



2025:DHC:10238-DB



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

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Judgment reserved on: 17.09.2025

Judgment pronounced on: 21.11.2025

+ **FAO(OS) 60/2024 & CM APPL. 26386/2024**

RAMESH CHANDRA AGARWALAppellant

Through: **Mr. Sanjay Manchanda and Mr.
Rahul Miglani, Advocates.**

versus

DEVENDER YADAV AND ORS.Respondents

Through: **Mr. Pawan R. Upadhyay, Mr.
Varun Sharma, Mr. Anmol
Wadhwa, Mr. Piyush Gupta and
Mr. Chetan Goyat, Advocates.**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellant assails the correctness of order dated 12.03.2024 [hereinafter referred to as 'Impugned Order'] passed by the Learned Single Judge [hereinafter referred as "LSJ"], whereby an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] filed by the Appellant [Defendant No.8 before the LSJ] seeking rejection of Plaint was found without merit and hence, dismissed.

2. For the sake of convenience, the parties before this Court shall be referred to in accordance with their status before the LSJ.



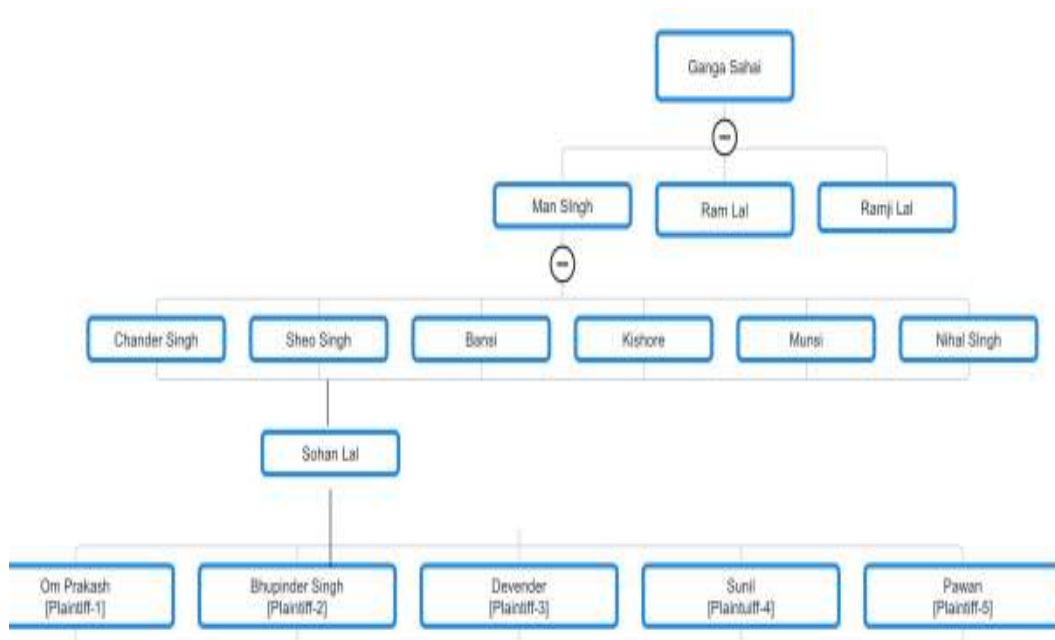
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FACTUAL MATRIX

3. In order to comprehend the issues involved in the present case, it is imperative to cull out the genealogy of the family and the relevant background facts, which are set forth hereinafter.

4. The genealogy of the family reads as under-



5. The Respondents (Plaintiffs before the LSJ) instituted a civil suit being CS(OS) 1459/201022 seeking Declaration, Cancellation and Injunction. The Plaintiff sought a Declaration that the General Power of Attorney (“GPA”) dated 25.09.1992 is null and void, and consequential Cancellation of the sale deeds executed on the strength of the said GPA, on the ground that they were executed contrary to and against the interest of the Plaintiffs. The Plaintiffs further prayed for a decree of permanent injunction, restraining the Defendants, their agents, assignees, representatives or any person acting through them,

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not to interfere with the Plaintiff's peaceful physical possession of the suit properties. The respective Defendants have already filed their written statements which are on record.

