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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.R.P. 289/2023 & CM APPL. 52827/2023**

SMT LOVELY @ NAINAPetitioner
Through: Mr. Anubhav Singh,
Mr. Aman Singh, Mr.
Nitin Kumar & Ms. Maria
Mary, Advs.

versus

ASHISH TRIPATHIRespondent
Through: Ms. Stuti Mishra, Adv.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
07.03.2025

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1. The present petition is filed challenging the order dated 19.09.2023 (hereafter '**impugned order**'), passed by the learned Civil Judge, in CS 39/23, whereby the application filed by the petitioner/ defendant under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('**CPC**') was dismissed.
2. The suit was filed by the respondent/ plaintiff praying for a decree of possession and permanent injunction in respect of the suit property, being, Ground floor without roof rights, in property no. 57, Two Side Open, Rect. No. 84, Killa No.4, Area 50 Sq. Yds. situated in the area of Village Hastal, Delhi State Delhi Colony known as Uttam Nagar, Block-G, School Road, New Delhi-110059.
3. It is claimed that the plaintiff is the owner of the property and he had purchased the property by way of a registered Sale Deed dated 04.01.2008. It is further claimed that the suit property had been given on rent by the plaintiff to the petitioner for



residential purposes in the month of January, 2022 for a monthly rent of ₹7,500/- per month and the petitioner had also paid the rent for three months. Thereafter, the petitioner stopped paying the rent and electricity bill and evaded payments on multiple pretexts despite requests of the mother of the plaintiff, due to which, the electricity connection was also disconnected. Pursuant to the same, the mother of the plaintiff, who was managing the property on his behalf, sent a legal notice dated 15.09.2022 for terminating the tenancy.

4. The application under Order VII Rule 11 of the CPC was filed by the petitioner for rejection of the plaint essentially on the ground that the suit is undervalued as the value of the suit property is not less than ₹40 lakhs, despite which, a court fees of only ₹4000/- has been affixed.

5. The learned counsel for the petitioner submits that the learned Civil Judge has erroneously dismissed the petitioner's application under Order VII Rule 11 of the CPC without appreciating that the suit is beyond the pecuniary jurisdiction of the Court and the plaint was accompanied by insufficient court fees. He submits that the valuation of the suit has to be the value of the whole suit property.

6. He further submits that the petitioner is the owner of the suit property and not a tenant. He submits that the respondent is admittedly not in possession of the suit property and the title of the respondent in respect of the suit property is under cloud, despite which, the respondent has sought no relief for title. He relies upon the judgment in the case of **Anathula Sudhakar v. P. Buchi Reddy : (2008) 4 SCC 594** to contend that a simpliciter suit for injunction is not maintainable in such circumstances.

7. He further submits that it has been alleged in the plaint that



the petitioner is trying to falsely implicate the respondent's father for offences under the POCSO Act and that a complaint in this regard has been dismissed by the learned Magistrate. He submits that the complaint was dismissed for want of jurisdiction, and subsequently, an FIR has been registered on the allegations of the petitioner.

8. The learned counsel for the respondent submits that the suit is properly valued on the basis of the rent of the suit property, as is the practice in tenancy matters. She further submits that the registration of FIR is irrelevant to the facts of the present case. She submits that the petitioner has mentioned the respondent to be her landlord in the same.

9. I have heard the counsel and perused the record.

10. 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 very threshold, even 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 [Ref. *Dahiben Vs. Arvinbhai Kalyanji Bhansai* : (2020) 7 SCC 366].

11. In the impugned order, the learned Civil Judge has perused the plaint and attached documents to find that a *prima facie* case of accrual of cause of action has been made by the plaintiff. The learned Civil Judge has also extensively dealt with the argument of the petitioner in relation to deficient court fees by noting that valuation of the suit is to be determined on the basis of the reliefs claimed and market value is not decisive of the same merely



because an immovable property is involved in the suit.

12. Reliance has been placed on the judgment in the case of ***Bharat Bhushan Gupta v. Pratap Narain Verma : (2022) 8 SCC 333***, where it was held that while the market value of the immovable property in question may have relevance in determination of suit valuation depending on the nature of claimed reliefs, however, it is the nature of relief itself which is the decisive factor.

13. A bare perusal of the plaint shows that as per the plaintiff, the petitioner was merely a tenant in the suit property. It has been claimed that the petitioner also paid rent initially. As also rightly appreciated by the learned Civil Judge, for deciding an application under Order 7 rule 11 of the CPC, the Court only has to look into the averments in the plaint and attached documents. Thus, considering the dictum in the case of ***Bharat Bhushan Gupta v. Pratap Narain Verma (supra)***, this Court finds no infirmity in the decision of the learned Civil Judge that the Court has jurisdiction to entertain the suit and the court fee can be assessed on the basis of assessment of rent for the year.

14. Insofar as the argument in relation to the suit not being maintainable due to absence of any relief *qua* title is concerned, the learned Civil Judge has observed that the petitioner had failed to produce any documents showing her title over the suit property. In the current proceedings as well, no endeavour has been made by the petitioner to bring forth any documents in this regard.

15. Even so, the said argument of the petitioner is in the nature of a defence and it is not open to the Court to venture into the defence of the defendant at the stage of adjudicating an application under Order 7 Rule 11 of the CPC. As noted above,



at this stage, only the averments made in the plaint are relevant. The plaintiff has been able to *prima facie* show that he has title over the suit property by way of the registered sale deed dated 04.01.2008.

16. As far as the judgment in the case of **Anathula Sudhakar v. P. Buchi Reddy** (*supra*) is concerned, in the opinion of this Court, the same does not come to the aid of the petitioner merely because the plaintiff does not have possession of the suit property. The plaintiff has categorically pleaded that he is the owner of the suit property and the petitioner had been inducted as merely a tenant, however, she refused to pay the rent after some months which led to termination of tenancy. At this stage, the pleadings of the plaintiff *prima facie* explain as to why he does not have possession of the suit property.

17. While the defence of the petitioner *qua* title will be seen during trial, mere bald averments in isolation are insufficient for concluding that there is a cloud over the title of the plaintiff and nibbling the suit at the outset before the parties have been able to lead their evidence. It has also been rightly noted in the impugned order that when there is a mixed question of fact and law, the same has to be determined after parties lead their evidence.

18. In view of the aforesaid discussion, this Court finds no infirmity in the impugned order.

19. The present petition is dismissed in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

MARCH 7, 2025