the court is not to act blindly upon the admission of a fact made by the defendant in the written statement nor should the court proceed to pass judgment blindly merely because a written statement has not been filed by the defendant traversing the facts set out by the plaintiff in the plaint filed in the court.

28. In the aforesaid judgment, while considering the scope of Order 12 Rule 6 CPC, post amendment by amending Act, 1976 this Court has held as under: (Balraj Taneja [Balraj Taneja v. Sunil Madan, (1999) 8 SCC 396] , SCC p. 408, paras 21-23)

“21. There is yet another provision under which it is possible for the court to pronounce judgment on admission. This is contained in Rule 6 of Order 12 which provides as under:

‘6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading 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.'

22. This rule was substituted in place of the old rule by the Code of Civil Procedure (Amendment) Act, 1976. The Objects and Reasons for this amendment are given below:

'Under Rule 6, where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on the admitted claim. The object of the rule is to enable a party to obtain a speedy judgment at least to the extent of the relief to which, according to the admission of the defendant, the plaintiff is entitled. The rule is wide enough to cover oral admissions. The rule is being amended to clarify that oral admissions are also covered by the rule.'

23. Under this rule, the court can, at an interlocutory stage of the proceedings, pass a judgment on the basis of admissions made by the defendant. But before the court can act upon the admission, it has to be shown that the admission is unequivocal, clear and positive. This rule empowers the court to pass judgment and decree in respect of admitted claims pending adjudication of the disputed claims in the suit."

29. By applying the ratio laid down by this Court in the aforesaid judgments, it is to be held that there are no categorical and unconditional admissions, as claimed by the respondent-plaintiffs. In view of the stand of the appellants that, pp. 3 and 4 of the agreement dated 3-5-2005 are tampered and their signatures are fabricated, when specific issue is already framed, it cannot be said that there are categorical and unconditional



admissions by the appellants. Mere admission of entering into arrangement/contract on 7-4-2005 and 3-5-2005 itself cannot be considered in isolation, without considering the further objections of the appellants that certain pages in the agreement are fabricated. In case the appellants prove that the agreement is fabricated as claimed, post-trial it goes to the root of the case on the claim of the respondent-plaintiffs. Hence, we are of the view that the aforesaid judgments fully support the case of the appellants.”

29. A perusal of the judgments passed by the Apex Court shows that unless admissions relied on are clear and categorical, Order XII Rule 6 of the Code of Civil Procedure, 1908 is a discretionary one and can be exercised only in cases where the admissions relied upon are clear, categorical, unconditional, unequivocal and leave no room for doubt or controversy. The object of the provision is to enable a Court to pronounce judgment without requiring a full-fledged trial in cases where the essential facts stand admitted and no substantial dispute survives between the parties. However, the said provision cannot be invoked merely because an admission exists in some form; rather, the admission must be of such a nature that it entitles the applicant to the relief claimed without the necessity of further evidence or adjudication.

30. It is equally well settled that a judgment on admission cannot be rendered where the alleged admission is capable of more than one interpretation or where the admission itself gives rise to questions requiring examination during trial. The Court, while exercising powers under Order XII Rule 6 CPC, must remain mindful of the fact that the provision is



intended to advance the cause of justice and not to foreclose a genuine defence. Consequently, where triable issues arise from the pleadings or where the legal effect of an admitted fact itself remains disputed, the matter must ordinarily proceed to trial.

31. The Defendant No.1 has explained his signatures on the documents by stating that these signatures were taken on blank papers. The Suit is still at a nascent stage and this Court is of the opinion that, at this stage, this Court must not embark on conducting a mini trial and only after the trial is conducted, interference can be drawn and a judgment can be rendered.

32. A perusal of the pleadings reveals that Defendant No. 1 has consistently disputed the contents of the documents in question and has specifically denied the Plaintiffs' interpretation thereof. Defendant No. 1 has further disputed the nature of the rights allegedly created by the said documents and has questioned their efficacy in conferring title or interest in the Suit Property. Therefore, while the signatures on the documents may not be in dispute, the rights and obligations purportedly arising therefrom remain seriously contested between the parties.

33. In the considered view of this Court, the controversy between the parties is not confined to the mere execution of the documents. The real dispute pertains to the nature of the documents, the circumstances in which they came to be executed, the intention of the parties, the legal effect of the recitals contained therein, and the extent of rights, if any, flowing therefrom. These are all matters which necessarily require evidence to be led by the parties and cannot be conclusively determined merely on the basis of admissions contained in the pleadings.