6. While filing the suit, the Plaintiffs have, in brief, asserted as under:

6.1 That the ancestors of the Plaintiffs were the land owners and owned several properties and lands in Delhi admeasuring around 136 bigha and 11 biswa. The subject matter of dispute is 68 bigha, 3 bishwa of land belonging to the ancestors of the Plaintiffs and an area of 4 bigha 16 biswa situated in Khasra no. 1932 which is exclusive property of the family of the late Sohan Lal (father of the Plaintiff Nos. 1 to 5). These are collectively referred to as the "suit properties" hereinafter.

6.2 The late Ganga Sahai, forefather of the Plaintiffs Nos.1 to 5, had inherited the aforestated lands. He had three sons namely Man Singh, Ram Lal and Ramji Lal. Late Sohan Lal (father of the Plaintiffs) is the grand son of late Man Singh and he was the owner to the extent of 1/18th share in the suit premises as detailed above. After the demise of Sh. Sohan Lal on 25.01.2000, the properties got divided equally among the Plaintiffs Nos.1 to 5 as they were the only legal heirs.

6.3 The Plaintiffs along with the other members of the family, jointly owned the properties as detailed in Para 6.1 above. The said properties are ancestral in nature and belong to the Plaintiffs and the coparceners of the family, since they are the descendants of late

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Ganga Sahai. The lands still exist in their common name and there is no division/partition in the family in respect of their ancestral properties.

6.4 After the demise of late Sohan Lal, the Plaintiffs accordingly applied for substitution of their name in the revenue records and after considering the facts and circumstances, the Tehsildar (South-West), *vide* order No. M-613/03-04 dated 02.07.2004, recorded the necessary changes in the revenue records and substituted the name of the Plaintiffs at the place of his father.

6.5 Defendant no. 8 has filed an Appeal against the order of the Tehsildar for not mutating his name in the revenue records as the Defendant no.8 has also entered into Agreement to Sell with Late father of Plaintiff Nos 1-5 and other villagers of Village Rajokari, New Delhi with a vision to develop another Farm House.

6.6 The Plaintiffs accordingly filed a reply to Appeal dated 27.02.2008, wherein the Plaintiffs averred that there was no sale ever effected in favour of the Defendant No.8 and others and the documents as such, are forged, fabricated and illegal documents.

7. Defendant No.8 filed an application under Order VII Rule 11 of the CPC to reject the Plaint briefly on the following submissions:

7.1 The Plaintiffs have frivolously filed the Plaint after 15 years of its sale on the ground that the said suit land is ancestral in nature and hence their respective fathers had no right to sell the same.

7.2 The suit has not been valued properly for the purpose of Court

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Fee for the reason that the relief of Declaration and Cancellation are different and liable to be valued separately but had been clubbed together.

7.3 The Plaintiff has also failed to explain as on what basis the suit land belonged to a Joint Undivided Family ('JUF'). The fact that they themselves are claiming shares in the suit land shows that the suit land stood partitioned between the Bhumidars.

7.4 The Plaintiffs do not have any *locus* to file the said suit nor did they disclose any cause of action *qua* the suit land.

7.5 The Plaintiffs have failed to file the suit within a period of three years from the date of execution and registration of the documents namely GPAs and Sale Deeds, despite them having knowledge of the same.

8. In pursuance thereof, the LSJ held that the application filed under Order VII Rule 11 of the CPC was devoid of merit and accordingly dismissed the same. Aggrieved by the Impugned Order, the Defendant No. 8 instituted the present Appeal.

