



2025:DHC:6158



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

Date of Decision: 11.07.2025

+ **C.R.P. 31/2025, CM APPL. 5986/2025, CM APPL. 5987/2025**

BASANT SAWHNEY

.....Petitioner

Through: Mr. Sunil Mittal, Sr. Adv. with Mr.
Ashwani Kumar, Adv. with Petitioner
in-person

versus

ASHVINDER CHOPRA & ORS.

.....Respondents

Through: Mr. Tanuj Khurana, Mr. Ramandeep
Bawa, Mr. Abhishek Rawat, Advs.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed by the Petitioner under Section 115 read with Section 151 of Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] seeking to challenge an order dated 07.10.2024 passed by Ld. District Judge, Patiala House Courts, Delhi [hereinafter referred to as 'Impugned Order']. By the Impugned Order, an Application under Order VII Rule 11 of the CPC filed by the Petitioner (Defendant No.1 before the learned Trial Court) has been dismissed.

2. Learned Senior Counsel for the Petitioner submits that in compliance of order dated 31.01.2025 passed by a Coordinate Bench of this Court, the plaint and the Application as well as the previous plaint have been placed on record.



3. Learned Senior Counsel for the Petitioner submits that the Application under Order VII Rule 11 of the CPC filed by the Petitioner [hereinafter referred to as the “Application”] has been dismissed, despite the objections that were taken in the Application by the Petitioner. Learned Senior Counsel submits that several grounds were raised in the Application including that the matter in issue in the current suit is substantially an issue in a previously instituted suit, and that previously instituted suit is pending adjudication before another Court. It is submitted that the ground that the Respondent/Plaintiff has not affixed adequate Court fee on the plaint has also not been dealt with.

3.1 Learned Counsel for the Respondent/Plaintiff on the other hand submits that so far as concerns the ground urged under Section 10 of the CPC, the Petitioner/Defendant has already conceded the said ground, and thus, no finding on that ground was requisite.

4. An examination of the Impugned Order shows that the Impugned Order in paragraph 3 discusses two grounds of the Application. The grounds include of *res sub-judice* contending a suit on same cause of action is pending and second ground being the under-valuation of suit. The Impugned Order does set out that the ground under Section 10 of the CPC (*sub-judice*) do not survive in view of the suit being partly decreed by order dated 01.04.2024 passed in the second proceedings being CS No.241/2022 captioned ***Basant Sawhney & Anr. v. Jagmeet Singh Chopra***.

5. On the ground taken by the Petitioner of under-valuation of the plaint also, the learned Trial Court has found that this is a subject matter of trial and hence cannot be decided in an Application under Order VII Rule 11 of



the CPC. However, the Impugned Order is absolutely bereft of any reasons. Other than setting out that the cause of action is different and that the objection “*is not much of relevance*” and no finding has been given. It is apposite to set out the paragraphs 6 and 7 of the Impugned Order below:

“6. As regards, the plaintiff not having availed the permission of this Court to file the present suit, it is worth observing that CS no. 329/22 was premised upon landlord tenant relationship. Whereas, the present suit claims possession of the suit property urging that defendants no. 1 and 2 are trespassers in the suit property. The cause of action espoused, herein, is therefore, different. Hence, the objection under Order XXII Rule 1(3) of CPC is not of much relevance.

7. With regard to the objection of under valuation of the suit, at this stage, the plaintiff has valued the suit @ Rs. 65,00,000/-. It is a matter of trial whether the market value of the suit property is Rs. 65,00,000/-. The issue cannot be decided in limine as is the scope of application under Order VII Rule 11 of CPC.”

[Emphasis Supplied]

6. It is settled law that a judicial decision or order must record reasons since these reassure that the discretion meant to be exercised by the Court has been exercised on relevant grounds and by disregarding extraneous considerations. The insistence on reasoning is a requirement for both judicial accountability and transparency. In addition, reasons in support of the decisions must be cogent, clear and succinct. This has been aptly explained by the Supreme Court in *Kranti Associates (P) Ltd. & Anr. v. Masood Ahmed Khan & Ors.*¹, where the Supreme Court has held that recording of reasons is necessary as justice must not only be done, it must also appear to be done as well. The relevant extract of *Kranti Associates (P) Ltd.* case is set out herein below:

“47. Summarising the above discussion, this Court holds:

¹ (2010) 9 SCC 496



(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001



EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

[Emphasis supplied]

7. In *Maya Devi (D) Through Lrs vs Raj Kumari Batra (D) Through Lrs. & Ors*², the Supreme Court recognised the importance of recording of reasons in cases where an order is subject to further appeal. The Court held that where an order is subject to further appeal, it is necessary to set out reasons as the appellate court or authority in their appellate jurisdiction ought to have the advantage of examining the reasons that prevailed with the court or the authority passing such order impugned in the appeal. The relevant extract of *Maya Devi (D) Through Lrs.* case is set out herein below:

“30. Recording of reasons in cases where the order is subject to further appeal is very important from yet another angle. An appellate court or the authority ought to have the advantage of examining the reasons that prevailed with the court or the authority making the order. Conversely, absence of reasons in an appealable order deprives the appellate court or the authority of that advantage and casts an onerous responsibility upon it to examine and determine the question on its own. An appellate court or authority may in a given case decline to undertake any such exercise and remit the matter back to the lower court or authority for a fresh and reasoned order. That, however, is not an inflexible rule, for an appellate court may notwithstanding the absence of reasons in support of the order under appeal before it examine the matter on merits and finally decide the same at the appellate stage. Whether or not the appellate court should remit the matter is discretionary with the appellate court and would largely depend upon the nature of the dispute, the nature and the extent of evidence that may have to be appreciated, the complexity of the issues that arise for determination and whether remand is going to result in avoidable

² (2010) 9 SCC 486



prolongation of the litigation between the parties. Remands are usually avoided if the appellate court is of the view that it will prolong the litigation.”

[Emphasis supplied]

8. The record reflects that a suit for eviction and possession of immovable property along with recovery of mesne profits and permanent injunction was filed by the Respondent/Plaintiff against the Petitioner and Respondent No.2. An application was filed under Order VII Rule 11 of the CPC by the Petitioner and Respondent No.2 setting out that the suit is barred by Order XXIII Rule 4 of the CPC and that the suit is liable to be rejected on the ground of *res sub-judice* as provided under Section 10 of the CPC and lastly that the Respondent/Plaintiff has not affixed requisite Court fee on the plaint.

8.1 The Impugned Order only gives a finding that the valuation of the suit is a matter of trial and hence cannot be decided in an application under Order VII Rule 11 of the CPC without assigning any reasons whatsoever. The Impugned Order thus cannot be sustained in terms of the settled law and is accordingly set aside.

9. So far as concerns the finding of the learned Trial Court in paragraph 5, since the Petitioner has conceded that the said ground of Section 10 of the CPC would not survive, this Court is not inclined to interfere with this finding.

10. The parties shall appear before the learned Trial Court on the date already fixed.

11. It is clarified that this Court has not examined the matter on merits. All rights and contentions of the parties are left open.



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12. Learned Counsel for the Respondents submits that unnecessary adjournments have been taken by the Petitioner before the learned Trial Court. This contention is refuted by the learned Senior Counsel for the Petitioner.

13. Learned Senior Counsel for the Petitioner and learned Counsel for the Respondents, on instructions, submit that no unnecessary adjournments shall be taken by the parties before the learned Trial Court.

13.1. The parties are bound down by the statement made by their Counsel before the Court today.

14. The Petition is disposed of in the foregoing terms.

15. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 11, 2025/jn/ha