



2025:DHC:1503



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on:07.03.2025

+ **C.R.P. 214/2023**

MANOJ THAKUR

.....Petitioner

versus

RAVINDER NATH SINGH & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Ananya Tiwari, Adv.

For the Respondent : Mr. Ankit Rana & Mr. Tushar Rohmetra,
Advs. for R1 & R2

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the order dated 02.05.2023 (hereafter '**the impugned order**') passed by the learned Additional District Judge ('**ADJ**'), Rohini Courts, Delhi in CS DJ 805/2017 whereby the application filed by the respondents under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('**CPC**') was allowed and the suit filed by the petitioner was found to be barred in terms of Order II Rule 2 of the CPC.



2. The impugned order emanated from a suit filed by the petitioner under Section 7 of the Specific Relief Act, 1963 ('SRA'). The said suit was filed praying for a decree against Respondent Nos. 1 and 2 to handover the possession of the petitioner's movable property amounting to ₹10,72,500/-lying in Shop bearing address BC-299, Mangol Puri Industrial Area, Phase-II, Delhi-110034 (hereafter '**the suit property**'). The petitioner also sought a decree directing Respondent Nos. 1 and 2 to return the documents including perpetual lease deed in the name of the petitioner's father and other relevant documents which the respondents had taken from the shop of the petitioner. The petitioner further prayed for damages to the tune of ₹20,00,000/-.

3. The petitioner claimed that his father got the allotment of the suit property by the government in the year 1985. It is averred that the petitioner's father was running a business of Automotive paints and motor spare parts. The petitioner claimed to be in the undisputed possession of the suit property since the year 1996. It is alleged that the respondents had forcefully broken the locks of the petitioner's shops and had placed their own locks on the suit property. It is further alleged that the respondents had sold the items lying in the petitioner's shop amounting to ₹10,72,500/-.The petitioner claimed that movable property worth ₹10,72,500/- had been sold by the respondents and, therefore, valued the suit accordingly.



4. Prior to the filing of the subject suit under Section 7 of the SRA, the petitioner had also filed a suit bearing No. 336/2017 on 12.04.2017 purportedly under Section 6 of the SRA. In the said suit, the petitioner prayed for a decree against Respondent No. 1 to handover the possession of the petitioner's shop. The petitioner also prayed for a direction to Respondent No. 1 to return the documents including perpetual lease deed in the name of the petitioner's father. The petitioner also prayed for a direction to Respondent No. 1 to pay compensation to the petitioner to the tune of ₹2,00,000/-. Certain other reliefs were also sought by the petitioner.

5. The learned ADJ, by the impugned order, dismissed the suit filed by the petitioner. It was noted that there existed a previous suit being Suit No. 336/17 which had been filed by the petitioner under Section 6 of the Specific Relief Act, 1963.

6. It was noted that apart from the relief of possession, the petitioner had also sought other reliefs in that suit. The learned ADJ noted that a perusal of both the suits materialised that the cause of action was same in both the suits. It was noted that the perusal of the record showed that in the earlier suit, that is, CS No. 336/17 the petitioner had sought the relief of possession, and a direction that the respondents return his documents and all the articles. It was noted that a relief of permanent injunction and damages/compensation was also sought.



7. The learned ADJ noted that in the subject suit, the petitioner is seeking all the reliefs which had already been sought in CS No. 336/17. It was noted that only the quantum of damages sought in the present suit was different. It was noted that in the present suit, the petitioner is seeking ₹20 lakhs while in the previous suit, the petitioner sought ₹2 lakhs. It was accordingly noted that Section 10 of the CPC was attracted. It was further noted that the petitioner had already claimed all the reliefs in the earlier suit no. 336/17. The learned ADJ consequently noted that once the petitioner had claimed compensation to the tune of ₹2 lakhs in the earlier suit filed on the same cause of action, he is barred from claiming the same relief for an enhanced amount in a subsequent suit.

8. The learned counsel for the petitioner submitted that the impugned order is based on presumptions and is liable to be set aside. She submitted that the learned ADJ, while passing the impugned order, erred in coming to the conclusion that the reliefs claimed in the suit for movable property under Section 7 of the Specific Relief Act, 1963 were not enforceable.