34. This Court is also of the view that the admissions relied upon by the



Plaintiffs do not satisfy the threshold contemplated under Order XII Rule 6 CPC. The alleged admissions are neither so complete nor so unequivocal as to entitle the Plaintiffs to a decree without trial. On the contrary, the stand taken by Defendant No. 1 demonstrates that substantial and bona fide disputes survive for adjudication. Any determination of the Plaintiffs' entitlement would necessarily require appreciation of documentary and oral evidence and examination of the rival contentions advanced by the parties.

35. In such circumstances, rendering a judgment at this stage would amount to prejudging issues that are required to be adjudicated after a full trial. The Court cannot, under the guise of exercising powers under Order XII Rule 6 CPC, deprive a party of its valuable right to establish its defence through evidence, particularly when the dispute pertains to title, interpretation of documents and the legal consequences flowing therefrom.

36. This Court, therefore, finds that the admissions relied upon by the Plaintiffs fall short of the standard required for the exercise of jurisdiction under Order XII Rule 6 CPC. The issues raised in the present proceedings are neither admitted nor free from controversy and consequently warrant adjudication on merits after the parties have been afforded an opportunity to lead evidence.

37. In view of the aforesaid discussion, this Court finds no merit in the present application. The same is accordingly dismissed. It is clarified that the observations made herein are confined to the adjudication of the present application and shall not be construed as an expression on the merits of the case, which shall be considered independently at the stage of trial.

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38. This Application under Order VII Rule 11(a) and (d) of CPC has been



filed by the Defendant No.1 seeking rejection of the Plaint.

39. It is stated by the Counsel for the Defendant No. 1 that the documents relied upon by the Plaintiffs, namely the Memorandum of Partition, Family Settlement, and Relinquishment Deed, are unregistered documents. The said documents purport to create, extinguish, assign, or declare rights in immovable property and, therefore, were compulsorily registrable under the provisions of the Registration Act, 1908. In the absence of registration, the same cannot be received in evidence for proving title or any right in the Suit Property.

40. It is argued that since the Plaintiffs' claim of ownership is founded entirely upon the aforesaid unregistered documents, the same are legally inadmissible for the purpose of establishing title in the Suit Property. Consequently, the Plaintiffs have failed to disclose any legally enforceable right in respect of the Suit Property.

41. It is stated by the Counsel for the Defendant No. 1 that the Plaintiffs have not placed on record any registered title document evidencing their ownership. On the contrary, Defendant No. 1 relies upon the registered Conveyance Deed dated 27.12.1995, the execution and existence whereof is not disputed. Therefore, the Plaintiffs seek to defeat a registered title solely on the basis of unregistered and inadmissible documents.

42. He states that the title of the Plaintiffs to the Suit Property is, therefore, seriously disputed and remains unestablished. In such circumstances, the Plaintiffs could not have maintained the present Suit without first seeking an appropriate declaration of title. A bare suit premised upon an unproven title is not maintainable in law.

43. It is therefore the case of Defendant No. 1 that the present Suit is



premature and misconceived, as the foundational issue of title remains unresolved. In the absence of a prayer for declaration and in view of the Plaintiffs' inability to establish title through admissible evidence, no enforceable cause of action accrues in favour of the Plaintiffs. Accordingly, the plaint is liable to be rejected under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908, as it fails to disclose a cause of action and the reliefs claimed are barred by law.

44. *Per Contra*, the Counsel for the Plaintiffs states that the contention of Defendant No. 1 that the documents relied upon by the Plaintiffs are inadmissible and cannot be looked into is wholly misconceived. Defendant No. 1 has himself admitted the execution and his signatures on the said documents. Having admitted the existence and execution of the documents, Defendant No. 1 cannot, at the threshold stage, seek rejection of the plaint by selectively disputing their legal effect. Such issues pertain to the evidentiary value and effect of the documents and can only be adjudicated upon after the parties lead evidence. The same cannot constitute a ground for rejection of the plaint under Order VII Rule 11 CPC.

45. He states that it is settled law that while considering an application under Order VII Rule 11 CPC, the Court is required to confine itself to the averments contained in the plaint and the documents relied upon therein. Questions relating to admissibility, proof, evidentiary value, or the ultimate effect of documents are matters for trial and cannot be conclusively determined at the stage of Order VII Rule 11 CPC.

