2025:DHC:11671-DB

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

% ***Judgment reserved on:15.12.2025***
Judgment pronounced on: 22.12.2025
Judgment uploaded on: 22.12.2025

\+ RFA(OS) 18/2023 and CM APPL. 44253/2025

SHRI CHARANJEET SINGH & ANR. .....Appellants
Through: Mr. Pawan Singh Bindra, Sr. Adv. with Mr. Lakshay Dhamija, Ms. Vasudha Saini, Ms. Liza Kesi, Advs.

versus

SHRI HARVINDER SINGH & ANR. .....Respondents
Through: Ms. Prabhsahay Kaur, Sh. Bir Inder Singh, Ms. Antara, Advs. for R-1.
Mr. H.S. Phoolka, Sr. Adv. with Ms. Surpreet Kaur, Mr. Karthik Goyal, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

<u>J U D G M E N T</u>

<u>ANIL KSHETARPAL, J.</u>

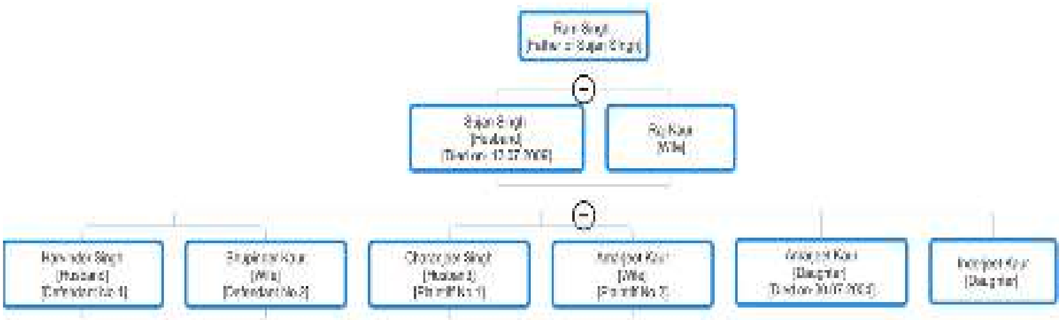
1. The Appellants assail the correctness of the order dated 06.07.2023 [hereinafter referred to as 'Impugned Order'] passed by the learned Single Judge [hereinafter referred to as 'LSJ'], while rejecting the plaint under Order VII Rule 11 of the Code of Civil Procedure [hereinafter referred to as 'CPC'].

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

FACTUAL MATRIX

3. For a comprehensive consideration of the issues involved, requiring adjudication, it is apposite to first delineate the family genealogy and the attendant factual matrix, which are set out in the ensuing paragraphs.

4. The genealogy of the family reads as under:



5. While instituting the suit and the interim applications, the Plaintiffs, in brief, asserted as under:

5.1 The Plaintiffs claim that Sh. Ram Singh, his grand-father, migrated to India at the time of Partition in the year 1947 and thereafter commenced his business. Subsequently, in the year 1949, Sh. Sujan Singh and his brother Sh. Avinash Singh began business of scrap dealing. In due course, the Plaintiff No.1 and the Defendant No.1 joined their father's business which led to the forming of the partnership firm under the name and style of Sh. Sujan Singh and Sons. A Partnership Deed dated 04.04.1976 was executed, wherein Sh. Sujan Singh and his two sons being Plaintiff No.1 and the Defendant No.1 had an equal share. Shop No. 5162, Lahori Gate, Delhi became the asset of the partnership firm.

5.2 The Defendant No.1 used to handle the accounts and administrative affairs of the firm. All financial matters, including filing of income tax returns of the partnership and other family members, was done by Defendant No.1. During his lifetime, Sh. Sujan Singh acquired property bearing No. BF-29, Tagore Garden, New Delhi under Perpetual Lease Deed dated 05.03.1965. Subsequently, owing to the need for additional residential accommodation, property bearing No. F-61, Rajouri Garden, New Delhi [hereinafter referred to as 'Suit Property'], was purchased on 27.03.1992, in the name of Defendant No.2 out of the funds of the partnership firm,

5.3 Sh. Sujan Singh died on 12.07.2009. After his demise, the Plaintiff No.1 and Defendant No.1 continued to run the business, and a Partnership Deed dated 18.07.2009 was executed, whereby the Plaintiff No.1 and Defendant No.1 became partners with equal shares of 50% each.