CONTENTIONS OF THE PARTIES

9. Learned Counsel for the Defendant No.8, while controverting the findings of the LSJ, has made the following submissions:

9.1 It is contended that the LSJ has erred in dealing with the aspect of court fees as it had already been settled *vide* order dated 11.07.2014 and the same has been affirmed by the Supreme Court *vide* order



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dated 08.10.2014. The order directed the Plaintiffs to deposit the Court Fee on the market price, as each sale deed is in respect of a separate piece of land and each sale deed has to be valued separately at its market value. Therefore, LSJ by commenting upon the issue already settled has exceeded in her jurisdiction.

9.2 The findings of the LSJ to the effect that father of the Plaintiffs Nos.1 to 5 held the property as Hindu Undivided Family ('HUF')/coparcenary, has also been challenged on the ground that, it is settled law that any interest which is inherited by a person after the year 1956, is his separate and absolute property. With regards to this, it is a matter of record that father of the Plaintiffs acquired the interest from his father Sh. Sheo Singh in the year 1984.

9.3 The Defendant No.8 asserted that as the suit property is not ancestral in nature, the Plaintiffs have no cause of action in their favour. Furthermore, the Defendant No.8 asserted that the LSJ also failed to appreciate the aforementioned contentions as well as the fact that Plaintiffs had no occasion to come straight to the Civil Court seeking Declaration and Cancellation of GPA and sale deeds as per Section 185 & 186 of the Delhi Land Reforms Act, 1954 [hereinafter referred to as "DLR Act"].

10. *Per contra*, the learned counsel for the Plaintiff Nos.1 to 5 has made the following submissions:

10.1 The Plaintiffs herein contend that no sale was ever made by their father directly or indirectly. The Plaintiffs also averred that the Defendants have developed a false story on fabricated documents and

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evidence and reiterates that they are in possession of the land and have never been dispossessed since beginning, as the suit property is their ancestral property.

10.2 In addition to the aforestated submissions, the Plaintiffs contended that the sales have been made on the basis of GPA executed in favour of a third party who was an outsider and vehemently averred that the sale deeds have been executed illegally and fraudulently. The interesting point to be noted here is that the present application has neither been filed by an authorized person nor any authority letter in favour of the Defendant No.8 is placed on record.

10.3 It is further contended by the Plaintiff that the provisions of Hindu Succession Act, 1956 are applicable to the case of lands to which allegedly DLR Act is claimed to be applicable by the Defendants. Thus, the present suit is not barred by the DLR Act.

ANALYSIS & FINDINGS

11. This Court has heard learned counsel for the parties at length and with their able assistance perused the paper book along with the trial court record.

12. At the outset, the law is well-settled that at the stage of Order VII Rule 11 of the CPC, the Court has to examine only the averments made in the Plaint and not the defence or disputed facts. If the plaint discloses a cause of action and does not show on its face that the suit is barred, the Plaint cannot be rejected. The enabling powers of the Court to reject the plaint at the threshold is circumscribed and



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regulated by clauses (a) to (f) listed under Order VII Rule 11 of the CPC, which reads as follows:

“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.]”

13. Pertinent to the contention of the Defendant No.8 with regards to the non-payment of the requisite court-fee, it cannot be said at this stage that the requisite court fee has not been paid as the Plaintiffs are the non-executants of the documents, which are sought to be cancelled/declared null and void. The question of payment of court fee in such instances is reiterated in the case of ***Suhrid Singh Alias***

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Sardool Singh v. Randhir Singh & Others¹, wherein the Court observed under Paragraph 7 as under:

