



2025:DHC:4888



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 27.05.2025

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C.R.P. 281/2024**FIROJ**

.....Petitioner

Through: Mr. Atul Varma and Mr. Avanish
Kumar, Advocates.

versus

CONSTABLE SOMESH & ORS.

.....Respondents

Through: Mr. Sharique Hussain, Advocate for
R-2.Ms. Vaishali Gupta, Panel Counsel
for R-3.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM APPL. 57652/2024 [Delay in re-filing the Petition]**

1. This is an Application seeking condonation of delay of 14 days in re-filing the present Petition.
2. For the reasons as stated in the Application, the delay is condoned.
3. The Application stands disposed of.

C.R.P. 281/2024, CM APPL. 57650/2024 [Stay]

4. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] seeking to challenge an order dated 14.05.2024 passed by the learned Additional District Judge-04, PHC/New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order an Application under Order VII Rule 11, CPC filed by Respondent No.1/Defendant No.1 has been allowed relying on Section 140 of the Delhi Police Act, 1978 [hereinafter referred to as "DP



Act”] and the suit filed by the Plaintiff/Petitioner has been disposed of against Defendant No.1/Respondent No.1 only.

5. Learned Counsel for the Petitioner seeks to rely upon Paragraph 19 of the Impugned Order in this behalf to submit that the analysis of Section 140 of the DP Act by the learned Trial Court is erroneous. Reliance in this behalf is placed on *C.B.I. v. Dharampal Singh & Anr.*¹, *Manoj Pant v. State*², *Balbir Singh v. Govt. of NCT of Delhi & Ors*³.

6. Learned Counsel for the Respondents on the other hand submit that the Impugned Order does not suffer from any infirmity and has been passed in accordance with law.

7. It is apposite to set out the relevant extract of the Impugned Order below, which gives the reason that since the suit was filed in contravention of the provisions of Section 140(1) of the DP Act, it is liable to be dismissed qua Respondent No.1/Defendant No.1 and thus, the suit was dismissed qua Respondent No.1/Defendant No. 1:

“19. Section 140(1) of the DP Act provides that the suit was to be filed within 3 months of the wrong, whereas section 140(2) mandates a one month's notice prior to filing the suit. Both the sub-sections 1 and 2 of Section 140 stipulate that the suit was to be dismissed in case of non-compliance with those sub-sections. In the present case, not only has the suit been filed against the defendant no.1 beyond 3 months as provided under section 140(1) of the DP Act, but even no one month's prior notice was given to the defendant no.1 under section 140(2) of the DP Act. As such on both counts, the suit is liable to be dismissed against the defendant no.1 under section 140 of the DP Act, and is accordingly dismissed against the defendant no.1.”

[Emphasis supplied]

¹ 2005 SCC OnLine Del 967

² 1996 SCC OnLine Del 148

³ 2005 SCC OnLine Del 1238



7.1 The learned Trial Court has dismissed the suit against Defendant No.1 and has continued the proceedings only against Defendant No. 2.

8. It is a settled law that a plaint cannot be rejected in part. For a plaint to be rejected under Order VII Rule 11 of the CPC, the plaint must fail as a whole. The CPC does not contain any provision permitting partial rejection of a plaint.

9. A Division Bench of this Court in *Navigators Logistics Ltd. v. Kashif Qureshi and Others*⁴, while relying on the judgment of the Supreme Court in *Navilan Merchants (P) Ltd. v. Sejal Glass Ltd. & Ors*⁵, had held that the provision of Order VII Rule 11 of the CPC necessarily means that the plaint must be rejected as a whole if it does not disclose a cause of action. There is no provision in the CPC for rejection of a plaint in part. It is further held that where only a part of the plaint is to be rejected, an Application under Order VI Rule 16 of the CPC would apply to strike out those pleadings which are otherwise unnecessary or abuse of the process of the Court. The Supreme Court in *Sejal* case also found that once a part of the plaint cannot proceed, the other part also cannot proceed and the whole plaint must be rejected. However, if the plaint survives against certain Defendants then Order VII Rule 11 of the CPC will have no Application and the whole suit will proceed to trial. It was thus held that the examination of the plaint has to be made with great care so as to ascertain whether the plaint can be rejected as a whole against all Defendants. The relevant extract is set out below:

“42. The Supreme Court in Sejal Glass Limited v. Navilan Merchants Private Limited has held that Order VII Rule 11 of CPC refers to “a plaint” and that necessarily means the plaint as a whole. It has been held that it is only where a plaint as a whole does not disclose a

⁴2024 SCC OnLine Del 8244

⁵ 2016 SCC OnLine Del 6580



cause of action, the provisions of Order VII Rule 11 of CPC can be made applicable. It was further held that there is no provision in the CPC for rejection of a plaint in part. The relevant paragraphs of the said judgment are as follows:

“3. In our view, the impugned judgment [Navilan Merchants (P) Ltd. v. Sejal Glass Ltd., 2016 SCC OnLine Del 6580] is wrong on principle. Order 7 Rule 11 of the Civil Procedure Code, 1908 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 written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply 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 for 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.”

What is important to remember is that the provision refers to the “plaint” which necessarily means the plaint as a whole. It is only where the plaint as a whole does not disclose a cause of action that Order 7 Rule 11 springs into being and interdicts a suit from proceeding.

