

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

IA NO. GA/3/2024
In CS/107/2016

KALIMATA INFRATECH LIMITED
Vs
MAHESHWARI DEVI & ORS.

BEFORE:
THE HON'BLE JUSTICE SUGATO MAJUMDAR
Date: 10th June, 2026

Appearance:

Mr. Aniruddha Mitra, Sr. Adv.
Mr. Aishik Chakraborty, Adv.

...for the Plaintiff.

Mr. Ratul Das, Adv.
Mr. Pranay Mukherjee, Adv.
...for the Defendant nos. 15 to 20.

The Court: GA 3 of 2024 is an application, praying for rejection of plaint and consequential prayers.

The Defendant filed the instant application on several grounds. Firstly, it was contended that the suit is barred under Section 31 of the Specific Relief Act, 1963 in as much as the description of the suit property is incorrect. Secondly, it was contended that the suit is also barred under Article 59 of the Limitation Act, 1963 in view of the fact that a deed of gift, executed on 1st August, 1948 is sought to be challenged knowledge of which had been obtained on 25th March, 2011 whereas the suit was filed in the year 2016. It was further contended that on meaningful reading

of the plaint shows that it is manifestly vexatious, meritless and is based on an illusory cause of action. Accordingly, it was prayed that the plaint be rejected.

Affidavit-in-Opposition was filed, refuting all the allegations and contentious. It was contended that merit of the Plaintiff's case or defense raised in the written statement cannot be looked into for deciding an application under Order VII Rule 11 of Code of Civil Procedure, 1908. Factual aspects of this case, pleaded in the affidavit-in-opposition, need not be looked into. It was denied that suit was barred under Article 59 of the Limitation Act, 1963 or under Section 31 of Specific Relief Act, 1963.

Both the counsels exchanged notes of argument.

There is no cavil on the point that while considering an application under Order VII Rule 11 (d) of Code of Civil Procedure, 1908 or Rule 11 of the Code of Civil Procedure, 1908 what is to be considered is the plaint itself. A meaningful reading of the plaint is *sine qua non* for adjudicating an application under Order VII Rule 11 of Code of Civil Procedure, 1908. In plethora of decisions, the Supreme Court of India reiterated this. Three Judges Bench of the Supreme Court of India in **Chotanben and Anr. Vs. Kiritbhai Jalkrushnabhai [(2018) 6 SCC 422]** held that what is relevant for answering the matter in issue, in the context of the application under Order VII Rule 11 (d) of Code of Civil Procedure, 1908 is to examine averments in the plaint. The plaint is required to be read as a whole. The Defence available to the Defendants or any plea taken by them in the written statement or any application filed by them cannot be the basis to decide the application under Order VII Rule 11 (d) of Code of Civil Procedure, 1908 only the averments in the plaint in germane. It is also a settled principle of law that for rejection of the plaint a Court need not wait for formal application by the Defendant if a meaningful reading of the plaint shows

that the plaint ought to be rejected and a frivolous claim may be nipped at the bud. In **Azhar Hussain Vs. Rajib Gandhi [1986 (Supp) SCC 315]** the Supreme Court of India observed that the whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the Court and exercise the mind of the Respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose.

One of the pleas of the Defendant is limitation. Limitation is a mixed question of law and fact. What is sought to be challenged in the suit is a deed executed in the year 1948. The original executor of the deed expired long ago without alleging anything regarding the execution. Now someone else claims that the deed had been obtained wrongfully and the execution itself is blameworthy.

Apart from praying a declaratory decree for setting aside the deed of gift along with prayers of consequent injunction, the plaint also contains some other prayers which are specifically mentioned in Schedule-B. The Schedule-B contains prayer of declaration that subsequent deed of conveyances dated 24th July 1975, lease deed dated 11/09/1984, agreement for sale executed consequent to decree passed in CS 380 of 1973 by this Court, conveyance dated 24th August , 1981 executed by the Registrar of this Court, the will made by Bhubenewari Prasad Singh Deo and the Letter of Administration granted by this Court in PLA 115 of 1997, Order passed by Co-ordinate Bench dated 24th July, 1998 in PLA 115 of 1997 and MOU dated 21st August, 1992 are void. In other words, the Plaintiff invites this Court to negate the orders passed by Co-ordinate Benches of this Court in exercise of testamentary jurisdiction. The suit also urges this Court to negate a previous decree passed in a previous suit along with others. In fact, the Plaintiff invites this Court to commit

jurisdictional jeopardy in interfering with order passed by the Co-ordinate Benches in exercise of testamentary jurisdiction. Apart from the question of limitation these are the impinging issues which stare at this Court to address immediately. A simple and meaningful reading of the plaint impresses that the plaint contains such prayers which are barred by law. A plaint cannot be dissected and partly rejected. This is the settled principle of law. Therefore, though not specifically pleaded in the instant application, this Court is of view that the plaint invites and demands jurisdictional jeopardy, hence barred by law.

For discussions made above, the instant application is allowed and the plaint stands rejected accordingly.

Let the deemed decree be drawn up.

The instant suit is disposed of along with all pending applications.

(SUGATO MAJUMDAR, J.)