



2025:DHC:10201-DB



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Judgment reserved on: 11.11.2025*
Judgment pronounced on: 20.11.2025

+ RFA(OS) 25/2024
AMITA GANDOAKAppellant
Through: Mr. Jai Sahai Endlaw and Ms.
Sagarika Kaul, Advs.

versus

HARKIRAT SINGH SODHI AND ANOTHER
.....Respondents
Through: Ms. Neelima Tripathi, Sr. Adv.
with Mr. Rajat Asija, Ms. Kirti
Sharma, Mr. G. Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellant assails the correctness of judgment dated 07.05.2024 [hereinafter referred to as 'Impugned Judgment'] passed by the Learned Single Judge [hereinafter referred to as "LSJ"], wherein an application filed by the Respondents [Defendants before the LSJ] under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] was allowed and the plaint filed by the Appellant [Plaintiff before LSJ] was rejected.

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

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 20.11.2025 RFA(OS) 25/2024
17:06:23



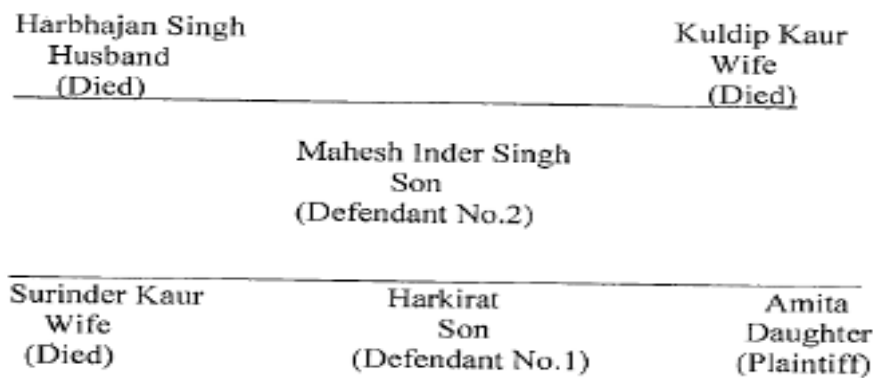
2025:DHC:10201-DB



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 Plaintiff instituted a civil suit being CS(OS) 90/2017 seeking partition of as many as seven properties mentioned below [hereinafter referred to as “suit properties”] from her paternal side. paragraph no.1 of the plaint filed by the Plaintiff reads as under:

“1). That by way of the present suit, the plaintiff is seeking partition of the following ancestral family properties by metes and bounds:-

(i). Property No. N-8, Greater Kailash Part-1, New Delhi-110048, measuring 200 sq.yds.

(ii). Property No. E-2, East of Kailash, New Delhi-110065, measuring 500 sq.yds.

(iii). Property No. A-22, Neb Sarai, Neb Valley, New Delhi-110068, having been purchased by the defendant No.1 out of the sale proceeds of land measuring 16 acres, 1 Bigha 5 Biswas in PunchiGujra, Tehsil Ganaur, Distt. Sonapat (Haryana), falling under Khatauni No. 197(56/1, 56/10, 56/1 1)Khatauni No. 793(56/17, 70/4, 71/1), Khatauni No. 1056(57/4, 57/5, 57/6, 57/7, 57/14, 57/15, 57/16, 57/24,57/25), Khatauni No. 1000(56/20, 56/21, 70/5, 70/3)

(iv). Property (Haveli, shops, building) in Anandpur Sahib

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 20.11.2025 RFA(OS) 25/2024
17:06:23



2025:DHC:10201-DB



(v). Plot in Anandpur Sahib

(vi). Agricultural land in Lodhipur, Anandpur, Chak

(vii). House Property and 6 shops in Anandpur Sahib

The aforesaid properties are collectively referred to as the "suit properties".

6. While filing the suit, the Plaintiff has, in brief, asserted as under:

6.1 The suit is with respect to the properties of Plaintiff's paternal lineage. Defendant No.1 is the Plaintiff's brother, and Defendant No.2 is her father. The Plaintiff/Appellant and the Defendant No.1 are siblings, being the only children of the Defendant No.2 and late Smt. Surinder Kaur (the Plaintiff's mother), who unfortunately passed away on 31.12.2013.

