



2025:DHC:10635-DB



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

Date of Decision: 27.11.2025

+ **FAO(OS) 149/2025, CM APPL. 74248/2025, CM APPL. 74249/2025, CM APPL. 74250/2025 and CM APPL. 74251/2025**

SUNITA BANSAL AND ANR

.....Appellants

Through: **Mr. Rahul Bajaj, Mr. Amar Jain, Mr. Amritesh Mishra, Ms. Sarah and Ms. Shehreen, Advs. with Appellant No.1/Sunita Bansal in person**

versus

RAJAN BANSAL

.....Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. Through this Appeal, the Appellants assail the correctness of the order dated 06.08.2025 [hereinafter referred to as “Impugned Order”] passed by the learned Single Judge, whereby an application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as “CPC”] by the Appellants (Defendants before the learned Single Judge), seeking rejection of the plaint at the threshold, was dismissed.

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2. Late Sh. Parshottam Dass Bansal [hereinafter referred to as “late Sh. PDB”] was owner of the property bearing No. 5F, Vishwa Apartments, 3, Shankarcharya Marg, Civil Lines, Delhi-110054 [hereinafter referred to as “Suit Property”]. PDB was initially married to late Smt. Savitri Devi [hereinafter referred to as “Savitri”] and out of the said wedlock, the Respondent/Sh. Rajan Bansal was born. Unfortunately, Smt. Savitri passed away. Thereafter, PDB remarried Appellant No.1/Smt. Sunita and out of the said wedlock, Appellant No.2/Sh. Ateet Bansal was born. PDB remained the owner of the Suit Property until his demise on 25.02.2020. By a Will dated 20.07.2018, which was registered on 23.07.2018, he bequeathed the Suit Property in favor of the Respondent. Consequently, the Respondent filed a civil suit seeking eviction, permanent and mandatory injunction as well as recovery of *mesne* profit/damages/monthly user charges.

3. The Appellants filed an application under Order VII Rule 11 of the CPC contending that the suit was barred by the doctrine of *res judicata*, as late PDB had previously filed a civil suit No.109/86/2004, which was dismissed on 16.12.2006. The learned Single Judge, after considering the facts and circumstances of the case, refused to reject the plaint.

4. Learned counsel representing the Appellants has made the following two primary submissions:-

i. **Res Judicata:** The Appellants contend that the suit is barred by the doctrine of *res judicata*, in light of the judgment passed on



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16.12.2006 in civil suit No.109/86/2004 filed by the late Sh. P.D. Bansal against the Defendant No.1.

ii. **Claim of Maintenance:** The Appellant further submit that the rights of Appellant No.1 to claim maintenance have ripened into absolute ownership of the property under Section 14(1) of the Hindu Succession Act, 1956 [hereinafter referred to as “HSA”].

5. In view of the aforementioned submissions, learned counsel representing the Appellants relies upon the judgment passed by the Supreme Court in ***Gulwant Kaur and Anr. v. Mohinder Singh and Ors.***¹ and the judgment dated 06.02.2017 passed by this Court in ***RFA 607/2016*** captioned ***Jasbir Kumar v. Kanchan Kaur & Ors.***

6. This Court has considered the submissions made by the learned counsel representing the Appellants and with his able assistance, perused the paperbook.

7. Order VII Rule 11 of the CPC reads 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 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;]

¹ (1987) 3 SCC 674



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[(f) where the plaintiff fails to comply with the provisions of rule 9:]”

8. Learned counsel representing the Appellants attempts to bring his case under Clause (d) of the Order VII Rule 11 of the CPC, which provides for the rejection of the plaint if the suit, on the face of it, appears to be barred by law.

9. In this regard, the plea of *res judicata* must be specifically pleaded and substantiated with evidence. Moreover, at this stage, this Court finds that *prima facie*, the suit is not barred by the doctrine of *res judicata*, in view of the fact that the Respondent was not a party to the earlier suit i.e. civil suit No. 109/86/2004) and at that time, Appellant No.1 had the right of residence in her husband's house. After the death of PDB, the ownership of the property, as per the Will, vests in the Respondent, who claims ownership based on the registered Will.

10. It is further alleged in the plaint that the Appellants did not permit PDB to reside in the Suit Property, and PDB had to lead nomadic life after being turned out of the house. In these circumstances, the rejection of the plaint on the grounds of *res judicata* should be adjudicated only after the parties are allowed to lead evidence.

11. It is also noted that the learned counsel representing the Appellants submits that the Plaintiff admits that Appellant No.1, is in possession and the Appellants' challenge to the correctness of the Will



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must also be considered. However, this is an issue to be resolved after the parties are allowed to lead evidence.

12. With regard to the second submission, it is noted that the objection raised by the Appellants concerning their rights under Section 14(1) of the HSA can only be examined after the parties, are permitted to lead evidence on the matter.

13. At this stage, the Court is required to decide the application for rejection of the plaint solely on the basis of averments made therein. As per Clause (d) of the Order VII Rule 11 of the CPC, the plaint can be rejected based on the averments made in the plaint itself.

14. The judgment in *Gulwant Kaur* (*supra*) is not delivered in the context of the Order VII Rule 11 of the CPC and the judgment in *Jasbir Kumar* (*supra*) is based on the peculiar facts of that case, which do not establish a broad legal principle that the Plaints of all suits filed against widows must be rejected.

15. In view of the foregoing, this Court finds no reason to interfere in the Impugned Order.

16. Accordingly, the present Appeal, along with all the pending applications, is dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 27, 2025/sp/rgk

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