



2025:DHC:11827-DB



\$~

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

%

Judgment reserved on: 15.12.2025

Judgment pronounced on: 24.12.2025

Judgment uploaded on: 24.12.2025

+ RFA(OS) 127/2013
DR D K MODI

.....Appellant

Through: Mr. Harish Malhotra and Mr. Saurabh Kripal, Sr. Advs. along with Mr. Rakesh Kumar, Ms. Jayashree Shukla Dasgupta, Mr. Nilesh Kumar, Ms. Rishika and Mr. Shivam Nayyar, Advs.

versus

V K MODI & ORS

.....Respondents

Through: Mr. Sushil Dutt Salwan, Sr. Adv. along with Mr. Atishi Dipankar, Adv. for R-1. Mr. T. K. Ganju, Sr. Adv. along with Mr. Lakshay Dhamija, Mr. Atishi Dipanker and Ms. Vasudha Saini, Advs. for R-2. Mr. Ravi K. Aggarwal and Mr. Ishaan Aggarwal, Advs. for R-3 to 6.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellant assails the correctness of the judgment dated 11.09.2013 [hereinafter referred to as 'Impugned Judgment'] passed by the learned Single Judge, whereby the plaint in CS (OS) No. 974/2007 filed by the Appellant [Plaintiff before the learned Single Judge] was rejected under Order

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 24.12.2025
12:22:41

RFA(OS) 127/2013

1 of 10



2025:DHC:11827-DB



VII Rule 11 of the Code of Civil Procedure, 1908 (CPC). The learned Single Judge concluded that the suit was premature and failed to disclose a valid cause of action.

2. For the sake of convenience, the parties herein shall be referred to as they were arrayed before the learned Single Judge

3. The plaint filed by the Plaintiff has been rejected by the learned Single Judge on the following grounds:

i. Amendment application to amend the plaint was filed after a period of 04 years from the date of filing of the suit;

ii. No rights have fructified in favour of the Plaintiff to enable him to seek relief as prayed for in prayers (a) and (b) of unamended plaint or even prayers (da) and (db) of the amended plaint;

iii. The Plaintiff does not seek protection of his possession from forcible dispossession.

iv. Declaration of title in favour of the Plaintiff cannot be granted at this stage because as per MoU only the company will get title.

v. Division of Modi group of Companies is yet to be operationalised, hence, the suit is premature.

vi. The plaint does not disclose cause of action.

4. The Plaintiff is son of Sh. K. N. Modi. While filing the suit, the Plaintiff has prayed for the following reliefs:

“(a) Pass a decree of declaration in favour of the Plaintiff and against the Defendants declaring that the Defendant Nos 1 to 2 have been left

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 24.12.2025
12:22:41

RFA(OS) 127/2013

2 of 10



2025:DHC:11827-DB



with no right, title or interest in the property bearing No. 15, Friends Colony (West), New Delhi having total area of 2800 sq. yds.;

(b) Declare that the Plaintiff has exclusive right, title and interest in the suit property bearing address 15, Friends Colony (West), New Delhi having total area of 2800 sq yds.;

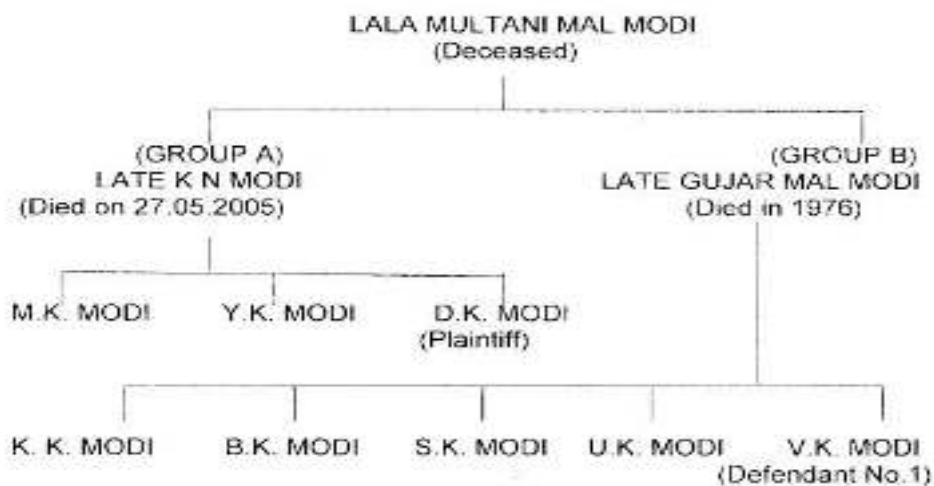
(C) Pass a decree of permanent injunction against the Defendant Nos. 1 and 2 restraining them from acting contrary to the terms of the MOU dated 24.1 1989 and claiming any right, title or interest in the property bearing address 15, Friends Colony (West), New Delhi having total area of 2800 sq. yds. contrary to the terms of MOU dated 24.1.1989;