6.2 In the year 1984, Defendant No.1 had filed a suit for Partition and Rendition of Accounts in respect of family's properties against his parents and grandparents [hereinafter referred as "the 1984 suit"]. However, the Plaintiff was not made a party to the aforesaid suit. Though, the Plaintiff's mother, while filing her Written Statement in the aforesaid suit, claimed that the Plaintiff also has a share in the said properties.

6.3 During the pendency of the 1984 suit, the parties arrived at a settlement and the plaintiff alleges that by misrepresentation, her signatures were obtained by the Defendant No.1 on an application under Order XXIII Rule 3 of the CPC. In paragraph no.2 of the said application, it was averred that the Plaintiff relinquishes all her rights, titles and interests in the suit properties and by way of inheritance.



2025:DHC:10201-DB



6.4 As per the aforesaid settlement, the property nos.(i), (iii), (iv) and (v) fell to the share of the Defendant No.1. The Plaintiff's mother, during her lifetime, was taking care of the properties and some of the properties jointly fell to the Plaintiff's share as well as the Defendant No.1.

6.5 It is claimed that the signature of the Plaintiff was obtained on the last page of the application under Order XXIII Rule 3 of the CPC under the pretext that her signatures were needed as a witness in the said settlement. Until the death of the plaintiff's mother, there was no dispute about the co-ownership of the Plaintiff's share in respect of the suit properties. But after the demise of the Plaintiff's mother, Defendant No.1 started disputing the Plaintiff's share.

6.6 Another testamentary case between the Plaintiff and Defendant No.1, with respect to property No.210A, Golf Links, New Delhi [hereinafter referred to as 'Golf Links property'], on the basis of testamentary succession is pending adjudication. The Plaintiff's mother revoked her first will dated 13.01.1987 *vide* a registered revocation deed dated 05.06.2004 and she duly executed a fresh handwritten will and testament dated 07.09.2004 [hereinafter referred to as "the Last Will"]. In the Last Will, she bequeathed the Golf Links property (which was inherited by the Plaintiff's mother from her father) jointly to the Appellant and Defendant No.1. However, Defendant No.1 has refused to honour the Last Will executed by the Plaintiff's mother. After the death of the Plaintiff's mother, when the Plaintiff asked the Defendants for partition of the suit properties by metes and bounds, Defendant No.2 admitted her claim. However,

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 20.11.2025 RFA(OS) 25/2024
17:06:23



2025:DHC:10201-DB



Defendant No.1 came out with a plea that he will partition the suit properties, only if the Plaintiff agrees to give up her claim to the Golf Links property, which was refused by the Plaintiff. Hence, the Plaintiff filed the suit being C.S.(OS) 90/2017 dated 21.02.2017 [hereinafter referred to as “the 2017 suit”].

7. Defendant No.1 filed an application under Order VII Rule 11 of the CPC, which was allowed by the LSJ, while recording briefly the following submissions:

7.1 The Plaintiff has failed to challenge the Consent Decree dated 10.09.1985 [hereinafter referred to as ‘Consent Decree’], although, she was a signatory to the settlement.

7.2 The Plaintiff has also sought partition of suit properties but failed to explain that in whose name, these properties stand. Moreover, the Plaintiff has failed to give the description/details of the suit properties as required under Order VI Rule 4 of the CPC.

7.3 The Plaintiff has also failed to explain the creation of Hindu Undivided Family (‘HUF’). The case of the Plaintiff is based upon a weak plea *qua* her share in the ancestral properties.

7.4 The Plaintiff does not disclose any cause of action *qua* property nos.(ii), (iv), (vi), (vii) and portion of property no.(iv) specified in the suit properties.

7.5 The Plaintiff has failed to file the suit within a period of three years from the date of decree. The Plaintiff’s right stand extinguished after the period for limitation has lapsed by virtue of Section 27 of the



2025:DHC:10201-DB



Limitation Act, 1963 [hereinafter referred to as 'Limitation Act'].