5.4 Since the family grew, need was felt to divide the business and properties, hence, it was divided. Accordingly, in February, 2013, the family reduced into writing the oral settlement by way of a Settlement Deed, wherein it was agreed that property bearing No. BF-29, Tagore Garden, New Delhi, will come to the share of Plaintiff No.1 and his family members and the Plaintiff No.1 would pay Rs. 75 lakhs to the Defendant No.1, the ownership of Shop No. 5158 will be that of the Plaintiff No.1, and whereas, Shop No. 5162 would be that of the Defendant No.1. The cash and stock of both the shops were to be divided in the ratio of 60:40 between the Defendant No.1 and the Plaintiff No.1. The Suit Property would go to the share of Defendant

No.1.

5.5 In respect of property bearing No. A-3, Vishal Enclave, New Delhi, Defendant No.1 will have 50% share, whereas Plaintiff No.1 will have 37.5% share, whereas the balance 12.5% share would come to the share of Smt. Raj Kaur, mother of Plaintiff No.1 and Defendant No.1. Subsequently, the construction over the suit property, was carried, out of the funds of the partnership firm. The said construction was undertaken between April, 2013 to February, 2017.

5.6 It is now alleged that Defendant No.1 has turned dishonest and falsely claims that the suit property was exclusively owned by his wife and the same was not a part of family property.

5.7 Thereafter, the Defendant no.1 filed the suit for partition of property bearing No. BF-29, Tagore Garden, New Delhi and Shops bearing No. 5162 and 5158, Lahori Gate, Delhi, wherein he did not implead his wife as Plaintiff in the said suit, though he impleaded all his family members therein.

5.8 The Plaintiffs filed a counter claim in the said suit in respect of the property at Rajouri Garden, but the same was dismissed as withdrawn, on the ground that the Defendant No.2 herein was not a party in the suit. Accordingly, the counter claim was withdrawn with liberty to file a fresh one. A preliminary decree was passed on 15.03.2018. The parties were thereafter referred to mediation, but the mediation failed.

5.9 Since the relations between the parties are strained, it is no longer possible to keep the property joint. Despite repeated requests made by the Plaintiffs for partition, the Defendants have failed and neglected to amicably resolve the dispute. In these circumstances, the Plaintiffs are constrained to seek partition of the Suit Property by metes and bounds, so as to enable them to enjoy their respective shares separately.

5.10 Therefore, the Plaintiffs file the present suit bearing CS (OS) No.486/2018, seeks the following reliefs: -

> *"(i) Pass a decree of declaration declaring that the property bearing No. F-6I, Rajouri Garden, New Delhi is joint property of Plaintiffs and Defendants, both have 50% share each in the same.*
>
> *(ii) Pass a decree of cancellation in favour of Plaintiffs and against Defendants thereby canceling the sale deed dated 27.03.1992 Registered in the office of Sub Registrar Delhi bearing registration No.18570, in Addl. Book No. I, Vol. No. 5686 on Page No. 109 to 122 registered on 27.03.1992 in the name of Defendant No.2.*
>
> *(iii) Appoint a Local Commissioner with directions to suggest the mode of partition bearing No.F-61, Rajouri Garden, New Delhi by metes and bounds and to submit a report before this Hon'ble Court thereby declaring the share of the Plaintiffs in the same whereupon, this Hon'ble Court may be pleased to pass a Preliminary Decree.*
>
> *(iv) Pass a final decree of partition on the basis of report submitted by learned Local Commissioner and the Plaintiffs be put in possession of their share in the aforesaid properties.*
>
> *(v) Pass a decree of Permanent Injunction in favour of the Plaintiff and against the Defendants, restraining the Defendants, their servants, agents, employees, representatives or any body acting through them or on their behalf from in any manner whatsoever creating lien, mortgage, encumbrances, creating third party interest and dealing with or disposing of a part or whole of Property bearing No.F-61, Rajouri Garden, New Delhi.*
>
> *(vi) Grant costs."*

6. The rejection of Plaintiffs' plaint under Order VII Rule 11 of the CPC has been ordered by the LSJ on the following grounds:

6.1 According to the Plaintiffs, Defendant No.2 had no independent source of income, and, therefore, the Suit Property was purchased in the name of Defendant No.2 utilising the funds of the partnership firm, pursuant to the Sale deed dated 27.03.1992. On this basis, title stood conveyed exclusively to Defendant No.2, rendering her the sole and absolute owner thereof. Consequently, the provision of PBPT Act is attracted, and, the Plaintiff is thereby precluded from seeking a declaration that the Suit Property constitutes joint property of the Plaintiffs and Defendants.

