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

% ***Decided on 31.10.2025.***

+ C.R.P. 113/2019 and CM APPL. 22701/2019 (*for stay*)

M/S PINEAPPLE INFRA PROJECTS LTD .....Petitioner

Through: Mr. Abhimanyu A Walia, Mr.  
Aryan Malik and Mr. Kamakshraj  
Singh, Advocates.

versus

SANTOSH KAUR & ORS .....Respondents

Through: Mr. Tarun Diwan, Mr. Dheeraj Kr.  
Singh, Mr. Rashim and Mr. Rakesh  
Kr. Dudeja, Advocates for R1.  
Mr. Sumeet Batra and Ms.  
Roopanshi Batra, Advocates for  
R3 to R11.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J (ORAL)**

1. By way of this petition under Section 115 of the Civil Procedure Code, 1908 ["CPC"], the petitioner, who is impleaded as defendant No. 18 in Civil Suit No. 47/2016<sup>1</sup> pending before the Court of learned Additional District Judge (Central), Tis Hazari Courts, Delhi, assails an order dated 18.02.2019, by which its application under Order VII Rule 11 of the CPC was rejected.

2. The suit is one for partition of immovable property bearing No.

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<sup>1</sup> *Sardar N. Kirpal Singh (Deceased) Through LRs vs. Smt. Kanwal Raj Kaur & Ors.*



2/54, Original Road, Karol Bagh, New Delhi [“the suit property”]. It was originally filed before this Court as Civil Suit (OS) No. 554/1988, by one Sardar N. Kirpal Singh against various members of his family.

3. The petitioner was subsequently impleaded, by an order dated 17.07.2017, on an application filed by it under Order I Rule 10 of the CPC. The petitioner had sought impleadment on the basis that it is the owner of the suit property, which had been transferred to it by a registered sale deed dated 01.02.2012, executed by one S. Parnvat Singh, [respondent No. 24 herein]. S. Parnvat Singh, who had earlier been impleaded as defendant No. 17 in the suit, claimed that he had inherited the suit property from his grandmother, Smt. Prakash Kaur, the mother of the original plaintiff, by virtue of a registered Will dated 19.12.1979. It is noted in the order of the Trial Court dated 17.07.2017 that, in the suit, pleadings had been filed challenging the validity and legality of the said Will. As the determination of such an issue would have a bearing on the right, title, and interest of the petitioner herein, it was held that the petitioner was liable to be impleaded as a defendant.

4. The original plaintiff having abandoned the suit, the Trial Court, by order dated 17.07.2017, transposed respondent Nos. 1 to 11 herein as plaintiffs in the suit.

5. The petitioner thereafter filed an application for rejection of the plaint, under Order VII Rule 11 of the CPC, in which it was contended that late Smt. Prakash Kaur had become the sole owner of the suit property, pursuant to an arbitral award dated 21.03.1952, which was made a Rule of Court on 20.08.1952. The petitioner further contended that Smt. Prakash Kaur had been held to be the absolute owner of the suit



property, in a separate litigation<sup>2</sup>, filed by her against the legal representatives of the original plaintiff. The said suit had culminated in a decree dated 05.09.1981, to the said effect. A first appeal<sup>3</sup> and a second appeal<sup>4</sup> against the said judgment were also dismissed, by order of the learned Additional District Judge dated 31.03.2000, and by judgment of this Court dated 15.11.2010, respectively. On the basis of these averments, it was contended that the suit property had become the absolute property of Smt. Prakash Kaur, and that there was no property capable of partition between the parties to the suit.

6. The application was dismissed by the impugned order of the Trial Court, holding that the defences raised by the defendants in the suit could not be looked at while considering an application under Order VII Rule 11 of the CPC. The plaintiffs' case being that they were entitled to a share in the property of Smt. Prakash Kaur, even assuming that the property was hers, the Trial Court held that the application did not fall within the grounds available under Order VII Rule 11 of the CPC.