7.6 LSJ has found that the Plaintiff is an educated lady and that she not only signed the application under Order XXIII Rule 3 of the CPC but also sworn an affidavit to this effect. Hence, the Plaintiff cannot claim deception and misrepresentation.

7.7. The Plaintiff has failed to make any of the Class I heirs of Late Shri. Harbhajan Singh Sodhi, i.e. his sons and wife, a party to the suit, thus, the suit is also bad for non-joinder/mis-joinder of the parties.

7.8. The Plaintiff is admittedly not the recorded co-owner of any of the suit properties and has no right to seek any partition whatsoever which is available only to a co-owner. The suit is barred under Prohibition of Benami Property Transactions Act, 1988.

7.9. In order to substantiate his arguments, learned counsel for the Defendants placed reliance upon catena of judgements including *Triloki Nath Singh v. Anirudh Singh(D) the LRs & Ors*¹, *R. Rajanna v. S.R. Venkataswamy & Ors.*² and *Pushpa Devi Bhagat v. Rajinder Singh*³, wherein the Court has reiterated that “*Order 23 Rule 3-A clearly bars a suit to set aside a decree on the ground that the compromise on which the decree is based was not lawful...* ”.

CONTENTIONS OF THE PARTIES

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

¹ (2020) 6 SCC 629

² 2014(15) SCC 471

³ (2006) 5 SCC 566



2025:DHC:10201-DB



the Trial Court Record.

9. Learned counsel for the Plaintiff, while controverting the findings of the LSJ, has made the following submissions:

9.1 The Plaintiff has contested this application (Order VII Rule 11 of the CPC) and contented that she was not a party to the 1984 suit for partition, and therefore, any consent decree passed in the said case is not binding upon her. She further asserted that she signed the compromise on the pretext of she being a witness to the said settlement and it cannot tantamount to giving up of her share in the suit properties.

9.2 It is further asserted that even if it is assumed, though not accepted, that she had surrendered/relinquished her share in the suit properties, in that event also the relinquishment was in favour of her brother and mother. Through that the plaintiff becomes entitled to 50% share out of her mother's share and thus entitled to claim partition in respect of the suit properties.

9.3 The findings of the LSJ to the effect of the validity of her signatures were not obtained by misrepresentation and deception on the basis of surmises and conjectures has also been challenged on the pretext that the aforesaid exercise is beyond the Court's remit under Order VII Rule 11(a) of the CPC, as it contravenes settled law that the pleadings in the plaint ought to be read on demurrer and assumed to be correct.

9.4 It is contended that LSJ has erroneously relied upon IA



2025:DHC:10201-DB



No.46085/1985 under Order XXIII Rule 3 of the CPC filed in the 1984 suit, while adjudicating the application under Order VII Rule 11 of the CPC in the present case on the ground that while adjudicating an application under Order VII Rule 11 of the CPC, it is only the Plaint and documents filed therewith that have to be examined by the court.

9.5 In addition to the aforesaid submissions, the Plaintiff has contended that the Plaint cannot be rejected in so far as the Plaintiff's claim towards a share in the estate of the Plaintiff's mother is concerned. The Plaintiff, being a Class-I legal heir, is equally entitled to succeed to her mother's share in the properties, which has been denied by the Defendant No.1. Thus, the suit, insofar as it relates to partition of the estate of the Plaintiff's mother, is not only maintainable but also could not be summarily dismissed.

10. *Per contra*, the learned senior counsel for the Defendants has made the following submissions:

10.1 The Defendants herein contend that a final compromise decree dated 10.09.1985, under Order XXIII Rule 3 of CPC, 1908 with respect to the suit properties has been passed and the requisite stamp duty has been paid by the Defendant no. 1. Therefore, plaintiff cannot seek any partition as has been sought by the 2017 suit.

10.2 It is further contended by the Defendant that the suit is also barred under Order XIII Rule 3A CPC, 1908 as well as under Section 96(3) of the CPC as no appeal is maintainable against the Consent Decree and the same cannot be challenged by way of a separate suit.

