



2025:DHC:3883



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:16.05.2025

+ **C.R.P. 260/2023 & CM APPL. 48602/2023, CM APPL. 2186/2025**

J.K. PARASHAR

..... Petitioner

versus

BHAGAT SINGH & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Suhail Sehgal and Mr. Prashant Drolia,
Advocates.

For the Respondents : Mr. Arjun Natrajan, Ms. Kamana Pradhan
and Ms. Neha Chopra, Advocates.

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petition is filed against the order dated 25.07.2023 (hereafter '**impugned order**'), passed by the learned Civil Judge, Saket in CS SCJ 984/17, whereby the second application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('**CPC**') was dismissed.

2. The brief facts of the case are as follows:



2.1. The suit was filed by Respondent No.1 seeking eviction, possession and payment of rent in respect of the suit property. It is alleged that the petitioner was a tenant in the suit premises since the year 1977 and he was running a shop at the property. It is claimed that the late grandfather of Respondent No.1 had inherited the suit property and partitioned the same in the year 1976 between his four sons orally, whereafter, the father of Respondent No.1 (since expired) had rented out the suit property to the petitioner. It is claimed that the petitioner regularly paid the rent excluding the electricity and water charges to the father of Respondent No.1 till the time of his death, after which, Respondent No.1 received the rent for the premises for the months of June, July and August, 2014. It is alleged that the petitioner stopped payment of rent from September, 2014 by making excuses of loss in his business. When the petitioner failed to pay the rent till 19.04.2017 or vacate the suit premises, a legal notice was sent to him by Respondent No.1. The suit was valued on the basis of the amount of rent due from the petitioner.

2.2. Thereafter, the petitioner preferred the subject application seeking rejection of the suit on the ground that the court fees was insufficient. It was agitated that since the petitioner had challenged the landlord-tenant relationship between the parties and denied the title of Respondent No.1, the present suit is not maintainable as no relief for declaration of title had been sought in the suit.

2.3. By the impugned order, the learned Trial Court noted that the application filed under Order VII Rule 11 of the CPC was devoid of



merits. The relevant portion of the impugned order is reproduced hereunder:

*“9. In the application under Order 7 Rule 11 CPC filed by the defendant no.1, it is the contention of the defendant that the value of the suit has been fixed as Rs. 1,92,000/- by the plaintiff and insufficient court fee has been paid thereupon by the plaintiff. It has not been specified by the defendant under which provision of the Court Fees Act, 1870, insufficient court fee has been paid by the plaintiff. It has not been specified by the defendant that the present suit is undervalued as per the Suits Valuation Act, 1887. Except mere averments, the defendant no.1 has failed to elaborate the applicability of relevant provisions of the aforesaid Acts. Therefore, this contentions of the defendant is without any merits.
10. As far as the second contention of the defendant no.1 is concerned that since he has raised dispute over the title of the plaintiff over the suit property, hence the plaintiff ought to have sought the relief of declaration, the same is not tenable for the purposes of rejection of plaint under Order 7 Rule 11 CPC. The grounds for rejection of plaint are specifically mentioned in Order 7 Rule 11 CPC and the contentions raised by the defendant regarding rejection of the instant plaint do not fall within the purview of Order 7 Rule 11 CPC.”*

3. The learned counsel for the petitioner submitted that the impugned order has been erroneously passed by the learned Trial Court without appreciating the settled principles of law.

4. He submitted that the title of Respondent No.1 is disputed and under shadow, despite which, Respondent No.1 filed the suit without seeking any declaration of his title and accordingly the suit was barred by law. He placed reliance upon the judgment in the case of **Anathula Sudhakar v. P. Buchi Reddy : (2008) 4 SCC 594**. He further submitted that insufficient court fees is paid and the plaint is liable to be dismissed.



5. He submitted that the learned Civil Judge *vide* a separate order of the same date, that is, 25.07.2023 had erroneously directed Respondent No. 1 to amend the pleadings and incorporate the relief of declaration.

6. He submitted that since the very title of Respondent No. 1 over the subject property was disputed, the suit ought to have been dismissed as being barred by law on account of non-incorporation of the relief of declaration.

7. *Per contra*, the learned counsel for Respondent No.1 submitted that the learned Trial Court had rightly adjudicated the application filed by the petitioner and there was no infirmity in the same.