6.2 The Plaintiffs assert that Defendant No.2 held the Suit property in a fiduciary capacity for the benefit of the members of the family and/or the partnership firm. However, the plaint contains no averment as to when, or how, or in what manner funds of the partnership firm were utilised towards the purchase. Therefore, the LSJ concluded that the Defendant No.2 cannot be deemed to hold the Suit Property in a fiduciary capacity.

6.3 The Plaintiffs further allege that the purchase consideration was routed through third parties to the credit of Defendant No.2. The LSJ has observed that, irrespective of the legitimacy of such routing of funds, the Plaintiffs have, on their own showing, admitted that the purchase monies were ultimately paid by Defendant No.2. This circumstance, according to the LSJ, falls squarely within the mischief contemplated under Section 4 of the PBPT Act, which prohibits any claim over property purchased in the name of another person, for the benefit of the person providing the funds. Hence, the routing of funds is immaterial and does not advance the Plaintiffs' case.

6.4 There is no averment in the plaint suggesting that the Sale Deed imposed any restriction emphasising that the Suit Property would not be held by the Defendant No.2 as sole and absolute owner. The Suit property stands exclusively in the name of the Defendant No.2 and pursuant to Section 14 of the HSA, Defendant No.2 is presumed to hold the Suit Property as full owner and not as a limited owner. The plaint does not contain any pleading that may operate to rebut this statutory presumption.

6.5 The Defendant No.2 does not fall within the exception contemplated under Section 2(9)(A)(ii) of the PBPT Act. The plaint contains no allegation that Defendant No.2 was a partner of the firm. The Plaintiff's contention that she occupied a fiduciary position merely by virtue of being the spouse of Defendant No.1, who is admittedly a partner, is untenable, since, under Section 5 of the Partnership Act, a partnership arises solely from contract and not from status or relationship.

6.6 It has been further contended by Defendant No.1 that the Suit property had already been conveyed in favour of Defendant No.2 through the Sale Deed and, therefore, did not constitute part of the alleged family settlement. The plaint is bereft of any averment that Defendant No.2 was a party to the oral settlement or a signatory to the written Settlement Deed of 2013. The Plaintiffs' assertion that Defendant No.2 is bound by the settlement merely because her husband was a party thereto has been rejected, particularly in light of the fact that the Suit property stands exclusively in her individual name.

6.7 The Sale Deed sought to be cancelled was admittedly executed on 27.03.1992, whereas the Settlement Deed relied upon by the Plaintiffs, came into existence only in February 2013. The present suit was instituted on 10.09.2018, more than 21 years after execution of the Sale Deed and five years after signing of the settlement deed comprising the family agreement. Accordingly, the suit is held to be palpably barred by limitation under Article 59 of the Limitation Act, 1963, which prescribes a period of three years.

7. The LSJ, therefore, allowed the application filed under Order VII Rule 11 of the CPC, holding that the plaint does not disclose any cause of action that requires trial. Furthermore, the LSJ observed that, in light of the settled position of law, the reliefs claimed in the plaint are also clearly barred by law.

<u>CONTENTION OF THE PARTIES</u>

8. Learned counsel for the Plaintiffs, while controverting the findings of the LSJ has advanced the following submissions:

8.1 The LSJ erred in passing the Impugned Order and failed to appreciate that the Defendant No.2 had no independent income to purchase the Suit property, a fact not disputed by the Defendants. The Defendant No.2 expressly stated in her written statement that USD 20,000 was received from Mr. Harcharan Singh Kohli for purchasing the Suit Property. The Defendant No.2 has no sister, nor is Mr. Kohli related to the Defendants, a material circumstance that has been completely overlooked by the LSJ.

8.2 The LSJ further failed to appreciate that the Family Settlement in February 2013, was signed by all members of the family including Defendant No.1, but not Defendant No.2, as the Suit property was considered and always treated by all the family members as family property and not as the self-acquired property of Defendant No.2.

8.3 The LSJ also erred in observing that the plaint does not disclose when or how the funds of the partnership firm were utilized for the purchase of the Suit property, despite Paragraph 8 of the plaint specifically detailing the mode and manner in which the funds were allegedly paid. In any event, the issue as to whether the purchase consideration was actually paid by the Defendant No.2 is a matter requiring trial and cannot be adjudicated at the stage of Order VII Rule 11 of the CPC.