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 20.11.2025 RFA(OS) 25/2024
17:06:23



2025:DHC:10201-DB



ANALYSIS & FINDINGS

11. This Court has duly considered the submissions advanced by learned counsel for the parties. At the outset, this Court deems it appropriate to state that the Plaintiff alleged that the suit properties are ancestral family properties originally owned by Shri Harbhajan Singh Sodhi and his wife Smt. Kuldip Kaur Sodhi, who are the paternal grandparents of the Plaintiff and Defendant No.1.

12. The enabling powers of the Court to reject the plaint at the threshold is circumscribed and regulated by clause (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



2025:DHC:10201-DB



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. It is also well settled that a part of the plaint cannot be rejected while exercising powers under Order VII Rule 11 of the CPC. In other words, some part of the plaint cannot be rejected while continuing with the remaining part of the suit. While considering an application under Order VII Rule 11 of the CPC, the Court is required to examine only the plaint and documents relied therein. In this case, the only document relied upon by the Plaintiff is the copy of the Written Statement filed by her mother in the suit filed in the year 1985, which resulted in the Consent Decree, wherein it has been stated that the Plaintiff is also a necessary party as she is a member of the Joint Hindu Family (‘JHF’) and is entitled to the share of the suit properties.

14. 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*⁴, wherein the Supreme Court, in paragraph 27, held 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.”

⁴ 2005 (10) SCC 51



2025:DHC:10201-DB



[Emphasis supplied]

15. It is further observed that the LSJ has made reference to HUF, which is an “assessee”, a concept exclusive to the Income Tax Act, 1961. Under the Hindu Law, however, the appropriate concept is that of a JHF/coparcenary. Order VI Rule 2 of the CPC stipulates that the pleadings are required to be confined to the material facts which are to be stated in concise form, while excluding the evidence that is to be led subsequently. Further, Order VI Rule 4 of the CPC mandates that if a party alleges misrepresentation, fraud, breach of trust, wilful default or undue influence, the pleadings must contain full particulars of such allegations. This requirement of providing particulars can be extended to all other cases where such details are necessary for the proper adjudication of the matter.

16. It is evident that Order VII Rule 11 of the CPC does not provide for rejection of the plaint on the ground that particulars/details of the suit properties have not been given by the Plaintiff. Moreover, the LSJ has also erred in returning a finding in paragraph nos. 39, 40, 44 and 45 of the Impugned Judgment, without giving opportunity to the Plaintiff to prove her case. Such finding can be recorded only after the parties are given opportunity to lead evidence.

17. Furthermore, it is a debatable question as to whether the Plaintiff is a party to the Consent Decree. On a question posed by the Court, learned senior counsel for the Defendants has admitted that the Plaintiff's statement was never recorded in the 1984 suit by the Court. While filing the suit, the Plaintiff has asserted that her signatures were obtained by playing deception and misrepresentation on the application



2025:DHC:10201-DB



under Order XXIII Rule 3 of the CPC and the affidavit. This Court has also examined the final decree passed by the Court, which has been produced by the Defendants. Although, such decree cannot be examined at this stage, however, in order to satisfy the conscious of the Court, the same has been seen. The presence of the Plaintiff has not been recorded in the final order passed by the Court. Moreover, the Plaintiff claims that since she was not a party to the litigation, hence the decree required registration, which is again debatable.

18. Moreover, the 2017 suit filed by the Plaintiff seeks for partition which inherently includes a relief of declaration and not cancellation. The distinction between a prayer for cancellation and declaration in regard to a deed of transfer/conveyance is, where the executing of a deed wants it to be annulled, one has to seek cancellation of the deed i.e. 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.

19. The LSJ has also failed to appreciate that failure to give details of the ancestral properties is not a ground to reject the plaint in exercise of powers under Order VII Rule 11 of the CPC. In any case, the parties are well aware of the properties referred to by the Plaintiff because exactly the same seven properties were part of the suit filed by the Defendant No.1 in the year 1984, which culminated in a decree in the year 1985. Likewise, failure to disclose as to how JHF came into existence is not a ground to reject the plaint.



