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

+ **CS(OS) 5/2023 & CRL.M.A. 13892/2025, I.A. 36/2023**

PARVEEN KUMAR GUPTA & ORS

.....Plaintiffs

Through: Mr. Sanjeev Sindhwani, Senior Advocate; Ms. Shalini Kapoor, Mr. Trilokinath Garg, Ms. Divyanshi Saxena and Mr. Udit Bhatiani, Advs.

versus

BANKEY BIHARI GUPTA & ORS

.....Defendants

Through: Mr. Rohan Dewan, Mr. YR Sharma, Advs. for D-1
Mr. Daksh Tikoo, Advocate for D-2

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **20.05.2026**

I.A. 16131/2023

1. This is an application on behalf of Defendant No.1 under Order VII Rule 11 of the CPC, 1908 for rejection of the Plaint filed by the Plaintiff in CS(OS) 5/2023.
2. The Applicant has filed the aforesaid application primarily on two grounds, first is that the Plaintiff has failed to establish any valid cause of action in the suit and, second that it is barred by limitation.
3. In order to adjudicate the present application, it is necessary to lay down the factual background of the Suit which is as follows:-
 - i. The Plaintiffs have filed the present Suit seeking declaration of a



registered Sale Deed dated 13.11.2000 allegedly executed by two impersonators, one Mr. Jiwan Ram (Defendant No.3) and Shambhu Nath (Defendant No.4) in favour of Mr. Bankey Bihari Gupta (Defendant No.1) and a GPA dated NIL, registered on 04.12.2020 in favour of Mr. Sandeep Kumar (Defendant No.2) executed by Defendant No.1 with respect to a property bearing No. 1449/B-1, Durgapuri Chowk, Loni Road, Shahdara, Delhi comprising of Khasra Numbers 444, 445, 446 and 447 measuring 6 Bighas and 9 Biswas (*hereinafter referred to as the 'Suit Property'*), declaring these two documents to be invalid, *non est*, illegal, null and void. The Plaintiffs have also sought for cancellation of the two aforesaid documents.

- ii. It is stated that the Plaintiffs are jointly the absolute and exclusive owners, in possession of the Suit Property. The Suit Property comprises of a Kothi, hall, chowkidar rooms, boundary walls as stipulated in the site plan.
- iii. It is stated that Late Shri Jiwan Lal @ Jiwan Ram with Late Shimbhou Nath had jointly purchased the Suit Property by way of two Conveyance Deeds, i.e., a registered Sale Deed dated 10.05.1947 and a registered Gift Deed dated 22.03.1947.
- iv. It is stated that 50% share in the Suit Property of Late Shimbhou Nath was divided amongst the family members on the basis of Memorandum of Partition arrived between the family members. Late Shimbhou Nath passed away on 14.12.1994.
- v. After the death of Late Shimbhou Nath, his LRs instituted a Suit bearing No.2426/1996 before the High Court of Delhi with



respect to the partition of the estate of Late Shimbhou Nath. The said Suit was disposed of *vide* Order dated 01.08.2000 wherein the Suit was decreed in terms of the Settlement as per the compromise application.

- vi. In the year 1996, Late Jiwan Lal executed six identical Wills, wherein his 50% portion in the Suit Property was bequeathed to his family members. Late Jiwan Lal passed away on 06.02.1997. The Suit Property was mutated in the name of the Plaintiffs *vide* Mutation Letters No. Tax/SHN/20 12/D-7 66 and Tax/SHN/20 12/D-7 65 issued by East Delhi Municipal Corporation.
- vii. The Plaintiffs are the legal heirs of Late Jiwan Lal and Late Shimbhou Nath and are together the joint and absolute owners in possession of the Suit Property.
- viii. It is stated that on the intervening night of 12.02.2021 and 13.02.2021, around 2:00-3:00 AM, some unknown miscreants were trying to illegally trespass the Suit Property. These individuals were detained by the Policemen who were patrolling in the concerned area.
- ix. After the said incident, Plaintiffs No.1 to 10 filed a complaint before the SHO, Jyoti Nagar Police Station, Loni Road, Shahdara, Delhi on 13.02.2021 being DD No.63A against the individuals who were trying to trespass the Suit Property.
- x. The said Plaintiffs were informed by the SHO that Defendant No.1 is claiming to be the owner of the Suit Property on the basis of an alleged registered Sale Deed dated 13.11.2000. It was further informed that Defendant No.1 had executed a GPA dated



NIL, registered on 04.12.2020 in favour of Defendant No.2.