7. I have heard Mr. Abhimanyu A. Walia, learned counsel for the petitioner, Mr. Tarun Diwan, learned counsel for respondent No. 1, and Mr. Sumeet Batra, learned counsel for respondent Nos. 3 to 11.

8. The first contention of Mr. Walia is that the suit does not disclose a cause of action, inasmuch as the suit property was inherited by respondent No. 24 through a testamentary bequest and was subsequently sold to the present petitioner. As far as this aspect is concerned, it is undisputed that these facts are not referred to in the plaint, and the

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<sup>2</sup> *Smt. Prakash Kaur v. Sh. N. Kirpal Singh* [Suit No. 155/1976].

<sup>3</sup> *Sardar N. Kirpal Singh (Deceased) Through LRs vs. S. Harchan Singh & Ors.* [RCA No. 121/1993].



documents relied upon have also not been placed on record by the plaintiffs in the suit. These facts have been pleaded by respondent No. 24 [defendant No. 17 therein] in his written statement, wherein he has also placed on record the Will of Smt. Prakash Kaur. In the replication filed by the original plaintiff, the validity of the Will has been disputed. The fact that the pleadings in the suit reflect a challenge to the validity of the Will, has also been noted by the Trial Court in its order dated 17.07.2017, by which the petitioner herein was impleaded as defendant in the suit, as also in the impugned order dated 18.02.2019.

9. The position that an application under Order VII Rule 11 of the CPC must be decided solely on the basis of the plaint and the documents filed by the plaintiffs, is established by a catena of decisions of the Supreme Court, including *Indian Evangelical Lutheran Church Trust Association vs. Sri Bala & Co.*<sup>5</sup>, and *Karam Singh vs. Amarjit & Ors*<sup>6</sup>. In *Sri Bala & Co.*, the Supreme Court has reiterated the following principles in relation to the rejection of plaint under Order VII Rule 11:

*“6.1. In the instant case, an application was filed under Order VII Rule 11(d) of the Code where the ground of rejection of the plaint was that the suit appears from the statement in the plaint to be barred by any law. In this regard, our attention was drawn to various decisions of this Court with regard to rejection of plaint under Order VII Rule 11 of the Code which are as follows:*

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*(v) In R.K. Roja v. U.S. Rayudu, (2016) 14 SCC 275, it was reiterated that the only restriction is that the consideration of the application for rejection should not be on the basis of the allegations made by the defendant in his written statement or on the basis of the allegations in the application for rejection of the plaint. The court has to*

<sup>4</sup> *N. Kirpal Singh (Since deceased) vs. S. Harchan Singh (Since deceased) & Ors.* [RSA No. 38/2000].

<sup>5</sup> 2025 SCC OnLine SC 48 [hereinafter, “*Sri Bala & Co.*”].

<sup>6</sup> 2025 SCC OnLine SC 2240.



***consider only the plaint as a whole**, and in case the entire plaint comes under the situations covered by Order VII Rules 11(a) to (f) of the Code, the same has to be rejected.*

*(vi) In Kuldeep Singh Pathania v. Bikram Singh Jaryal, (2017) 5 SCC 345, this Court observed **that the court can only see whether the plaint, or rather the pleadings of the plaintiff, constitute a cause of action**. Pleadings in the sense where, even after the stage of written statement, if there is a replication filed, in a given situation the same also can be looked into to see whether there is any admission on the part of the plaintiff. In other words, under Order VII Rule 11, **the court has to take a decision looking at the pleadings of the plaintiff only and not on the rebuttal made by the defendant or any other materials produced by the defendant**.”<sup>7</sup>*

10. The petitioner’s reliance upon the defences to the suit, pleaded by the defendants, whether by respondent No. 24 or by the petitioner itself, cannot, therefore, be considered while deciding an application under Order VII Rule 11 of the CPC.