8.4 The LSJ ignored the well-settled law that the determinative test for a benami transaction is whether the purchase consideration was paid by someone other than the person in whose name the property stands, an issue that necessarily requires trial. Further, the LSJ also fails to appreciate that the Defendant No.2 comes within the purview of the exception contained in Section 2(9)(A)(ii) of the PBPT, or whether the suit is barred by that statute, are issues that can only be determined after evidence is led.

8.5 In the present case, the LSJ failed to appreciate that disputed questions of fact cannot be adjudicated while considering an application under Order VII Rule 11 of the CPC. The reading of the averments in the plaint must be read as a whole, and on such reading, it cannot be concluded that the suit is barred by law, whether it be under the PBPT or the Limitation Acts.

8.6 The LSJ further erred in holding that the suit was barred by limitation in view of Article 59 of the Schedule of Limitation Act, 1963. The LSJ proceeded on the premise that the suit was filed on 10.09.2018, i.e. more than 21 years after execution of the sale deed.

8.7 In the present case, it is not the case of the Plaintiffs that the Sale Deed requires cancellation on account of the family settlement. The case of the Plaintiffs is that the suit property was jointly owned by the parties, a fact recorded in the family settlement, and it was only in February, 2017, when the Defendant No.1 denied joint ownership by claiming that the property exclusively belonged to Defendant No.2 merely because the title stood in her name. Hence, the cause of action arose in February 2017, and the suit filed on 27.09.2018 was well within limitation.

8.8 The LSJ also failed to consider that a challenge to the right of the female under section 14 of the Hindu Succession Act, 1956 [hereinafter referred to as 'HSA'] is maintainable, if it is proved that although the property was purchased in her name, it was not intended to be for her sole benefit. Furthermore, section 67 of the PBPT Act gives overriding effect, stating that its provisions shall prevail over anything inconsistent contained in any other law. Being a later enactment, the PBPT Act must therefore prevail over the HSA, thereby negating the automatic operation of Section 14 of the HSA in appropriate cases.

8.9 The LSJ failed to consider that the judgement relied upon by the Plaintiffs in ***Neeru Dhir v Kamla Kishore Dhir***[1]**,** wherein the Court held that in the case where the issues have not been framed and the stage of evidence had not even been arrived at, thus, at the stage of application under Order VII Rule 11 of the CPC, it is not open to the Court at this stage to determine whether the said person stood in a "fiduciary capacity".

9. *Per contra*, the learned counsel representing the Defendants advanced the following submissions:

9.1 The Defendant No.2 contends that the plaint itself states that the Suit Property was purchased in her name and title thereto was exclusively conveyed to her *vide* Sale Deed dated 27.03.1992, making her the sole and absolute owner of the Suit Property. Therefore, the prayer for declaring the subject property as 'joint property' or seeking its partition is not maintainable.

9.2 The Defendants submit that the falsity of the Plaintiffs' claims is evident from the contradictory pleas in the plaint namely (i) the Plaintiffs avers that the Suit Property is 'partnership property' belonging to the partnership firm, (ii) the Plaintiffs' claims that the Suit Property is 'joint property' held by the family members, and (iii) the Plaintiffs contend that the subject property is held by the Defendant No.2 in a fiduciary capacity for and on behalf of the partnership firm. It is contended that these assertions are mutually destructive, unsupported by particulars, and unsubstantiated by

[1] MANU/DE/2444/2020

pleadings or documents on record.

9.3 The Defendant No.2 contends that there is no averment explaining how the Suit Property became partnership property. There is no averment that the firm purchased the property, that it was purchased in the names of the partners, that the Defendant No.2 is one of the partners in the partnership firm, or that the property was reflected in the income tax returns of the firm. Moreover, there is no averment in the plaint explaining how Defendant No.2 holds the property in a fiduciary capacity for the Plaintiffs.

9.4 It is further alleged that there is no averment in the plaint as to how the Suit Property came to be transferred solely in the name of Defendant No.2 *vide* registered sale deed of 1992, when the family settlement was admittedly signed only in 2013, especially when the Defendant No.2 was not a signatory to the said family settlement, and the alleged document purporting to be a family settlement does not record it as a 'memorandum' recording an oral family settlement, and if intended to transfer title, ought to have been registered, failing which, it is inadmissible in evidence.