“7. Where the executant of a deed wants it to be annulled, he has to seek cancellation of the deed. But if a non-executant seeks annulment of a deed, he has to seek a declaration that the deed is invalid, or non-est, or illegal or that it is not binding on him. The difference between a prayer for cancellation and declaration in regard to a deed of transfer/conveyance, can be brought out by the following illustration relating to ‘A’ and ‘B’ -- two brothers. ‘A’ executes a sale deed in favour of ‘C’. Subsequently ‘A’ wants to avoid the sale. ‘A’ has to sue for cancellation of the deed. On the other hand, if ‘B’, who is not the executant of the deed, wants to avoid it, he has to sue for a declaration that the deed executed by ‘A’ is invalid/void and non-est/illegal and he is not bound by it. In essence both may be suing to have the deed set aside or declared as non-binding. But the form is different and court fee is also different. If ‘A’, the executant of the deed, seeks cancellation of the deed, he has to pay ad-valorem court fee on the consideration stated in the sale deed. If ‘B’, who is a non-executant, is in possession and sues for a declaration that the deed is null or void and does not bind him or his share, he has to merely pay a fixed court fee of Rs. 19.50 under Article 17 (iii) of the Second Schedule of the Act./But if ‘B’, a non-executant, is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay an ad-valorem court fee as provided under Section 7(iv)(c) of the Act.”

(Emphasis supplied)

14. Notably, the issue of Court fee, even if previously adjudicated, does not go to the maintainability of the Plaint for the purposes of Order VII Rule 11 of the CPC. Non-payment of proper court fee may invite directions for correction, but cannot lead to rejection of Plaint unless the defect is incurable or the Plaintiff refuses to remove the deficiency in payment of *ad valorem* court fee, which is not the case in the present suit. Therefore, this objection does not warrant the rejection of the Plaint.

¹ (201) 12 SCC 112



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15. The subsequent objection taken by the Defendants is that the Plaintiff does not disclose any cause of action because as per DLR Act, the Bhumidar is the absolute owner of the land on which he is cultivating and thus, it cannot be said that the property is ancestral in nature.

16. With respect to the expression “cause of action”, it is not limited to the actual infringement of the right sued on, but includes all the material facts on which it is founded. This view was reiterated by the Supreme Court in **Swamy Atmananda v. Sri Ramakrishna Tapovanam**², where the Supreme Court observed in paragraph no.27 as follows:

*“27. A cause of action, thus, means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgement of the Court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. **It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded.**”*

(Emphasis supplied)

17. There is a very fine distinction between whether a plaintiff discloses the cause of action as required under Order VII Rule 11 of the CPC and as to whether the Plaintiff can succeed in the suit based on such cause of action. This similar view has also been taken by a division bench of Madras HC in **Tim Boyd v. Kesiraju Krishna Phani & Ors.**³, where the Court observed in Paragraph 23 as follows:

“23. Whether a plaintiff discloses the cause of action as required under Order 7 Rule 11 CPC, is a question which is a distinct and different

² 2005 (10) SCC 51

³ C.S. No.682 of 2014



*one from the question as to whether the plaintiff can succeed in the suit based on such cause of action. It is needless to state that only the latter question involves the consideration of other allied questions with regard to the maintainability of the suit as well as the "locus-standi" of the plaintiff to file the suit. In my considered view, these questions, namely the **maintainability of the suit or the locus-standi of the plaintiff to maintain such suit, are the questions which are to be relegated to be considered and decided along with the other issues on merits, after conducting trial, since these questions also involve consideration of facts and law.** That is why the provision made under Order 7 Rule 11 CPC for rejection of plaint, specifically reads that the plaint shall be rejected on one of the grounds, namely where it does not disclose the "cause of action". In other words, the above said provision **nowhere contemplates the rejection of plaint if the suit is not maintainable, or on the ground that the plaintiff is not having locus-standi to file the same.** Thus, in my considered view, the cause of action and locus-standi are two different aspects of the suit and insofar as the application filed under Order 7 Rule 11 CPC is concerned, the question of locus-standi cannot be a ground for rejecting the plaint.*

(Emphasis supplied)

18. In *Yoginder Singh & Another v. Sumit Gahlot and Others*⁴, it was observed that whenever a property is inherited by a person from his parental ancestors prior to 1956, such inheritance constitutes HUF property. This principle applies even where the inherited property is agricultural land governed by the DLR Act. The Court clarified that a Bhumidar under the DLR Act is essentially the *owner* of the land. The effect of the DLR Act was merely that ownership, which earlier vested in private landlords, came to vest in the State and the former owners or lessees became lessees under the State, now designated as Bhumidars. Therefore, a Bhumidar is nothing other than a holder of leasehold rights in land where the State is the owner/lessor.