11. It was further contended by Mr. Walia that the suit for partition, in its present form, is not maintainable, as no relief has been sought challenging the Will in favour of respondent No. 24, the conveyance deed subsequently issued by the Delhi Development Authority in his favour, or the sale deed executed by respondent No. 24 in favour of the present petitioner. It may be noted, however, that this was not the basis of the application filed by the petitioner under Order VII Rule 11 of the CPC. Be that as it may, the documents upon which reliance is placed were, as noted above, only brought on record by way of the defence and cannot lay the foundation of proceedings under Order VII Rule 11 of the CPC.

12. Mr. Walia relies upon a judgment of a Coordinate Bench in *Sangeeta Sehgal & Ors. vs. Gautam Dev Sood & Ors.*<sup>8</sup>, and judgment of

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<sup>7</sup> Emphasis supplied.

<sup>8</sup> CS(OS) No. 243/2020, decided on 30.08.2022.



the Division Bench in *Sarita Dua vs. Dr. Gautam Dev Sood & Ors.*<sup>9</sup>, which upheld the order of the learned Single Judge. The Court allowed an application under Order VII Rule 11 of the CPC on the ground that the plaintiffs had sought the relief of partition without seeking cancellation of two gift deeds executed in favour of the defendants. However, the distinguishing feature in the aforesaid judgments is that the plaintiffs in that case had themselves pleaded the facts relating to the gift deed in the plaint. This is evident from paragraphs 5 and 15 of the judgment of the learned Single Judge, which read as follows:

*“5. Counsel for the plaintiffs has relied upon paragraphs 1 and 3 of the plaint to contend that the real owner of the suit property was the father of the plaintiffs, late Dr. Vyas Dev Sood and the property was purchased and constructed upon by his funds. He further contends that the mother of the plaintiffs and the defendant no. 1 was only a Benami owner of the said property and therefore, the mother could not have executed the aforesaid gift deeds. Therefore, the aforesaid gift deeds are void and he has placed reliance on the judgment of the Supreme Court in **Kewal Krishan v. Rajesh Kumar**, 2021 SCC OnLine SC 1097, to contend that a document which is void need not be challenged by seeking a declaration as the said plea can be set up and proved even in collateral proceedings. He further submits that the issue as to who is the real owner of the suit property is a triable issue and therefore, the plaint cannot be rejected under provisions of Order VII Rule 11 of the CPC.*

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*15. Specific averments have been made in para 17 of the plaint that show that the plaintiffs had the knowledge of registered gift deeds in 2009 and the present suit has been filed only in the year 2020. Paragraph 17 of the plaint is set out below:-*

*“17. That it is pertinent to submit that the Plaintiffs had previously in the year 2009 filed a suit for partition and rendition of accounts against the Defendants before this Hon’ble Court being CS (OS) No. 1912 of 2009, wherein the pleadings were complete and the matter was fixed for hearing on 02-04-2013 for framing of issues. **That in the written statement/s filed by the Defendants in the said suit, allegedly reliance was placed on two gift deeds dated March 2000 & March***

<sup>9</sup> RFA(OS) No. 27/2023, decided on 04.07.2023.



2002 allegedly executed by the mother (Smt. Rai Kumari Sood) in favour of the brothers of Plaintiffs i.e. husband of Defendant No. 2 (first floor & above of the suit property) and also Defendant No. 1 (ground floor of the suit property), respectively. That in the replication filed by the Plaintiffs in the said suit, has denied the gift deed/s and raised pertinent questions regarding the authenticity, execution and existence thereof. That in any case since the suit property is itself benami and the true and correct owner was the father i.e. Late Dr. Vyas Dev Sood, the mother i.e. Late Smt. Raj Kumari Sood did not have any right to transfer the suit property partly or wholly or in any manner whatsoever, and accordingly any such transfer if so made would not bar or restrict or relinquish the legal rights of the Plaintiffs in the suit property.”