4. It is settled law that the plaint as a whole alone can be rejected under Order 7 Rule 11. In *Maqsud Ahmad v. Mathra*



Datt & Co.; [Maqsd Ahmad v. Mathra Datt & Co., 1936 SCC OnLine Lah 337 : AIR 1936 Lah 1021], the High Court held that a note recorded by the trial court did not amount to a rejection of the plaint as a whole, as contemplated by the CPC, and, therefore, rejected a revision petition in the following terms : (AIR p. 1022 para 4 : SCC OnLine Lah para 4)

“4. ... There is no provision in the Civil Procedure Code for the rejection of a plaint in part, and the note recorded by the trial court does not, therefore, amount to the rejection of the plaint as contemplated in the Civil Procedure Code.”

[Emphasis is ours]

*42.1 In the Sejal Glass Limited case the Supreme Court also held that **where only a part or portion of the plaint is to be rejected, an Application under Order VI Rule 16 of CPC would apply and that part of the pleadings would be struck out which are unnecessary, frivolous, vexatious or otherwise abuse of the process of the Court.** The relevant extract is set out below:*

*“8. We are afraid that this is a misreading of the Madras High Court judgment. It was only on the peculiar facts of that case that want of Section 80 CPC against one defendant led to the rejection of the plaint as a whole, as no cause of action would remain against the other defendants. **This cannot elevate itself into a rule of law, that once a part of a plaint cannot proceed, the other part also cannot proceed, and the plaint as a whole must be rejected under Order 7 Rule 11.** In all such cases, **if the plaint survives against certain defendants and/or properties, Order 7 Rule 11 will have no application at all, and the suit as a whole must then proceed to trial.***

*9. **If only a portion of the plaint, as opposed to the plaint as a whole is to be struck out, Order 6 Rule 16 CPC would apply.** Order 6 Rule 16 states as follows:*

“16. Striking out pleadings. - The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading -
(a) which may be unnecessary, scandalous, frivolous or vexatious, or
(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or
(c) which is otherwise an abuse of the process of the



Court.”

It is clear that Order 6 Rule 16 would not apply in the facts of the present case. There is no plea or averment to the effect that, as against the Directors, pleadings should be struck out on the ground that they are unnecessary, scandalous, frivolous, vexatious or that they may otherwise tend to prejudice, embarrass or delay the fair trial of the suit or that it is otherwise an abuse of the process of the court.”

[Emphasis is ours]

44. As stated above, the Application under Order VII Rule 11 of CPC was filed only by two of the Former Employees. **The Supreme Court in Sejal Glass Limited case has clarified that even though a plaint may contain averments and contentions against different Defendants, it was not as if separate suits have been filed. If the Plaintiff chooses to file one plaint, merely because several causes of action against several Defendants were brought together in one plaint, the plaint would still remain as one plaint and the rejection of the plaint would be as a whole.** The relevant paragraphs of the said judgment is extracted below:

“5. Similarly, in *Bansi Lal v. Som Parkash* [AIR 1952 Punj 38], the High Court held : (AIR p.39, para 7)

“7. But **the real question which arises in this appeal is whether there can be a partial rejection of the plaint.** Mr. Chiranjiva Lal Aggarwala submits that a plaint can either be rejected as a whole or not at all, and he has relied on the statement of the law given in Mulla's Civil Procedure Code at p. 612 where it is stated: “This rule (Order 7 Rule 11) does not justify the rejection of any particular portion of a plaint.” In support of this statement the learned author has relied on *Raghubans Puri v. Jyotis Swarupa* [ILR (1906-07) 29 All 325], *Venkata Rangiah Appa Rao v. Secy. of State* [1930 SCC OnLine Mad 123] and *Maqsud Ahmad v. Mathra Datt & Co.* [1936 SCC OnLine Lah 337] In reply to this argument Mr. Puri has submitted that it is really five suits which had all been combined in one and therefore in this particular case the rejection of a part was nothing more than rejection of three plaints. But the suit was brought on one plaint and not five suits were brought. **The law does not change merely because the plaintiff chooses in one suit to combine several causes of action against several defendants which the law allows him. It still remains one plaint and therefore rejection of the plaint**



***must be as a whole and not as to a part.** I am therefore of the opinion that the learned Senior Subordinate Judge was in error in upholding the rejection as to a part and setting aside the rejection in regard to the other part. This appeal which I am treating as a petition for revision must therefore be allowed and the rule made absolute, and I order accordingly.”*

[Emphasis is ours]

44.1 Undisputably, the prayers as have been set out by the Appellant are against all the Respondents. Since it is settled law that the plaint has to be rejected as a whole, the examination of the plaint has to be made with great care by the Court, and it has to be examined as to whether on a meaningful reading of the entire plaint, it can be said that no cause of action has arisen or that the plaint is barred by law.”

[Emphasis supplied]

10. Accordingly, and in view of the settled law in this behalf, the Impugned Order cannot be sustained since it only rejects a part of the plaint and is accordingly set aside. Liberty is however granted to Respondent No.1 to file appropriate proceedings in accordance with law in furtherance of its contentions with respect to non-compliance of the provisions of the DP Act by the Petitioner.

11. It is, however, made clear that the order passed today will not preclude the Petitioner from raising all contentions before the learned Trial Court. The rights and contentions of both the parties are left open in this behalf.

12. The Petition is disposed of in the foregoing terms.

13. The parties shall act based on a digitally signed copy of this order.

TARA VITASTA GANJU, J

MAY 27, 2025/pa/r

[Click here to check corrigendum, if any](#)