



2025:DHC:4458



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 06.05.2025

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C.R.P. 25/2024, CM APPL. 3468/2024 & CM APPL. 3470/2024

SMT. SONIA

.....Petitioner

Through: Mr. Sachin Chaudhary & Mr. Sachin
Sharma, Advocates.

versus

SHRI. SITA RAM

.....Respondent

Through: Mr. Advocate [appearance not given]

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM APPL. 3470/2024 [Seeking condonation of delay]**

1. This is an Application filed on behalf of the Petitioner seeking condonation of delay of 175 days in filing the present Petition.
2. Learned Counsel for the Respondent submits that he has no objection if the prayer in the present Application is allowed.
3. For the reasons as stated in the Application and in view of the expediency, the delay is condoned.
4. The Application stands disposed of.

C.R.P. 25/2024 & CM APPL. 3468/2024 [Stay]

5. The present Petition has been filed on behalf of the Petitioner under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] against the order dated 18.04.2023 passed by learned ACJ-CCJ-ARC, North District, Rohini Courts, Delhi [hereinafter referred to as



“Impugned Order”].

5.1 By the Impugned Order, the Application under Order VII Rule 11(b) of the CPC filed by the Petitioner has been dismissed by the learned Trial Court giving a finding that *prima facie* the Petitioner is in permissive possession of the suit property and thus no ground for allowing the Application under Order VII Rule 11 of CPC was made out by the Petitioner and thus the Court fee paid is not adequate.

5.2 The record reflects that the Application that was filed by the Petitioner was filed under Order VII Rule 11 sub-Section (b) of the CPC. It is apposite to set out Order VII Rule 11 sub-Section (b) of the CPC and proviso thereto, which is extracted below:

“ORDER VII

Plaint...

11. Rejection of plaint.— *The plaint shall be rejected in the following cases:—*

xxx

xxx

xxx

(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;

xxx

xxx

xxx

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.”

6. A plain reading of this provision shows that the Section in itself has an inbuilt provision for grant of an opportunity, where a relief is



undervalued. The provision requires the plaintiff to correct the valuation within the time as fixed by the Court. However, if the plaintiff fails to do so within the affixed time as fixed, that is when, the provision will get triggered in such circumstances. If upon a direction to a Plaintiff to revise the valuation, a Plaintiff fails to correct the valuation within the fixed time, an order under Order VII Rule 11(b) CPC can be passed.

7. In the case of ***Commercial Aviation and Travel Co. & Ors. v. Vimla Pannalal***¹, the Supreme Court has held that under Order VII, Rule 11(b) if the Court has to come to a finding that the relief as claimed by the plaintiff has been undervalued, then the court can decide and specify proper and correct valuation of the relief and, after determination of the correct value of the relief, the plaintiff is required to correct his valuation within time as fixed by the court and if the plaintiff fails to correct the valuation within the time allowed, the plaint is liable to be rejected. The relevant extract of the ***Commercial Aviation and Travel Co.*** case is reproduced below:

“9. In this connection, we may refer to the provision of Order VII, Rule 11 (b) of the Code of Civil Procedure, which provides, inter alia, that the plaint shall be rejected 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. It is manifestly clear from the provision of Order VII, Rule 11(b) that a court has to come to a finding that the relief claimed has been undervalued, which necessarily means that the court is able to decide and specify proper and correct valuation of the relief and, after determination of the correct value of the relief, requires the plaintiff to correct his valuation within a time to be fixed by the court. If the plaintiff does not correct the valuation within the time allowed, the plaint is liable to be rejected. The question is whether in a suit for accounts simpliciter, the court can come to a finding as to the proper and correct value of the relief until the final determination is made. In our opinion, ordinarily it is not possible for the court at a preliminary stage to

¹ (1988) 3 SCC 423



determine the value of the relief in a suit for accounts simpliciter. If the court is itself unable to say what the correct valuation of the relief is, it cannot require the plaintiff to correct the valuation that has been made by him. Indeed, in a suit for accounts it is also difficult for the court to come to a finding even as to the approximate correct valuation of the relief. In such a case, the court has no other alternative than to accept plaintiff's valuation tentatively."

[Emphasis Supplied]

8. Learned Counsel for the Petitioner fairly submits that there is no such order passed by the learned Trial Court wherein the learned Trial Court has given a finding that the valuation of the suit of Respondent/plaintiff is not correct.
9. In these circumstances, clearly the provisions of Order VII Rule 11(b) CPC are not applicable.
10. The High Court may exercise its jurisdiction under Section 115 of the CPC if the subordinate court appears to have exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, has acted in the exercise of its jurisdiction illegally or with material irregularity.
11. As discussed above, no grounds have been made out by the Petitioner which would merit interference of this Court in exercise of its jurisdiction under Section 115 of the CPC.
12. The present Petition is accordingly dismissed. The pending Application also stands closed.
13. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 6, 2025/ ha/pa

[Click here to check corrigendum, if any](#)