8. He further submitted that the petitioner has concealed the fact that the subject application is the petitioner's second application under Order VII Rule 11 of the CPC. He submitted that the first application had been dismissed and the petitioner had withdrawn the civil revision petition, being, C.R.P. 260/2023, that had been filed by him challenging the order of dismissal.

9. He submitted that the petitioner has only preferred the subject application to delay the proceedings and the present petition ought not to be entertained as the petitioner has approached this Court with unclean hands.

10. To this, the learned counsel for the petitioner had submitted that the dismissal of the previous application under Order VII Rule 11 of the CPC had not been mentioned as the same was not material. He submitted that the previous application was on different grounds and a



second application under Order VII Rule 11 of the CPC is maintainable.

11. I have heard the counsels and perused the record.

12. The law in regard to rejection of the plaint under Order VII Rule 11 of the CPC is well settled. The aforesaid provision empowers the Court to summarily dismiss a suit at the threshold, before the plaintiff has had an opportunity to lead evidence and establish its case, if it is found that one of the conditions specified therein is met. The objective of the provision is to quell bogus and meaningless suits at the outset when the said suits *ex facie* appears to be an abuse of the process of law. The Hon'ble Apex Court in the case of ***Dahiben Vs. Arvinbhai Kalyanji Bhansai*** : (2020) 7 SCC 366 has succinctly discussed the law in relation to Order VII Rule 11 of the CPC. The relevant portion of the same is reproduced hereunder:

“23. We have heard the learned counsel for the parties, perused the plaint and documents filed therewith, as also the written submissions filed on behalf of the parties.

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23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.



23.4. In *Azhar Hussain v. Rajiv Gandhi*, 1986 Supp SCC 315, this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court....

23.5. *The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.*

23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [*Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I*, (2004) 9 SCC 512], read in conjunction with the documents relied upon, or whether the suit is barred by any law.

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23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration. [*Sopan Sukhdeo Sable v. Charity Commr.*, (2004) 3 SCC 137]

23.11. The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed...

23.12. In *Hardesh Ores (P) Ltd. v. Hede & Co.* [*Hardesh Ores (P) Ltd. v. Hede & Co.*, (2007) 5 SCC 614] the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. *D. Ramachandran v. R.V. Janakiraman*, (1999) 3 SCC 267;



See also *Vijay Pratap Singh v. Dukh Haran Nath Singh*, AIR 1962 SC 941].

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.

23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of *Saleem Bhai v. State of Maharashtra*, (2003) 1 SCC 557. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in *Azhar Hussain v. Rajiv Gandhi*, 1986 Supp SCC 315. Followed in *Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba*, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823.

23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clauses (a) to (e) are made out. **If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.**”

(emphasis supplied)

13. In the present case, the petitioner is essentially seeking rejection of plaint on account of insufficient court fee having been paid by Respondent No.1. It is further the case of the petitioner that the plaint is not maintainable as no relief *qua* title has been sought by Respondent No.1, even though the title of suit property is disputed.

14. By the impugned order, the learned Civil Judge dismissed the application filed by the petitioner under Order VII Rule 11 of the CPC by observing that while it is argued that insufficient court fee has been



paid by the plaintiff, however, the relevant provision of the Court Fees Act, 1870 as per which insufficient fees had been paid had not been specified. As rightly held by the learned Civil Judge, apart from the bare averments, the petitioner has failed to show as to how the court fees is insufficient. Moreover, in case it is later found that the suit is undervalued or insufficiently stamped, the Court can always call upon the plaintiff to correct the error within a fixed time period.

15. Having failed to point out as to how the court fees is insufficient, the petitioner cannot seek rejection of the plaint under Order VII Rule 11 of the CPC which clearly mentions that the plaint shall be rejected if the plaintiff fails to correct the valuation or supply the requisite stamp paper within a time to be fixed. If at a later stage, the Trial Court comes to a conclusion that the Court fees is insufficient, an opportunity is still to be given to the plaintiff/Respondent No. 1 to correct the valuation and pay the requisite fee. It is on the failure of the plaintiff/Respondent No. 1 to pay that the suit can be rejected. At this stage, the petitioner/defendant has not been able to show or plead as to how the Court fees is insufficient. I therefore find no infirmity in the impugned order in that regard.