9.5 The Defendants contend that the suit, filed on 10.09.2019, is barred by limitation being beyond the 3-year period, whether reckoned from the date of execution of the sale deed or the alleged family settlement.

9.6 The Defendants further averred that the Defendant No.2 cannot be said to hold the property in a fiduciary capacity merely because she is the wife of Defendant No.1, a partner in the firm. It is emphasised that the Plaintiffs nowhere plead that Defendant No.2 was herself a partner.

9.7 The Defendant No.2 also contends that she paid the entire consideration for purchase of the Suit Property from her own resources, including by encashing her Vikas Patras and receiving funds from her cousin abroad and the documents evidencing this position are said to be on record.

9.8 It is finally contended that Defendant No.2's absolute ownership of the Suit Property, confers full ownership upon a female Hindu in respect of property acquired before or after commencement of the Act. Since the sale deed dated 27.03.1992 stands in her name, the Plaintiffs cannot claim any right, title or interest in the Suit Property.

ANALYSIS AND FINDINGS

10. Having considered the respective submissions, examined the pleadings, and perused the Impugned Order, this Court is of the considered view that the rejection of the plaint under Order VII Rule 11 of the CPC is unsustainable. The reasons recorded by the LSJ, though elaborate, traverse issues that are not amenable to adjudication at a preliminary stage.

11. It is trite that while examining an application under Order VII Rule 11 of the CPC, the court is confined to a meaningful reading of the plaint as a whole, without embarking upon an assessment of the defence or the correctness of the pleadings. The plaint cannot be

rejected, unless it ex-facie fails to disclose a cause of action or is palpably barred by law. 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 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.]”*

12. The Defendants raised an objection that the plaint is bereft of any cause of action. However, paragraph 20 of the plaint clearly shows, that the Plaintiff has asserted the following cause of action:

> *“20. The cause of action arisen to file the present suit arose in favour of the Plaintiffs from time to time as explained hereinabove. The cause of action in February 2017 when the Defendant No.1 started claiming the Suit property being F-61, Rajouri Garden, New Delhi is property of the Defendant No.2 and the Plaintiffs have no right in the same. The cause of action further arose when the Plaintiff filed a suit for partition seeking partition of the other properties without including the Suit property. The cause of action further arose on 02.11.2017 when the counter claim filed by the Plaintiff in suit bearing CS No. 466/2017 was withdrawn with liberty to file separate suit, since the*

Defendant No.2, in whose name property bearing No. F-61, Rajouri Garden is registered was not a party to said suit. Since Defendants have refused to partition the suit property. The cause of action is a continuing one."

13. It is pertinent to note the fine distinction between a plaint disclosing the cause of action as required under Order VII Rule 11 of the CPC and the question of whether the Plaintiff is ultimately entitled to succeed in the suit based on such cause of action. The latter necessarily involves adjudication on allied issues, including maintainability or *locus-standi.* It is well settled that this provision does not contemplate 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.

14. Further, the Plaintiff's case categorically asserts that Defendant No.2 had no independent means to acquire the Suit Property, and that the purchase was affected from partnership funds routed through third parties. Paragraph 8 of the plaint details the mode of such payment. At this stage, the Court is required to accept those averments at face value. Whether these funds emanated from the partnership firm, whether they were intended to benefit the family collectively, whether the Defendant No.2 merely lent her name to the title document, or whether the transaction constitutes a benami purchase, are pre-eminently factual issues that can be determined only upon evidence. The LSJ's rejection of these assertions on the ground of insufficiency of proof amounts to substituting a trial with a preliminary determination, an approach which may not be permissible in law.

15. Similarly, the conclusions reached by the LSJ on the

applicability of the PBPT Act, proceed upon contested factual premises, including whether the Defendant No.2 falls within the exception under Section 2(9)(A)(ii), whether the purchase was for her benefit, and whether the transaction attracts the statutory bar. These issues require evidence regarding the source of funds, identity of contributors, the intention underlying the purchase, and the relationship among parties. They cannot be adjudicated merely by reference to the recitals in the Sale Deed or the denial of ownership by the Defendants.