- xi. On visiting the Police Station, the Plaintiffs were shown the copy of the alleged registered Sale Deed and the GPA. Defendant No.1 & 2, informed the Police that the Suit Property was sold by Jiwan Ram and Shambhu Nath to Defendant No.1 *vide* the alleged registered Sale Deed dated 13.11.2000.
- xii. The Plaintiffs along with the said complaint handed over documents to the Police officials to assert their title over the Suit Property. On 29.10.2021, Defendant No.1 was arrested by the Police. It is stated that the alleged forged Sale Deed dated 13.11.2000 and the GPA dated NIL, registered on 04.12.2020 has not been recovered by the Police.
- xiii. The office of SDM, Shahdara, GNCTD, *vide* Letter bearing F.No. SDM/Shah/Misc/202111439-42 dated 06.04.2021 directed the SHO, Police Station Jyoti Nagar, that Defendant No.2 shall be allowed to enter the Suit Property.
- xiv. On knowledge of the said Order dated 06.04.2021, the Plaintiffs sent a representation to the SDM, Shahdara, Delhi. On receipt of the said representation, SDM, Shahdara, *vide* its Order dated 12.04.2021, withdrew the earlier Order dated 06.04.2021.
- xv. The Plaintiffs in receipt of the said information, in continuation to the complaint dated 13.02.2021 lodged another complaint dated 15.04.2021 with SHO, Police Station Jyoti Nagar, Shahdara, Delhi for the offence of forgery, criminal trespass, falsifying documents, dishonest misappropriation against Defendants No.1 and 2 and other unknown persons with whose



connivance the said conspiracy to grab the Suit Property took place.

- xvi. An FIR No.621/2021 dated 22.10.2021 was registered at the instance of Plaintiff No.1 for offences under Section 467, 468, 471, 448, 511 and 120B of the IPC. Subsequently, Defendant No.1 was arrested by the Police and was sent to judicial custody for 35 days.
 - xvii. On 06.05.2022, Police Station Jyoti Nagar filed the chargesheet wherein it was admitted that Defendant No.1 in the year 2020 was approached by one Yogender Gupta with a scheme to forge fake papers for the Suit Property.
 - xviii. Hence, the Plaintiffs have filed the instant Suit seeking cancellation of the forged and fabricated Sale Deed dated 13.11.2000 and registered GPA dated 04.12.2020 and declaring the said documents as invalid, illegal, *non est* and null and void.
4. Learned Counsel for Defendant No.1 states that the Suit is barred by limitation. It is stated that the Plaint itself relies on the Sale Deed executed and registered way back on 13.11.2000 by Mr Jiwan Ram and Mr. Shambhu Nath and the Plaintiffs have failed to prove their unequivocal ownership being the LR's of the parties who executed the said Sale Deed.
5. Learned Counsel for Defendant No.1 states that it is clear that the Suit Property was owned by Mr. Jivan Ram (Defendant No.3) and Mr. Shambhu Nath (Defendant No.4) by way of registered documents in the year 1947 and mutation thereof was recorded in the revenue record in their name. He states that Plaintiff No.9 to 16 may be LR's of their father, namely, Late Jivan Lal but is not the LR of the actual and true owner who is Mr. Jivan Ram



(Defendant No.3). Similarly, Plaintiffs No. 1 to 9 might be the LRs of Late Mr. Shimbhou Nath but are definitely not the legal heirs of the actual and true owner who was Mr. Shambhu Nath (Defendant No.4).