(c) Pass a decree of permanent injunction against the Defendant Nos. 3 to 6 restraining them from transferring any right, title or interest in property bearing address 15, Friends Colony (West), New Delhi in favour of Defendant No. 1 and 2 or any third party having total area of 2800 sq. yds:

(d) Award costs of the present proceedings in favour of the Plaintiff and against the Defendants;”

FACTUAL MATRIX

5. In order to comprehend the issues involved in the present case, the genealogy of the family and brief facts are required to be noticed.



6. The dispute concerns a residential property admeasuring 2800 sq. yds. located at 15, Friends Colony (West), New Delhi [hereinafter



2025:DHC:11827-DB



referred to as 'suit property'], which was originally owned by the Kapoor family. On 04.02.1984, an Agreement to Sell was executed between Shri Arun Kumar Kapur and Modi Rubber Ltd. (Respondent No.2). Notably, Clause 13 of this 1984 agreement explicitly acknowledged that the Appellant's father, Late Dr. K.N. Modi, was already in actual physical possession of the premises as a tenant and that the property was being purchased "without possession," meaning the existing occupancy was to remain undisturbed.

7. The subsequent reorganization of the Modi family businesses led to the Memorandum of Understanding ('MoU') dated 24.01.1989, which split the family into Group A (led by Dr. K.N. Modi and including the Appellant) and Group B (led by Shri K.K. Modi). A central pillar of this family settlement was Clause 4, which mandated that "houses occupied by each Modi will continue with them". The MoU further specified that for properties owned by a company, the title would be transferred to a company managed by the occupying family member at a price fixed by an independent valuer. Under this division, while Respondent No. 2 (Modi Rubber Ltd.) fell under the management of Group B, the suit property it had contracted to buy, was in by Group A, thus necessitating its eventual transfer to a Group A entity.

8. The Appellant asserts that this MOU has been acted upon by financial institutions and the family groups for over two decades, creating vested rights. However, the conflict reached a flashpoint on 24.01.2007, when Respondent No. 2, now managed by Group B, formally demanded that the Kapoor family execute the sale deed in its

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 24.12.2025
12:22:41

RFA(OS) 127/2013

4 of 10



2025:DHC:11827-DB



name alone, effectively ignoring the Appellant's rights under the 1989 settlement. This action, coupled with the Appellant's continuous possession and a separate 1996 agreement for an additional 60 sq. yds. of the land, formed the basis for the Appellant's suit for declaration and permanent injunction.

9. During the proceedings before the learned Single Judge, the Respondents argued that the suit was a "cleverly drafted" attempt to create an illusory cause of action. They contended that since the 1989 MOU required a valuation and a transfer to a company rather than the individual Appellant, no personal right had fructified. They further relied on judicial precedents like *T. Arivandandam v. T.V. Satyapal*¹ to claim that the litigation was an abuse of process intended to delay the legal transfer of the property.

10. Various written statements were filed in the present matter. During the pendency of the suit, the Plaintiff also filed an application seeking permission to amend the plaint. This amendment was intended to add the substantive relief of specific performance concerning the Agreement to Sell dated 04.02.1984, as well as a prayer for a mandatory injunction to compel Defendant No. 1 to nominate the Plaintiff, or his designated group companies, as the rightful beneficiaries in terms of Clause 4 of the 1989 MOU. It was at this critical juncture, while the amendment application was yet to be adjudicated, that the learned Single Judge proceeded to pass the Impugned Order.