16. The reliance placed by the LSJ with regards to Section 14 of the HSA, is equally premature. Whether the Defendant No.2 is a full and absolute owner under Section 14(1), or whether the purchase in her name was not intended to vest absolute beneficial ownership, particularly in light of the alleged family settlement, is a matter that hinges entirely on contested questions of fact. Such issues can be resolved only after evidence is led, and not on a threshold scrutiny under Order VII Rule11 of the CPC.

17. The plaint does not assert cancellation of the Sale Deed but claims joint ownership arising from family arrangements, the relationship among parties, and contributions to the property purchased. Such assertions, taken at face value, do disclose a cause of action. However, the veracity of this, may either be substantiated or disproved only upon trial.

18. The Court also finds merit in the Plaintiff's contention that the rejection of the plaint overlooks the well-settled principle that the

existence, intention, and, the effect of a fiduciary relationship cannot be determined at the threshold stage. The decision in ***Neeru Dhir*** (supra), relied upon by the Plaintiffs, recognises the principle that fiduciary status must be adjudicated only after framing of issues and leading of evidence.

19. As per Order VI Rule 2 of the CPC, the pleadings are required to be concise and confined to material facts, to the exclusion of evidence. In this context, the Impugned Order suffered from errors while observing that the plaint contains no averments as to when, or how or in what manner, funds of partnership firm were utilised towards the purchase of Suit Property. The plaint categorically asserts that Defendant No.2 has no independent source of income and that the purchase consideration was provided from the funds of the partnership firm. The aspect of as to when, or how, or in what manner, the funds of partnership firm were utilised towards purchase of the Suit Property falls squarely within the domain of evidence. Hence, the plaint could not have been rejected on this core. Moreover, Order VII Rule 11 of the CPC does not contemplate rejection of the plaint on the ground of lack of detailed explanations.

20. On the issue of limitation, adjudication under Order VII Rule 11 of the CPC must proceed solely on the basis of the pleadings and the documents filed by the Plaintiff and not on the Defendants' defence. Limitation being a mixed question of fact and law, cannot ordinarily be determined without trial. In the present case, the Impugned Order proceeds on a misapplication of Article 59. The suit, as pleaded, is not premised on cancellation of the Sale Deed of 1992, rather, the cause of

action is stated to have arisen in 2017, when Defendant No.1 first disputed joint ownership, despite a prior family settlement of 2013. The present suit was filed in September 2018. Whether this assertion is credible or merely self-serving, is an issue requiring evidence. Thus, this cannot be a ground for rejection of the plaint at the threshold in respect of Order VII Rule 11 of the CPC.

21. Viewed cumulatively, the plaint clearly discloses a cause of action. It raises triable issues that cannot be discarded as illusory or untenable at this stage. The defences canvassed by the Defendants, including absence of Defendant No.2's signatures on the family settlement, routing of funds, admissibility of documents and applicability of statutory prohibitions, are all matters that fall outside the scope of scrutiny under Order VII Rule 11 of the CPC.

22. In light of the foregoing statutory provisions and the observations of this Court upon the findings arrived at by the LSJ, as well as the submissions advanced by learned counsel representing the parties, this Court is of the view that the LSJ has misdirected himself by embarking upon a substantive evaluation of disputed facts and complex legal issues at a stage where only the sufficiency of the pleadings was required to be tested. The LSJ has treated the Plaintiff's averments regarding the nature and source of purchase funds, the applicability of PBPT Act, the alleged fiduciary character of Defendant No.2's ownership, the effect of Section 14 of the HSA, and the plea of limitation, as if these issues already stood conclusively proved against the Plaintiffs. Such an approach is antithetical to the settled legal standard under Order VII Rule 11 of the CPC, which

expressly prohibits any adjudication into disputed question of fact or an assessment of the merits of the defence. Whether the Plaintiffs will ultimately succeed or fail is not a matter to be examined at this stage.

CONCLUSION

23. In light of the above findings, it is concluded that the LSJ has erred in passing the Impugned Order. Keeping in view the aforesaid circumstances, this Court is inclined to allow the present appeal.

24. Hence, the present Appeal is hereby allowed and the suit is restored to its original number. The parties, through their counsel, are directed to appear before the LSJ (Roster bench) on 13.01.2026.

25. Needless to observe that this order shall not be construed as final expression of the parties before the LSJ.

26. The present Appeal, along with the pending application, stands disposed of.

ANIL KSHETARPAL, J.

HARISHVAIDYANATHANSHANKAR, J.

DECEMBER 22, 2025/sp/ra