9. She submitted that the learned ADJ failed to consider that there existed a specific cause of action for the petitioner to initiate a separate suit. She consequently submitted that the impugned order be set aside.

10. The learned counsel for the respondents submitted that the learned ADJ rightly allowed the application filed by the respondents under Order VII Rule 11 of the CPC. He submitted that the petitioner



had already filed a previous suit seeking recovery of possession of the immovable property. He submitted that all the reliefs which were available to the petitioner at that point of time should have been claimed by the petitioner in the first suit itself.

11. He submitted that since the petitioner failed to claim all the reliefs in the first suit itself, all the other reliefs had been relinquished. He submitted that the petitioner was consequently estopped from filing a separate suit for them. He submitted that the learned ADJ rightly found the suit to be barred in terms of Order II Rule 2 of the CPC. He consequently submitted that the present petition be dismissed.

Analysis

12. The petitioner is essentially aggrieved by the dismissal of his suit for the reason of the same being barred under Order II Rule 2 of the CPC. The limited question for the determination of this Court is thus to assess whether the learned ADJ rightly dismissed the suit filed by the petitioner in terms of the bar under Order II Rule 2 of the CPC.

13. Order II Rule 2 of the CPC reads as hereunder:

2. Suit to include the whole claim.—

(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.



(2) Relinquishment of part of claim.—Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

(3) Omission to sue for one of several reliefs.—A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

Explanation.—For the purposes of this rule an obligation and a collateral security for its performance and successive claims arising under the same obligation shall be deemed respectively to constitute but one cause of action.

14. In accordance with Order II Rule 2 of the CPC, every suit ought to include the whole claim which the plaintiff is entitled to make in respect of the cause of action. Further, if a person is entitled to make more than one relief in respect of the same cause of action, such person may sue for all or any of such reliefs, however, if he omits to do so, except with the leave of the Court, to sue for all the reliefs he is entitled to, then such person shall not afterwards sue for any relief so omitted.

15. Recently, the Hon'ble Apex Court in ***Cuddalore Powergen Corporation Ltd v. ChemplastCuddaloreVinyls Limited and Another*** : 2025 SCC OnLine SC 82 while summarising the principles of Order II Rule 2 of the CPC, and delineating the meaning of the term “cause of action” for the purpose of Order II Rule 2 observed as under:

“36. The object of both the Rules 1 and 2 of Order II is to prevent the multiplicity of suits. Order II Rule 2 is founded on the principle that a person should not be vexed twice for one and the same cause. It is a rule which is directed against two evils i.e., the



splitting up of claims and the splitting up of remedies. What Order II Rule 2 requires is the inclusion of the whole claim arising in respect of one and the same cause of action, in one suit. However, this must not be misunderstood to mean that every suit shall include every claim or every cause of action which the plaintiff may have against the defendant. Therefore, where the causes of action are different in the two suits, Order II Rule 2 would have no application.

37. On a more careful perusal of the provision, it can be seen that Order II Rule 2(1) reads as - “every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action”, whereas the words used in Order II Rule 2(3) are “the same cause of action”. Despite being so, the words “the cause of action” used in Order II Rule 2(1) must be read to mean “the particular cause of action”. Only on such a reading one can arrive at the inference that where there are different causes of action, Order II Rule 2 will not apply; and where the causes of action are the same, the bar imposed by Order II Rule 2 may apply.