¹ AIR 1977 SC 2421



11. Heard learned counsel for the parties at length, and with their able assistance, perused the paper book along with the documents which have been filed.

ANALYSIS AND FINDINGS

12. The enabling power of the Court to reject a plaint is strictly circumscribed by the grounds listed in Order VII Rule 11 of the CPC. It is a fundamental principle that a plaint cannot be rejected on grounds outside these provisions. The learned Single Judge erred by rejecting the plaint because an amendment was filed after four years or because the rights under the MOU were perceived not to have "fructified." These are matters concerning the merits of the case and the eventual relief, rather than the maintainability of the action at the threshold. Under Rule 11(a), a plaint can only be rejected if it fails to disclose a cause of action, which is defined as the bundle of facts giving rise to a legal remedy.

13. A comprehensive reading of the plaint, particularly paragraphs 38, 39, and 40, which reveal a clear and robust cause of action are extracted as under:

"38. That the Plaintiff in the given circumstance has been left with no other option but to approach this Hon'ble Court seeking reliefs as the Defendants are in the process of dispossessing the Plaintiff from the property bearing address 15, Friends Colony (West), New Delhi despite the fact that the Plaintiff along-with his father Late Sh. K N Modi were enjoying the said property since 1980's i.e. even before the date of execution of Agreement to Sell dated 04.02.1984. It is further submitted that the Plaintiff will suffer irreparable harm, injury and loss in case the said reliefs are not granted to the Plaintiff as Defendants have conspired behind the back of the Plaintiff with the object of harassing and pressurizing the Plaintiff and dispossessing him from the suit property, which is under his possession for the last more than 22 years.



2025:DHC:11827-DB



39. That the plaintiff has always been and still willing and ready to perform the terms of agreement dated 04.02.1984 which needs to be performed by him, if any. The payment of substantial consideration to the extent of Rs.48 lacs has already been made to Sh. Arun Kumar Kapur i.e. the predecessor-in-interest of the Defendant Nos.3 to 6 and even prior to the said Agreement to Sell dated 04.02.1984 the Plaintiff has been in actual physical possession of the suit property, which was in possession of the Plaintiff prior to the execution of the said Agreement to Sell dated 04.02.1984 and the said fact has also been recorded in the said Agreement to Sell.

40. That the cause of action for filing the present suit arose when agreement to sell was entered into between Defendant no. 2 and Defendant No. 3 with respect to property bearing address 15, Friends Colony (West), New Delhi on 4.02.1984 and the said deed acknowledged and admitted the possession of the Plaintiff. It further arose when MOU was executed between the Group A and Group B of the Modi Family on 24.01.1989 and in terms of the clause 4 of the MOU of 1989, the right of the Plaintiff to his residential property was acknowledged and accepted. It further arose on all such dates when the members of the Modi Family acted in furtherance of the MOU dated 24.1.1989 by resigning from their various posts and transferring the management and control of various Modi Group Companies including preparation and finalisation of the valuation report and the scheme of arrangement, including when the decision was rendered by the CMD, IFCI on 08.12.1995. It further arose on all such dates when the two groups of the Modi Family acted in furtherance of the MOU. It further arose on the various dates when suits were filed by the members of Group A and Group B in continuation of the MOU, before the Hon'ble High Court of Delhi. Cause of action also arose on 31.1.1996 when fresh agreement to sell was executed in favour of the Plaintiff with respect to 60 sq. yrd of the said property. It also arose when Late Shri. Arun Kapur acknowledged and admitted the ownership and possession of the Plaintiff in the letter dated 10.5.2000 addressed to Delhi Vidyut Board. It further arose on 24.1.2007 when Defendant No. 2 wrote letter to the Defendant No.3 demanding execution of sale deed in favour of Defendant No. 2. It also arose in April 2007 when the Defendant No. 3 acknowledged the possession of the Plaintiff in the reply filed in WP(C) No. 19243/2006. The cause of action is still continuing and subsisting in favour of the Plaintiff and against the Defendants as the Plaintiff is till date in the peaceful, continuous and uninterrupted possession of the said property and the Defendants are malafidely trying to dispossess the Plaintiff from the said peaceful, unobstructed and continuous possession of the said property. It is further submitted that the cause of action in favour of the Plaintiff and against the Defendants is continuing and subsisting as on date."