46. The Counsel for the Plaintiffs further states without prejudice, the Memorandum of Family Settlement relied upon by the Plaintiffs does not require compulsory registration if it merely records a family arrangement



already arrived at between the parties. The law relating to family settlements is well settled by the Hon'ble Supreme Court in Kale & Ors. v. Deputy Director of Consolidation & Ors., (1976) 3 SCC 119, wherein it was held that a bona fide family arrangement intended to preserve family peace and resolve disputes ought to be given full effect and that a memorandum recording an already completed family settlement does not require registration.

47. The Counsel for the Plaintiffs states that a document itself creates rights in immovable property or merely records a pre-existing settlement is a mixed question of fact and law which necessarily requires examination of the document, surrounding circumstances, and conduct of the parties. Such an exercise cannot be undertaken at the stage of Order VII Rule 11 CPC.

48. He finally submits that the objections raised by Defendant No. 1 raise disputed questions of fact and law which cannot be decided in proceedings under Order VII Rule 11 CPC. The application is therefore liable to be dismissed.

49. This Court has considered the submissions advanced by the parties and perused the material placed on record.

50. The principal contention of Defendant No. 1 is that the Plaintiffs derive their title from the Memorandum of Partition, Family Settlement and Relinquishment Deed, which are unregistered documents and, therefore, cannot be relied upon in view of Section 49 of the Registration Act, 1908, the provisions of the Indian Stamp Act. It is further contended that in the absence of a declaration of title, the present Suit is not maintainable and does not disclose a cause of action.

51. The aforesaid contentions cannot be accepted at this stage.



52. At the outset, it is trite law that while considering an application under Order VII Rule 11 CPC, the Court is required to confine itself to the averments made in the plaint and the documents relied upon by the Plaintiffs. The defence raised by the Defendants and disputed questions of fact cannot be examined at this stage. The Court is not expected to conduct a mini trial or adjudicate upon issues requiring evidence.

53. The law relating to rejection of a plaint under Order VII Rule 11 is crystallised through various judgments of the Apex Court. The Apex Court in Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510, has held as under:

“13. Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.

14. In Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

15. In I.T.C. Ltd. v. Debts Recovery Appellate Tribunal [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view



to get out of Order 7 Rule 11 of the Code.

16. The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See *T. Arivandandam v. T.V. Satyapal* [(1977) 4 SCC 467] .)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in *Roop Lal Sathi v. Nachhattar Singh Gill* [(1982) 3 SCC 487] only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In *Raptakos Brett & Co. Ltd. v. Ganesh Property* [(1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.

19. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or



change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

20. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is prima facie of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.”

54. The learned Counsel for the Plaintiffs has relied upon the judgment passed by the Apex Court in Kale & Ors (supra) wherein the Apex Court has observed as under:

“9. Before dealing with the respective contentions put forward by the parties, we would like to discuss in general the effect and value of family arrangements entered into between the parties with a view to resolving disputes once for all. By virtue of a family settlement or arrangement members of a family descending from a common ancestor or a near relation seek to sink their differences and disputes, settle and resolve their conflicting claims or disputed titles once for all in order to buy peace of mind and bring about complete harmony and goodwill in the family. The family arrangements are governed by a special equity peculiar to themselves and would be enforced if honestly made. In this connection, Kerr in his valuable treatise Kerr on Fraud at p. 364 makes the following



pertinent observations regarding the nature of the family arrangement which may be extracted thus:

“The principles which apply to the case of ordinary compromise between strangers do not equally apply to the case of compromises in the nature of family arrangements. Family arrangements are governed by a special equity peculiar to themselves, and will be enforced if honestly made, although they have not been meant as a compromise, but have proceeded from an error of all parties, originating in mistake or ignorance of fact as to what their rights actually are, or of the points on which their rights actually depend.”