In fact, the learned Single Judge had specifically noted that the suit itself was being rejected under Order VII Rule 11 of the CPC, in view of the averments in the plaint itself. Reference in this connection, may be made to paragraphs 16 to 18 of the said judgment, which read as follows:

“16. *In Dahiben v. Arvindbhai Kalyanji Bhanusali*, (2020) 7 SCC 366, the Supreme Court has observed that provisions of Order VII rule 11 of the CPC are mandatory in nature and if any of the grounds as stated in clauses (a) to (e) of Order VII Rule 11 of the CPC is made out, the Court is bound to reject the plaint. It was also observed that the plaint shall be liable to be rejected when from the averments in the plaint, the suit appears to be barred by any law or by limitation.

17. The legal principle that emerges from the aforesaid judgment is that the Court must scrutinize the averments made in the plaint along with the documents relied upon, to determine whether the suit is barred by limitation.

18. The plaintiffs have not sought relief of declaration of cancellation of the two gift deeds executed in favour of the defendant no.1 and his deceased brother, the predecessor-in-interest of the defendants no.2, 3 and 4. Without the aforesaid relief, the relief of partition cannot be claimed. Further, the plaintiffs were aware of the aforesaid gift deeds in the year 2009 and the prescribed limitation period for challenging the same is long over. Therefore, applying the law laid down by the Supreme Court in *Dahiben* (supra), the present plaint is liable to be rejected under Order VII Rule 11 of the CPC.”

When the matter was taken to the Division Bench also, the Division Bench referred to paragraph 17 of the plaint, wherein the gift deed



executed in favour of the defendants had been adverted to. In these circumstances, the Division Bench held as follows:

*“28. The facts in case are similar. The defendant/ respondents had contested the claim of appellants to partition by asserting a right in their favour on the basis of two registered Gift Deeds dated 13.03.2000 and 11.03.2002, executed in their favour by the mother. The appellants/plaintiffs became aware of the Gift Deeds in favour of the respondents, in the year 2009 from the Written Statement filed by the respondents in the earlier suit in 2009. The averments of the appellant as contained in paragraph 17 clearly reflect that the defendants in the earlier suit as well, had agitated their exclusive right on the suit property on the basis of the two Gift Deeds. Therefore, the two Gift Deeds were well within the knowledge of the plaintiffs since way back in 2009. Once the Gift Deeds came to the knowledge of the appellants in the year 2009, the cause of action to challenge the said Gift Deeds arose since 2009 which could have been challenged only within the period of three years from the date of knowledge as per Article 59 of the Limitation Act, 1963. We therefore, agree with the observations of the learned Single Judge that the suit was barred by limitation.*

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*32. In the present case, the appellants have not challenged the two Gift Deeds and thus, without seeking a cancellation, the present suit for maintenance is not maintainable, as has been rightly held by the learned Single Judge.”*

In the present case, in contrast, the argument advanced by Mr. Walia requires examination of the written statements of the defendants, which is not permissible in an application under Order VII Rule 11.

13. Mr. Walia also cites a judgment of a Coordinate Bench in *Anita Anand vs. Gargi Kapur*<sup>10</sup>, which was also decided under Order VII Rule 11 of the CPC. It may be noted that the said suit was also a partition suit, and the plaint was rejected on the ground that *ad-valorem* court fee had not been paid, despite a clear plea of ouster of possession by the plaintiff in the suit. While coming to the conclusion, the Court observed as follows:



“44. Admittedly the plaintiff is not in possession of the suit property, hence, the above judgment would not be applicable upon her and she need to pay *advalorem* Court fee on the value of Gift Deed since asking for its cancellation.

45. As per Section 7(iv)(c) of the Court fee Act, 1870 where the plaintiff filed a suit for declaratory decree with consequential relief, *advalorem* Court fee is payable. Thus for above prayers of declaration, the plaintiff is liable to pay *advalorem* Court fee as per Section 7(iv)(c) of the Court fee Act.