19. The Supreme Court further held that there is nothing in the DLR Act to suggest that the rights of a Bhumidar when held by

⁴ 2018 SCC OnLine Del 9315



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a Karta or a coparcener ceases to be part of the HUF, or that the land standing in the name of the Karta/coparcener becomes his self-acquired property merely because of the vesting and statutory scheme under the Act. Thus, HUFs continue to exist and the property in question does not become a self-acquired property of the Bhumidhar post-1956 inheritance.

20. Keeping in view the aforesaid circumstances, this Court observes that, *prima facie* it cannot be said that the suit for Declaration and Cancellation in respect of the Sale Deed is barred under any provision of the DLR Act. Sections 185 and 186 of the DLR Act bar suits relating to certain revenue matters, however, Cancellation of sale deeds and determination of ownership rights based on allegations of fraud fall outside the competence of revenue authorities. As it is evident that the entire suit property belonged to Late Shri Ganga Sahai who is the forefather of the Plaintiffs and the land continues to exist in their common name and there is no division/partition in the family **irrespective** of the ancestral properties. The revenue records and especially Khatauni issued on 04.01.1996 clearly stipulates the details of the lands existing in the names of the Plaintiffs' family. After the demise of Shri Sohan Lal, the properties got equally divided amongst Plaintiff Nos. 1-5 as his legal heirs and the same was mutated in the Revenue Records vide Order No. M 613/0304 dated 02.07.2004.

21. Moreover, it is essential to remember that there exists a very fine distinction between a prayer for Cancellation and Declaration in regard to a deed of transfer/conveyance that is, where the executant of

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a deed wants it to be annulled, one has to seek cancellation of the deed under Section 31 of the Specific Relief Act, 1963. But if a non-executant seeks annulment of a deed, the appropriate relief is to seek a declaration under section 34 of the Specific Relief Act, 1963, that the deed is invalid or not binding upon him.

22. It is significant to note that the Trial Court can ascertain as to whether the Plaint discloses cause of action or not but cannot determine as to whether the Plaintiffs could be entitled to get the relief prayed for in the facts and circumstances disclosed in the Plaint.

23. In addition to the foregoing contentions, this Court observes that whether the property retained its ancestral character or had already become part of a HUF, is a mixed question of fact and law, requiring appreciation of evidence, and thus, cannot be decided at the threshold.

24. With regard to the contentions raised by the Defendants that the suit is barred by limitation, this Court finds no merit in such an argument. A complete reading of the Impugned Order makes it manifestly clear that the Plaintiffs claims that he came to know about the alleged sale deeds only on receipt of Notice dated 07.12.2007 and the suit has been filed on 16.07.2010. Accordingly, *prima facie*, it is shown that the suit is filed within three years of their knowledge about the sale deeds. Thus, at this stage, it cannot be said that the suit is barred by limitation.

25. Lastly, it is pertinent to note that if the Plaint is a “blatant and frivolous litigation”, it should be “nipped in the bud” as held in T.



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*Arivanandam v. T.V. Satyapal &Anr.*⁵, thus, saving the Defendants onerous and hazardous task of contesting a non- maintainable suit during the course of protracted litigation and where the suit was instituted without proper authority. However, the Court cannot conduct a roving & fishing enquiry to find out whether the averments made in the Plaint claiming how the suit was in time, are true or false. The Courts needs to be very cautious in dealing with the requests for dismissal of suits at the threshold, otherwise a meritorious suit may end in dismissal.

CONCLUSION

26. In light of the above findings, it is concluded that the Defendants have failed to demonstrate any illegality, perversity or procedural impropriety in the Impugned Order. In such circumstances, this Court is not inclined to allow the present Appeal.

27. Hence, having found no merit, the present Appeal, along with pending application(s) if any, stands dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 21, 2025

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⁵ (1977) 4 SCC 467