6. In essence, learned Counsel for Defendant No.1 argues that the Plaintiffs have failed to establish the right to sue as the legal heirs of the actual owners of the Suit Property and they have only done so in the present Suit under the guise of impersonation of the real owners, who are Defendant No.3 and Defendant No.4.

7. He further states that the documents filed and relied by the Plaintiffs do not confer any ownership right upon them which is also clear by the mutation letter. Learned Counsel for Defendant No.1 states that the Plaintiffs have failed to file any identity proof that clarifies that they are related to the original owners of the Suit Property, who according to the Defendants, are Defendants No.3 and 4.

8. He states that Jivan Ram and Shambhu Nath died in the year 1996 and 1997 respectively and yet the mutation proceedings and the probate proceedings were only initiated in the year 2012. Although the present Suit is for cancellation of the Sale Deed, the FIR dated 22.10.2021 does not stipulate any charge of fraudulent Sale Deed.

9. Learned Counsel for Defendant No.1 contends that the title of any immovable property can only be transferred in accordance with law by procedure followed in law and no such steps have been taken by the Plaintiffs thereby barring them of any right to sue for the Suit Property. Further, he states that the Sale Deed was executed in the year 2000 and according to the Article 59 of the Limitation Act, the present Suit could have filed only within three years of the execution of the said Sale Deed dated



13.11.2000 which has not been done in the present case and therefore the present Suit is clearly an absolutely barred by limitation.

10. Learned Counsel for Defendant No.1 states that the Suit is also barred with respect to the alleged fraud committed by Defendant No.1 by virtue of Section 17 of the Limitation Act which provides for an application to be made within one year of the discovery of fraud or the cessation of force. Learned Counsel contends that the Plaintiffs must have had the full knowledge of the subject property in favour of Defendant No.1 by virtue of chargeheet which was filed on 08.05.2022 making the last date to file the present Suit to be 07.05.2023 thereby making the present Suit highly time barred under Section 17 of the Limitation Act.

11. *Per contra*, learned Senior Counsel for the Plaintiffs states that the present application is completely misconceived under the garb of impersonation. He states that the Defendants are trying to mislead the Court on the basis of forged documents executed by parties with similar names. The Plaintiffs are the legal heirs of the original owner of the Suit Property who were Late Mr. Jiwan Lal @ Jiwan Ram and Late Mr. Shimbhou Nath. He asserts that Defendant No.3 and 4 have only forged fake papers under the garb of taking over the Suit Property which is in peaceful possession of the Plaintiffs.

12. He states that the Plaintiffs are the legal heirs and have the legal right to file the present Suit as the Suit Property has been mutated in the name of the Plaintiffs *vide* Mutation No. Tax/SHN/20 12/D-7 66 and Tax/SHN/20 12/D-7 65 issued by East Delhi Municipal Corporation. He further states that the Plaintiffs have been paying house tax for the Suit Property regularly since 2004.



13. Learned Senior Counsel for the Plaintiffs states that the Plaintiffs were enjoying absolute, exclusive and peaceful possession of the Suit Property since it was mutated in their name. The cause of action to file the present Suit only arose on the night of trespass by Defendant No.1 in the Suit Property on the intervening night of 12.02.2021 and 13.02.2021. The cause of action further arose when the SDM issued the Order dated 06.04.2021 through which he allowed the entrance of Defendant No.2 in the Suit Property under the garb of the forged documents. He therefore contends that the present Suit has been filed on a valid cause of action and well within limitation.

14. Learned Senior Counsel for the Plaintiffs draws the attention of this Court to the Gift Deed dated 22.03.1947 registered on 14.04.1947 registered with Sub-Registrar, Delhi wherein the Suit Property was gifted to Mr. Jiwan Lal and his partner Mr. Shimbhou Nath. He further draws the attention of this Court on the land record filed with the Suit wherein it can be observed that Mr. Jiwan Ram along with Mr. Shimbhou Nath are the owners in possession of Khasra No.444, 445, 446 & 447.