46. The relief of partition sought by the plaintiff will be consequential to the declaration of gift deed as illegal as till the time the gift deed will stand in the name of defendant no. 2, the plaintiff shall not be entitled for partition. Thus, the present suit is a suit for declaration with consequential relief and the judgment of the Apex Court would be of no help to the plaintiff as incase the suit would have been only *qua* the declaration of a document as illegal without any further relief *viz.* possession, the said judgment would have been applicable.”

The observations in paragraph 46, relied upon by Mr. Walia, were to repel the contention that the plaintiff therein was not liable to pay *advalorem* court fee on the ground that she had sought partition. The Court held that the said relief was consequential upon the relief of declaration. The facts of the present case, however, are dissimilar, where the ground urged for rejection of the plaint is entirely founded upon the defendants’ written statements, and the legal consequences of the facts pleaded by them.

14. Mr. Walia further submits that the present suit is barred by the principle of *res judicata*, consequent upon the dismissal of RSA No. 38/2000 by this Court vide order dated 15.11.2010. For this purpose, he relied upon an order dated 03.03.2005 passed in the present suit, when the suit was pending in this Court. The Court had recorded the submission on behalf of the then plaintiff that, if the RSA failed, the inevitable consequence would be the dismissal of the suit. Following the dismissal

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<sup>10</sup> 2018 SCC OnLine Del 11372.



of the RSA, the suit was in fact disposed of by the following order of this Court dated 20.01.2012:

*“Counsel for the plaintiff states that in view of the fact that the parties have settled their disputes amicably, he wants to withdraw the present suit. The request for withdrawal of the suit is opposed by the learned counsel for the defendant who relies upon the order dated 3<sup>rd</sup> March, 2005 to press for dismissal of the suit in view of the fact that RSA No. 38/2000 was dismissed by order dated 15<sup>th</sup> November, 2010. Apparently, after the dismissal of RSA No. 38/2000, the parties have resolved their disputes and differences. Be that as it may, the suit has become infructuous and is accordingly disposed of.”*

The present plaintiffs thereafter sought recall of the said order, which was allowed by a detailed order of this Court dated 29.10.2013. It was clarified that the consequences of the dismissal of RSA No. 38/2000 on the instant suit, would be considered afresh. At the stage, when the order was passed, the impleadment application of the petitioner herein remained pending before this Court.

15. It may be noted that the parties to RSA No. 38/2000 did not include several of the present plaintiffs, who are the daughters of Smt. Prakash Kaur, and have since been transposed as plaintiffs in the suit. Mr. Diwan submits that the daughters of Smt. Prakash Kaur were neither parties to the arbitral proceedings, nor to the suit filed by Smt. Prakash Kaur from which the RSA arose. The question regarding the effect of the order dismissing the Second Appeal, has thus admittedly been left open by orders passed in this very suit. Issues are yet to be framed in the suit, and it will naturally be open to the parties to urge their respective contentions in this regard, before the Trial Court, at the appropriate stage.

16. Having regard to the aforesaid facts and circumstances, I am of the view that the Trial Court has committed no jurisdictional error warranting



interference by this Court in its revisional jurisdiction. Whether based upon the alleged Will and conveyance deed in favour of the respondent No. 24, or the subsequent transfer of the suit property by respondent No. 24 to the petitioner, these matters have been brought on record of the suit only by way of written statements and documents filed by the defendants. They cannot form the basis of rejection of the plaint under Order VII Rule 11 of the CPC. Similarly, the effect of the orders passed in RSA No. 38/2000 has specifically been kept open by the order of this Court dated 29.10.2013 for consideration afresh.

17. The issues raised in the application, therefore, clearly fall outside the scope of Order VII Rule 11 of the CPC. This is not a case where the plaint, as it stands, fails to disclose a cause of action, or where the suit appears, from the statements in the plaint, to be barred by law.

18. The petition is, therefore, dismissed, without prejudice to the rights and contention of the parties in the suit. Pending application also stands disposed of.

**PRATEEK JALAN, J**

**OCTOBER 31, 2025**

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