The object of the arrangement is to protect the family from long-drawn litigation or perpetual strifes which mar the unity and solidarity of the family and create hatred and bad blood between the various members of the family. Today when we are striving to build up an egalitarian society and are trying for a complete reconstruction of the society, to maintain .and uphold the unity and homogeneity of the family which ultimately results in the unification of the society and, therefore, of the entire country, is the prime need of the hour. A family arrangement by which the property is equitably divided between the various contenders so as to achieve an equal distribution of wealth instead of concentrating the same in the hands of a few is undoubtedly a milestone in the administration of social justice. That is why the term “family” has to be understood in a wider sense so as to include within its fold not only close relations or legal heirs but even those persons who may have some sort of antecedent title, a semblance of a claim or even if they have a spes successionis so that future disputes are sealed for ever and the family instead of fighting claims inter se and



wasting time, money and energy on such fruitless or futile litigation is able to devote its attention to more constructive work in the larger interest of the country. The courts have, therefore, leaned in favour of upholding a family arrangement instead of disturbing the same on technical or trivial grounds. Where the courts find that the family arrangement suffers from a legal lacuna or a formal defect the rule of estoppel is pressed into service and is applied to shut out plea of the person who being a party to family arrangement seeks to unsettle a settled dispute and claims to revoke the family arrangement under which he has himself enjoyed some material benefits. The law in England on this point is almost the same. In Halsbury's Laws of England, Vol. 17, Third Edition, at pp. 215-216, the following apt observations regarding the essentials of the family settlement and the principles governing the existence of the same are made:

“A family arrangement is an agreement between members of the same family, intended to be generally and reasonably for the benefit of the family either by compromising doubtful or disputed rights or by preserving the family property or the peace and security of the family by avoiding litigation or by saving its honour.

The agreement may be implied from a long course of dealing, but it is more usual to embody or to effectuate the agreement in a deed to which the term “family arrangement” is applied.

Family arrangements are governed by principles which are not applicable to dealings between strangers. The court, when deciding the rights of parties under family arrangements or claims to upset such arrangements, considers what in the broadest view of the matter is most for



the interest of families, and has regard to considerations which, in dealing with transactions between persons not members of the same family, would not be taken into account. Matters which would be fatal to the validity of similar transactions between strangers are not objections to the binding effect of family arrangements.”

10. *In other words to put the binding effect and the essentials of a family settlement in a concretised form, the matter may be reduced into the form of the following propositions:*

“(1) The family settlement must be a bona fide one so as to resolve family disputes and rival claims by a fair and equitable division or allotment of properties between the various members of the family;

(2) The said settlement must be voluntary and should not be induced by fraud, coercion or undue influence;

(3) The family arrangement may be even oral in which case no registration is necessary;

(4) It is well settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information of the court for making necessary mutation. In such a case the memorandum itself does not create or extinguish any rights in immovable properties and



therefore does not fall within the mischief of Section 17(2) of the Registration Act and is, therefore, not compulsorily registrable;

(5) The members who may be parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property which is acknowledged by the parties to the settlement. Even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the courts will find no difficulty in giving assent to the same;

(6) Even if bona fide disputes, present or possible, which may not involve legal claims are settled by a bona fide family arrangement which is fair and equitable the family arrangement is final and binding on the parties to the settlement.”

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25. It would be seen that when the name of Appellant 1 Kale was mutated in respect of the khata by the Naib Tahsildar by his order dated December 5, 1955 which is mentioned at p. 4 of the paper-book Respondents 4 & 5 filed an application for setting aside that order on the ground that they had no knowledge of the proceedings. Subsequently a compromise was entered into between the parties a reference to which was made in the compromise petition filed before the revenue court on August 7, 1956. A perusal of this compromise petition which appears at pp. 15 to 18 of the paper-book would clearly show two things — (1) that the petition clearly



and explicitly mentioned that a compromise had already been made earlier; and (2) that after the allotment of the khatas to the respective parties the parties shall be permanent owners thereof. The opening words of the petition may be extracted thus:

“It is submitted that in the above suit a compromise has been made mutually between the parties.

It would appear from the order of the Assistant Commissioner, First Class, being Annexure 4 in writ petition before the High Court, appearing at p. 19 of the paper-book that the parties sought adjournment from the Court on the ground that a compromise was being made. In this connection the Assistant Commissioner, First Class, observed as follows:

“On January 11, 1956 Mst Har Pyari and Ram Pyari gave an application for restoration in the court of Naib Tahsildar on the ground that they were not informed of the case and they were aggrieved of his order passed on December 5, 1955. On this application he summoned the parties and an objection was filed against the restoration application. The parties sought adjournment on the ground that a compromise was being made.