Signature Not Verified

Signed By: JAI
NARAYAN
Signing Date: 24.12.2025
12:22:41

RFA(OS) 127/2013

7 of 10



2025:DHC:11827-DB



14. The Appellant has detailed his continuous possession for over 22 years, the payment of Rs. 48 lacs in consideration, and the specific milestones such as the 1984 Agreement, the 1989 MOU, and the 1995 IFCI decision that support his claim. The trigger for the suit was MRL's 2007 letter, which created a threat to the Appellant's rights. At the stage of Order VII Rule 11, the Court must accept these averments as true. The finding that no rights had "fructified" was, therefore, an inappropriate summary judgment on a triable issue.

15. The contention that the suit is "premature" is equally unsustainable. The suit was filed in 2007, 18 years after the MOU was signed. Suggesting that a party must wait indefinitely for a family settlement to be "fully operationalized" before seeking to protect their home would lead to a travesty of justice. The Plaintiff has asserted that the MOU has been partially implemented, a factual claim that can only be tested at trial. Furthermore, the request to amend the plaint to include the relief of specific performance should have been allowed to avoid multiplicity of litigation, especially since the Kapoor family has already stated they have transferred their rights to the Modis.

16. The Respondents' argument that the cause of action is "illusory" or "clever drafting" is not supported by the facts. While the legal title was intended to be transferred to a company managed by Group A, Clause 4 of the MOU granted the occupant an immediate protective right: "The Houses occupied by each Modi will continue with them." This creates a triable issue regarding the Appellant's individual standing to protect his occupancy against Group B. It is a settled rule



that partial rejection of a plaint is not permissible; if any part of the plaint discloses a cause of action, the suit must proceed in its entirety.

17. The Respondents' reliance on *T. Arivandandam* (*supra*) is misplaced, as that case addressed "litigious gamesmanship" where a party used sham proceedings to stall a final eviction decree. In such instances, the Supreme Court directed courts to "nip in the bud" any cause of action created through clever drafting. However, the present case is fundamentally different; the Appellant is not evading a judicial mandate but is asserting a substantive right to residence based on Clause 4 of the 1989 MOU and over 22 years of possession. His suit is a legitimate effort to protect a property interest defined by a documented family settlement, rather than a mala fide attempt to exploit judicial generosity.

18. Similarly, the "meaningful reading" test from *I.T.C. Limited v. Debts Recovery Appellate Tribunal*² does not justify rejecting this plaint. While ITC Limited warns against illusory claims that are legally impossible, the Appellant's cause of action is built on a concrete bundle of facts- the 1984 Agreement, the partial implementation of the family MOU, and the 2007 letter from MRL that directly threatened his occupancy. Unlike a purely crafted illusion, the rights asserted here arise from a complex family reorganization that requires factual determination at trial. Dismissing such a claim at the threshold misapplies these precedents, as the Appellant has presented a legally plausible case that is far from mere clever drafting.

² AIR 1998 SC 634



2025:DHC:11827-DB



19. In conclusion, the arguments of the Respondents lack legal substance. The Appellant has presented a case that requires the adjudication of facts through the standard process of trial. The observations in the impugned judgment regarding the non-implementation of the MOU were premature findings on the merits. The Appellant's reliance on the 1989 MOU, the subsequent Aide Memoire dated 22.03.2003 and the continuous acknowledgment of his possession provide a sufficient legal foundation to maintain the suit.

CONCLUSION

20. In view of the foregoing, the present Appeal is allowed. The Impugned Judgment is hereby set aside.

21. The suit, i.e., CS (OS) No. 974/2007 is restored to its original number. The application for amendment of the plaint to include the relief of specific performance will be decided afresh by the learned Single Judge.

22. The parties, along with their respective counsel, are directed to appear before the learned Single Judge (Roster Bench) on 15.01.2026.

23. The present Appeal stands disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 24, 2025

s.godara/kb