15. Heard learned Counsel for the parties and perused the material on record.

16. At the outset, it is well settled that while adjudicating an application under Order VII Rule 11 of the CPC this Court is required to confine itself only to the averments made in the Plaint and the documents relied upon by the Plaintiffs. The defence raised by the Defendants on the disputed question of fact cannot be considered at this stage.

17. Order VII Rule 11 of the CPC reads as under:-

“11. Rejection of plaint.—



The plaint shall be rejected in the following cases:—

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

18. A meaningful reading of the Plaint demonstrates that the Plaintiffs have disclosed a cause of action requiring adjudication by this Court. The Plaint cannot be said to be barred by any law on the face of the record as the Plaintiff has filed documents that require examination in order to ascertain



their validity and authenticity under law. The Plaintiffs have relied upon mutation documents, sale deeds, gift deeds which on the face of record stipulate that Mr. Jiwan Lal and Mr. Shimbhou Nath could be the original owners of the Suit Property. Although this position is contested by the Defendants, the adjudication of this contention cannot happen under Order VII Rule 11 of the CPC as the Defendant has raised issues which pertain to disputed question of fact and mixed question of law and facts which can only be adjudicated upon completion of pleadings and leading of evidence by the parties.

19. 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.”

20. Material on record indicates that the Plaintiffs do have a right to sue. The mutation letters relied upon by the Plaintiffs stipulate that Plaintiff No.1 and Plaintiff No.10 are the sons of Late Shimbhou Nath and Late Jiwan Lal respectively. Further, Late Shimbhou Nath and Late Jiwan Lal were bequeathed the Suit Property vide Gift Deed dated 22.03.1947 registered on 14.04.1947 registered with Sub-Registrar, Delhi wherein the Suit Property was gifted to Mr. Jiwan Lal and his partner Mr. Shimbhou Nath.

21. In the Gift Deed dated 22.03.1947, names of Jiwan Lal and Jiwan Ram has been used to represent the same person. The averments made by



the Plaintiffs in the Complaint that Jiwan Lal is the alias name of Jiwan Ram. In the Gift Deed, the donor has referred to Jiwan Lal and Jiwan Ram as the same person and it is sufficient for the cause of action and the complaint cannot be rejected on the ground that there is no cause of action.

22. It is trite law that cause of action is only a bundle of facts. In the opinion of this Court, provisions of Order VII Rule 11(a) of the CPC is therefore not attracted. Further, the incident because of which the Plaintiffs came to know regarding the forgery took place on 12.02.2021. The first complaint was registered on 13.02.2021. The Suit has been filed within three years of the said date and therefore the Suit is within limitation.

23. Further, limitation is a mixed question of law and fact and that ordinarily Complaint is rejected on the question of limitation only when averments in the Complaint clearly demonstrates that the Suit has been filed after the prescribed period after the cause of action arose. In the opinion of this Court both grounds are not attracted.

24. This Court finds force in the argument advanced by the learned Senior Counsel for the Plaintiffs that the Plaintiffs were in peaceful possession of the Suit Property thereby not necessitating the filing of the present Suit until their possession was disturbed on the intervening night of 12.02.2021 and 13.02.2021 which provides that the present Suit has been filed well within the period of limitation. The aforesaid position is further confirmed by the registration of FIR against Defendant No.1 and his arrest on the basis of the investigation which only emanated on the facts as stipulated in the Complaint of the present Suit.

25. In any case, the contentions of Defendant No.1 advanced by way of this application necessitates a detailed examination of fact and documents



which exercise falls beyond the limited scope of Order VII Rule 11 of the CPC. At this preliminary stage, this Court is not expected to conduct a mini trial and examine the merits of the rival claims. In view of the aforesaid, this Court does not find any ground warranting rejection of the Plaint under Order VII Rule 11 of the CPC and accordingly the present application is dismissed.

I.A. 14347/2023

26. List on 30.07.2026.

SUBRAMONIUM PRASAD, J

MAY 20, 2026

hsk/mt