



2025:DHC:10091-DB



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

Date of decision: 14.11.2025

+ RFA(OS) 44/2025, CM APPL. 44854/2025 (Stay) & CM APPL. 44855/2025 (Ex. from filing certified copy of the impugned order)

RICHA TIWARI

.....Appellant

Through: Appearance not given

versus

KUMAR SAMBHAV MISHRA & ORS.Respondents

Through: Mr. A.P.S Ahluwalia, Senior Advocate with Mr. S.S. Ahluwalia and Ms. Rimpay Rohilla, Advocates

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+ RFA(OS) 46/2025, CM APPL. 45187/2025 (Stay) & CM APPL. 45188/2025 (Ex. from filing certified copy of the impugned order)

VANDANA DIXIT

.....Appellant

Through: Appearance not given

versus

KUMAR SAMBHAV MISHRA & ORSRespondents

Through: Mr. A.P.S Ahluwalia, Senior Advocate with Mr. S.S. Ahluwalia and Ms. Rimpay Rohilla, Advocates

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

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JUDGEMENT (ORAL)**ANIL KSHETARPAL, J.**

1. These two Appeals assail a common **Judgment and Order dated 23.04.2025¹** in I.A. No.40283/2024 in CS(OS) No.72/2022 passed by the learned Single Judge. Since both Appeals arise out of the same Impugned Judgment and Order, they have been heard together and are being disposed of by this common Order.

2. The Appellants/Plaintiffs therein assail the correctness of the Impugned Order, by way of which the learned Single Judge has rejected their plaint in exercise of power under Order VII Rule 11 of the Code of Civil Procedure, 1908².

3. The Plaintiffs and Respondents/Defendants therein are children of late Shri Jagdish Prasad, who, upon his demise, left behind as many as 5 children as his legal heirs. Plaintiffs, namely, the two daughters, filed a suit for partition of the suit property located at property bearing **Municipal No.8642, Ward No.XVI, Gali Gopal Wali, Gaushala Marg, Kishan Ganj, Delhi, admeasuring 178 Sq. Yds. (earlier known as Plot No.115/5, Block No.67B Bagh Roji-III, Delhi)³**.

4. An application under Order VII Rule 11 of CPC was filed by the Defendants. The learned Single Judge allowed the said application on the following two grounds:

- i. The Plaintiffs have taken a contradictory stand in the plaint filed before this Court in Civil Suit bearing No. CS(OS) 72/2022 and CS No.1504/2021. CS No.1504/2021 was

¹ Impugned Order

² CPC

³ Suit Property



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preferred by Defendant No.3 and is with respect to property bearing Flat No. 251, Upper Ground Floor, Nagin Lake Apartment, Paschim Vihar, Delhi.

ii. The Plaintiffs have concealed the material facts from the Court.

5. We have heard learned counsel for the parties at length and, with their able assistance, have perused the paperbook.

6. At the outset, it is of import to note the enabling power of the Court under Order VII Rule 11 CPC as circumscribed under clauses A to F, which read as under:

“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 written 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-papers 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-papers, 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.]”

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7. A perusal of the provision extracted herein above would demonstrate that concealment of material facts or contradictory stand are not the grounds for rejection of a plaint. At the stage of Order VII Rule 11 CPC, the Court is required to consider the assertions made in in the plaint. It is evident from reading of the Impugned Order that the Court has not found that the Plaint is liable to be rejected as per Clauses A to F listed above.

8. Learned counsel for the Respondent has submitted that this Court should exercise powers under Section 151 of the CPC or, in the alternative, under Order XII Rule 6 of the CPC.

9. This Court has considered the submissions advanced by the parties. The Impugned Order has been passed under Order VII Rule 11 CPC. Once there is a specific provision enabling the Court to reject the plaint under Order VII Rule 11 CPC, resort to Section 151 CPC would not be appropriate.

10. Further, Order XII Rule 6 CPC is in the context of a Judgment based upon admissions, which would not be applicable in the present case.

11. While deciding the Appeal against an Order passed by the Court, it is not expected from the Appellate Court to travel beyond the Impugned Order passed. Even otherwise, the Respondents/Defendants therein are not precluded from taking all these objections in their defence before the learned Single Judge. However, rejection of the plaint on the ground of concealment of facts or contradictory stand, which, according to the learned Senior Counsel for the Respondents, amounts to abuse of process of the Court, are not the grounds enlisted

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for rejection of the plaint and accordingly, the plaint of the Appellants could not have been rejected on these grounds.

12. In view of the above, the present Appeal is allowed and the Impugned Order dated 23.04.2025 is set aside. Accordingly, the Suit shall stand restored to its original number before the learned Single Judge.

13. Parties through their respective counsel are directed to appear before the learned Single Judge [*Roster Bench*] on 26.11.2025.

14. The present Appeal, along with pending application(s), if any, shall stand disposed of in the above terms.

15. A photocopy of this Order be placed in the connected matter.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 14, 2025/rk/va

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