2025:DHC:10201-DB



20. Additionally, it is noticed that as per the Consent Decree, the property specified in paragraph no.1 i.e. property nos.(i), (iii), (iv) and (v) fell to the share of Defendant No.1. However, there is no reference to the remaining properties in the Consent Decree. The LSJ has rejected the plaint on the ground that the Plaintiff has failed to disclose any cause of action *qua* the aforesaid properties on the ground that the Plaintiff's father is alive. It is to be noted here that the Plaintiff's father has admitted the Plaintiff's claim by filing a detailed Written Statement. In any case, Sh. Mahesh Inder Singh, Plaintiff's father has passed away on 28.12.2024. Now, the Plaintiff's suit may be maintainable *qua* the properties left behind her father.

21. The LSJ has also erred in observing that the Plaintiff failed to file the suit within three years from the date of the Consent Decree. While filing the suit, the Plaintiff has claimed that her signatures were obtained by misrepresentation and deception. Moreover, the Plaintiff was not exactly a party to the 1984 suit, though she signed the application and affidavit in support of application under Order XXIII Rule 3 of the CPC. Additionally, the Plaintiff has claimed that the cause of action accrued to her only when the Defendant No.1, after the death of their mother (31.12.2013), stated that he will acknowledge the Plaintiff's right in the suit properties only if she gives up her claim *qua* the Golf Links property. Hence, it will not be appropriate to conclude at this stage of the suit that the period of limitation began to run from the date of the Consent Decree.

22. With regard to submission of the Defendant that the 2017 suit is being barred under Order XXIII Rule 3A of the CPC, this Court is of



2025:DHC:10201-DB



the view that such bar to the maintainability of separate suit is applicable to the parties of the suit. So, for this, it has to be decided whether the Plaintiff will be deemed to be a party or not and that question cannot be decided at this stage. Therefore, this argument can be examined only when the party lead their evidence when comes to the final conclusion. And at that stage, the bar under Order XXIII Rule 3A of the CPC can be entertained.

23. The LSJ has also erred in drawing its own assumptions instead of reading the contents of the Plaint as a whole. It is also well settled that while considering the application under Order VII Rule 11 of the CPC, the Court has to find out from the point of view of the Plaintiff, as set out in the plaint, as to whether it discloses the cause of action or not, and not from the point of view of the Defendant as projected by him in his defence.

24. There is a very fine distinction between whether a plaint 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 High Court in ***Tim Boyd v. Kesiraju Krishna Phani & Ors.***⁵, where the Division Bench, in Paragraph 23, held as follows:

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

⁵ C.S. No.682 of 2014



2025:DHC:10201-DB



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]

25. The LSJ has also erred in observing that the Plaintiff's claim to the suit properties stands extinguished in view of Section 27 of the Limitation Act. The extinguishment of right will depend upon the date when the cause of action accrued. The Plaintiff has claimed that her cause of action to file the suit accrued when the Defendant No.1 put forth a condition of abandoning her claim with respect to the Golf Links property before he admits the Plaintiff's claim in the suit properties.

26. Lastly, this Court observes that the suit properties consist of as many as seven properties out of which only some of the properties are covered under the Consent Decree and the rest are outside the ambit of the Consent Decree.

CONCLUSION

27. While considering an application for rejection of Plaint, the Plaint must be read as a whole – both comprehensively and



2025:DHC:10201-DB



substantially. Such an application is required to be construed narrowly and the Court should meaningfully examine the contents of plaint to determine whether it falls within any of the clauses of Order VII Rule 11 of the CPC. Otherwise, the Plaint should not be rejected, as doing so may result in the dismissal of a meritorious Plaint at the threshold.

28. Accordingly, in light of the above findings, it is concluded that the LSJ has erred in finding that the 2017 suit stands rejected under Order VII Rule 11 of the CPC. Keeping in view the aforesaid circumstances, this Court is inclined to allow the present appeal.

29. Hence, the present Appeal is hereby allowed and the suit is restored to its original number.

30. The parties, through their respective counsel, are directed to appear before the learned Single Judge (Roster Bench) on 02.12.2025.

31. The present Appeal stands disposed of.

ANIL KSHETARPAL, J.

RENU BHATNAGAR, J.

NOVEMBER 20, 2025

jai/radhika