The parties filed compromise before the Naib Tahsildar according to which two lists were drawn, one of these is to be entered in the name of Kale and the other in the name of Har Pyari and Ram Pyari.”

This shows that even before the petition was filed before the Assistant Commissioner informing him that a compromise was being made, the parties had a clear compromise or a family arrangement in contemplation for which purpose an adjournment was taken. These facts coupled together unmistakably show that the



compromise or family arrangement must have taken place orally before the petition was filed before the Assistant Commissioner for mutation of the names of the parties in pursuance of the compromise. The facts of the present case are therefore clearly covered by the authorities of this Court and the other High Courts which laid down that a document which is in the nature of a memorandum of an earlier family arrangement and which is filed before the court for its information for mutation of names is not compulsorily registrable and therefore can be used in evidence of the family arrangement and is final and binding on the parties. The Deputy Director of Consolidation, Respondent 1 as also the High Court were, therefore, wrong in taking the view that in absence of registration the family arrangement could not be sustained. We might mention here that in taking this view, the High Court of Allahabad completely overlooked its own previous decisions on this point which were definitely binding on it. This, therefore, disposes of the first contention of the learned counsel for the respondents that as the family arrangement having been reduced into the form of a document which was presented before the Assistant Commissioner was unregistered it is not admissible and should be excluded from consideration.”

55. The Family Agreement was not required to be compulsorily registered. The effect of the Family Agreement or whether such an arrangement was actually entered into between the Parties or not will have to be seen in trial. The Plaint can sustain only on the basis of Family Agreement.

56. A perusal of the plaint demonstrates that the Plaintiffs have asserted rights in the Suit Property on the basis of a family arrangement, the documents executed pursuant thereto, and the conduct of the parties. The



plaint discloses a complete bundle of facts constituting a cause of action. Whether the Plaintiffs ultimately succeed in establishing such rights is a matter to be determined upon trial.

57. It is also pertinent to note that Defendant No. 1 does not dispute the execution of the documents relied upon by the Plaintiffs and has admitted his signatures thereon. Once the execution of the documents is admitted, the questions as to their nature, effect, admissibility, and the rights flowing therefrom become matters requiring adjudication on evidence. Such issues cannot be conclusively determined in proceedings under Order VII Rule 11 CPC.

58. Whether the documents in question themselves create rights in immovable property requiring compulsory registration, or merely record a pre-existing family arrangement, is a mixed question of fact and law which cannot be decided without examining the documents in their entirety and the surrounding circumstances.

59. Equally untenable is the contention that the Suit is liable to be rejected for want of a prayer seeking declaration of title. The Plaintiffs have asserted an existing right in the Suit Property and have sought reliefs founded thereon. Whether the Plaintiffs possess a better title than Defendant No. 1 and whether a declaration was necessary in the facts of the case are matters which can only be decided after the parties have led evidence. At this stage, it cannot be held that the plaint is barred by law or that it fails to disclose a cause of action.

60. The objections raised by Defendant No. 1 essentially require this Court to determine the validity, admissibility, legal effect and evidentiary value of the documents relied upon by the Plaintiffs. Such an exercise falls



squarely within the domain of trial and lies beyond the limited scope of an enquiry under Order VII Rule 11 CPC.

61. Accordingly, this Court is of the considered view that the plaint discloses a cause of action and that no ground for rejection of the plaint under Order VII Rule 11(a) or Order VII Rule 11(d) CPC is made out.

62. In view of the aforesaid discussion, the application filed by Defendant No. 1 under Order VII Rule 11 CPC is dismissed.

63. It is clarified that the observations made herein are confined solely to the adjudication of the present application and shall not be construed as an expression on the merits of the disputes between the parties.

CS(OS) 583/2019 & I.A. 11150/2020 , I.A. 4809/2021 , I.A. 11450/2021, I.A. 14309/2021, I.A. 14381/2021 , I.A. 14382/2021 , I.A. 3204/2022 , I.A. 5374/2022 , I.A. 5378/2022 , I.A. 6672/2023 , I.A. 19622/2023

CS(OS) 39/2022 & I.A. 1317/2022, I.A. 8437/2022 , I.A. 8453/2022 , I.A. 10545/2022 , I.A. 13478/2022 , I.A. 13537/2022

List on 08.09.2026.

SUBRAMONIUM PRASAD, J

JULY 01, 2026

hsk/mt