38. Order II Rule 2(1) requires every suit to include the whole of the claim to which the plaintiff is entitled to in respect of a particular cause of action. However, the plaintiff has an option to relinquish any part of his claim for the purpose of bringing the suit within the jurisdiction of any court. Order II Rule 2(2) contemplates a situation where a plaintiff omits to sue or intentionally relinquishes any portion of the claim which he is entitled to make. If the plaintiff so acts, then he shall not, afterwards, sue for the part or portion of the claim that has been omitted or relinquished. It must be noticed that Order II Rule 2(2) does not contemplate the omission or relinquishment of any portion of the plaintiff's claim with the leave of the court so as to entitle him to come back later to seek what has been omitted or relinquished. Such leave of the court is contemplated by Order II Rule 2(3) in situations where a plaintiff being entitled to more than one relief on a particular cause of action, omits to sue for all such reliefs. In such a situation, the plaintiff is precluded from bringing a subsequent suit to claim the relief(s) earlier omitted except in a situation where leave of the court had been obtained. It is, therefore, clear from a conjoint reading of the provisions of Order II Rules 2(2) and (3) CPC that the aforesaid two sub-rules of Order II Rule 2 contemplate two different situations, namely, where a plaintiff omits or relinquishes a part of a claim which he is entitled to make and, secondly, where the plaintiff omits or relinquishes one



out of the several reliefs that he could have claimed in the suit. It is only in the latter situation where the plaintiff can file a subsequent suit seeking the relief omitted in the earlier suit, provided that at the time of omission to claim the particular relief, he had obtained the leave of the court in the first suit.

39. In Words and Phrases (4th Edn.), the meaning attributed to the phrase “cause of action” in common legal parlance was stated to be the existence of those facts which give a party the right to judicial interference on his behalf. In Stroud's Judicial Dictionary, a cause of action is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain a judgment. Black's Law Dictionary states that cause of action is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person. Halsbury's Laws of England (4th Edn.) defined cause of action as follows:

“‘Cause of action’ has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action.”

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44. Therefore, the phrase “cause of action” for the purposes of Order II Rule 2 would mean the cause of action which gives an occasion for and forms the foundation of the suit. If that cause enables a person to ask for a larger and wider relief than that to which he limits his claim, he cannot be permitted to recover the balance reliefs through independent proceedings afterwards, especially when the leave of the court has not been obtained.”



16. It is trite that the object of Order II Rule 2 of the CPC is to prevent multiplicity of suits. The same is founded on the principle that a person should not be perturbed twice for the same cause. For this reason, Order II Rule 2 of the CPC requires a person to include the whole claim arising in respect of one and the same cause of action in one suit.

17. From a perusal of the record, it is apparent that prior to the filing of the suit under Section 7 of the SRA, the petitioner had filed a suit under Section 6 of the SRA being Suit No. 336/17 in respect of the suit property in which the petitioner had sought the relief of possession and other reliefs. A perusal of both the suits materialised that the cause of action is same in both the suits. It was noted that in the earlier suit, that is, CS No. 336/17, the petitioner had sought the relief of possession and a direction that the defendant/Respondent No. 1 return the petitioner's documents and all the articles. Further, the petitioner had also sought the relief of permanent injunction and damages/compensation.

18. The learned ADJ noted that a perusal of the record materialised that the petitioner sought such reliefs as had already been sought by him in the earlier suit being CS No. 336/17. It was noted that only the quantum of damages which had been sought by the petitioner in the subject suit was different. In the earlier suit being CS No. 336/17, the petitioner sought damages to the tune of ₹2 lakhs, whereas in the present suit, the petitioner sought damages to the tune of ₹20 lakhs.



The learned ADJ consequently noted that the same was covered under Section 10 of the CPC. It was further noted that seeking an enhanced rate of compensation in the subsequent was barred under Order II Rule 2 of the CPC.

19. From a perusal of the material on record, it is evident that the reliefs sought by the petitioner in the subject suit are identical to those sought by him in the previous suit being CS No. 336/17 under Section 6 of the SRA. In the opinion of this Court, while such reliefs are pending adjudication in the earlier suit, it is not open to the petitioner to file a subsequent suit premised on the same reliefs between the same parties, since the same would fall within the purview of Section 10 of the CPC.

20. Upon a consideration of the totality of circumstances, this Court does not find any reason to interfere with the impugned order.

21. The present petition is accordingly dismissed.

22. It is however made clear that this Court has not gone into the question of the validity or maintainability of the reliefs sought by the petitioner in the earlier suit. Needless to say, if it is subsequently found that the reliefs sought by the petitioner in the earlier suit are *non est*, it would be open to the petitioner to seek appropriate remedy in accordance with the law.

AMIT MAHAJAN, J

MARCH 07, 2025