16. The only other ground agitated by the petitioner is that the suit ought to have been rejected on the ground of non-inclusion of the relief of declaration by Respondent No. 1. Much emphasis has been placed by the petitioner on the fact that since the title of Respondent No. 1 *qua* the subject property is disputed, and that Respondent No. 1



had not sought the relief of declaration in the suit, his suit ought to have been rejected as being barred by law. It is pertinent to note that merely not including the relief of declaration when the title is disputed does not tantamount to mean that the suit is barred by law. The Hon'ble Apex Court in the case of **Anathula Sudhakar v. P. Buchi Reddy** (*supra*) had observed that if the defendant in his defence raised a dispute over the plaintiff's title then an amendment to the plaint is to be made thereby incorporating a relief of declaration.

17. In the present case as well, since the title of the plaintiff/Respondent No. 1 was disputed, the learned Civil Judge while dismissing the application preferred by the petitioner under Order VII Rule 11, and *vide* a separate order of the same date (that is 25.07.2023) had directed Respondent No. 1 to amend the pleadings thereby incorporating the relief of declaration. The learned Civil Judge, in the impugned order, rightly noted that the contention of the petitioner that since the title of Respondent No. 1 *qua* the subject property was disputed, and that Respondent No. 1 had not sought the relief of declaration, his suit ought to have been rejected as being barred by law, did not fall within the purview of Order VII Rule 11 of the CPC. In the opinion of this Court, the learned Civil Judge rightly allowed Respondent No. 1 to amend the pleadings thereby incorporating the relief of declaration.

18. Even otherwise, the argument taken by the petitioner for challenging the title of Respondent No. 1 is only in the nature of defence. While adjudicating an application under Order VII Rule 11 of



the CPC, it is not open to the Court to venture into the defences raised by the defendant/petitioner.

19. At this juncture, this Court also considers it apposite to deplore the conduct of the petitioner. The petitioner failed to bring it to the notice of this Court that an application under Order VII Rule 11 of the CPC was filed by the petitioner on an earlier occasion as well which was dismissed by the learned Trial Court by order dated 09.08.2018. Petitioner's challenge to the order dated 09.08.2018 was also withdrawn before this Court. Upon being questioned, the petitioner submitted that the same had been mentioned in the pleadings and had not been brought to the notice of the Court for the reason of it having no bearing on the present case.

20. From a perusal of the facts and circumstances, it is apparent that the petitioner had concealed the fact in relation to the dismissal of the earlier application under Order VII Rule 11 of the CPC as well as the fact that the challenge to the dismissal of the first application before this Court was also subsequently withdrawn. The fact of dismissal of the application filed by the petitioner under Order VII Rule 11 of the CPC on an earlier occasion, in the opinion of this Court, is a material fact. It is pertinent to note that not even a copy of the earlier application preferred by the petitioner under Order VII Rule 11 of the CPC has been placed on record for this Court to ascertain the grounds on which the earlier application had been filed. The relevant order of dismissal of the earlier application by the learned Trial Court by order dated 09.08.2018 and its subsequent challenge thereof before this



Court had not been brought to the notice of this Court by the petitioner. The said fact was undisputedly brought to the notice of this Court only when the same had been pointed out by the learned counsel for the respondents.

21. It is pertinent to mention that a mere reference, *en passant*, of the order of dismissal does not amount to a disclosure of fact. For this reason, the Hon'ble Apex Court in the case of ***Bhaskar Laxman Jadhav and Others v. Karamveer Kakasaheb Wagh Education Society and Others* : (2013) 11 SCC 531** had observed that it was not for the Court to look into every word of the pleadings/documents to uncover a fact but for the litigant to disclose all the material facts for the Court to determine whether a particular fact is relevant or not. This Court therefore does not find the rendered explanations to be satisfactory, and the same, in the opinion of this Court, amounts to a material concealment of fact.

Conclusion

22. Upon a perusal of the facts and circumstances, this Court does not find any infirmity in the impugned order so as to warrant any interference.

23. In view of the aforesaid discussion, and considering the conduct of the petitioner, the present petition is dismissed. Pending applications also stands disposed of.

AMIT MAHAJAN, J

MAY, 16 2025