



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

% ***Judgment Reserved on: 17th January, 2026***
Judgment pronounced on: 29th January, 2026

+ **CS(OS) 141/2022 & I.A. 3874/2022**

NEELAM BHATIA AND ORSPlaintiffs
Through: Mr. M. P. Sinha, Mr. Govind Pareek
and Mr. Arnav Jain, Advocates.

versus

RITU BHATIA AND ORSDefendants
Through: Mr. Sanjiv Bahl, Mr. Vikram Arora,
Mr. Pawas Agarwal, Ms. Mansi Negi
and Mr. Amish Tiwari, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

1. The plaintiffs have filed the present suit seeking the following reliefs:

“A. Pass a final decree to carry out partition of the Suit Property i.e. property/ piece of land admeasuring 1 Bigha, 2 Biswas part of Khasral Rect. No. 29, Killa No. 1911 situated in the area of Village Karawal Nagar, Illaqa Shahdara, Delhi;

B. Pass a decree of permanent injunction in favour of the Plaintiffs and against the Defendants restraining them from selling, alienating, creating any third party interest, disposing of the suit property, or any part thereof.

C. Pass a decree of Declaration in favour of the Plaintiffs and against the Defendants, thereby declaring the Plaintiffs as 50 % and joint owners of the property/ piece of land admeasuring 1 Bigha, 2 Biswas



part of Khasra/ Rect. No. 29, Killa No. 1911 situated in the area of Village Karawal Nagar, Illaqa Shahdara, Delhi.

D. Pass a decree granting cost of the suit in favour of the Plaintiffs and against the Defendants;

E. Pass any other order as this Hon'ble Court deems fit in the light of the facts and circumstances of the instant case.”

2. Counsel for the defendants submits that the plaint is liable to be rejected under Order VII Rule 11 (a) of the Code of Civil Procedure, 1908 (hereinafter ‘CPC’) as it does not disclose a cause of action and under Order VII Rule 11 (d) of CPC as being barred by limitation.
3. Briefly stated, the case setup by the plaintiffs in the plaint is as under:
 - 3.1. The plaintiffs are the legal heirs of Sh. Dinesh Kumar Bhatia, who expired intestate on 19th September 1985. The defendants are the legal heirs of Sh. Amrish Kumar Bhatia, who expired on 12th December 2010.
 - 3.2. Late Sh. Dinesh Kumar Bhatia and Late Sh. Amrish Kumar Bhatia were brothers and sons of the Late Sh. Kundan Lal Bhatia.
 - 3.3. During his lifetime, Sh. Dinesh Kumar Bhatia had purchased a property jointly with his brother, Mr. Amrish Kumar Bhatia, bearing *property/piece of land admeasuring 1 Bigha, 2 Biswas part of Khasra/ Rect. No. 29, Killa No. 1911 situated in the area of Village Karawal Nagar, Illaqa Shahdara, Delhi* (hereinafter ‘suit property’).
 - 3.4. The aforesaid suit property was purchased jointly by both brothers, *i.e.* the predecessors of the parties herein, on the basis of an Agreement to Sell (ATS) along with a Receipt and General Power of Attorney (GPA) both dated 7th April 1981.



- 3.5. The plaintiffs, being legal heirs of the Late Sh. Dinesh Kumar Bhatia, claim 50% share in the suit property on the basis of the aforesaid documents.
- 3.6. The suit property is in joint and constructive possession of the plaintiffs and the defendants.
- 3.7. In the month of October 2021, the defendants entered into a scuffle with the plaintiffs and refused to partition the suit property. The defendants had threatened the plaintiffs to sell the share of the plaintiffs in the suit property and create third-party rights in the suit property, in order to defeat the legitimate claim of the plaintiffs.
- 3.8. The plaintiffs sent a notice dated 27th October 2021 to the defendants claiming joint ownership of the suit property and seeking partition thereof. The said legal notice was replied to by the defendants by reply dated 21st November 2021, claiming that the suit property was never in joint possession of the parties and there was a registered sale deed in favour of the defendants' predecessor, Mr. Amrish Kumar Bhatia.
4. Summons in the present suit were issued on 10th March 2022.
5. *Vide* order dated 22nd March 2024, an application seeking amendment of the plaint, being I.A.6753/2024, filed by the plaintiffs was allowed. By way of the said amendment, the plaintiffs sought a declaration for cancellation of the Sale Deed dated 2nd January 1982. For the sake of convenience, the amended prayer clause C. is set out below:

“C. Pass a decree of declaration in favour of plaintiffs and against the defendants their legal heirs, associates and agents etc. thereby declaring the plaintiffs as 50% joint owners of the property/ piece of land admeasuring 1 Bigha, 2 Biswas part of Khasra / Rect. No.29, Killa No. 19/1 measuring area of



1000 Sq. Yards approx, situated in the area of village Karawal Nagar, Illaqa Shadhara, Delhi and accordingly the alleged sale deed executed in favour of Late. Sh. Amrish Kumar Bhatia by Sh. Nathu Ram S/o Sh. Raja Ram , Sh. Puran Singh S/o Sh. Dahel Singh and Sh. Suraj Singh S/o Sh. Bhim Singh vide its document No. 109 in Addl. Book No. 1, Volume No. 1516 on pages 60 to 62 registered with the concerned sub registrar-iv, Delhi on 20th January 1982 as shown in the red colour of site plan annexed herewith to be declared void ab-initio after cancellation of the same having no value in the eye of law in view of the above said facts and circumstances of the case.”

[emphasis supplied]

SUBMISSIONS ON BEHALF OF THE DEFENDANTS

6. The plaint is liable to be rejected under Order VII Rule 11 (a) and (d) of CPC as it fails to disclose a cause of action and is time-barred. In this regard following submissions are made:

- 6.1. The documents relied on by the plaintiffs, *i.e.* Agreement to Sell, GPA and Receipt dated 7th April 1981, do not confer any right, title or interest in the suit property. Reliance has been placed on the judgments of the Supreme Court in ***Suraj Lamp & Industries (P) Ltd. v. State of Haryana & Anr.*¹** and ***Ramesh Chand v. Suresh Chand*²**.
- 6.2. To enforce the rights under an Agreement to Sell, a party would have to file a suit for specific performance. In the present case, the plaintiffs has failed to file a suit for specific performance, nor has the plaintiffs impleaded the seller/vendor under the said Agreement as a party to the suit. Reliance in this regard has been placed on the judgment of the Supreme Court in ***RBANMS Educational Institution v. B. Gunashekar*³**.

¹ (2012) 17 SCC 656

² 2025 SCC OnLine SC 1879

³ 2025 SCC OnLine SC 793



- 6.3. The registered sale deed dated 2nd January 1982 would be deemed to be a notice to all persons. Accordingly, the present suit filed by the plaintiffs after more than 40 years is barred by limitation. Reliance has been placed on the judgment of the Supreme Court in *Uma Devi v. Anand Kumar*⁴.
- 6.4. The plaintiffs' predecessor, Mr. Dinesh Kumar Bhatia, never challenged the sale deed till the time of his death in 1985. Nor was the sale deed challenged during the lifetime of the defendant's lifetime till 2010.

SUBMISSIONS ON BEHALF OF THE PLAINTIFFS

7. The plaint cannot be rejected under Order VII Rule 11 of CPC. In this regard, the following submissions have been advanced:
- 7.1. During the lifetime of Sh. Dinesh Kumar Bhatia, the sale deed dated 2nd January 1981, was never disclosed to the plaintiffs or to their predecessor, Mr. Dinesh Kumar Bhatia. Therefore, the plaintiffs believed that Mr. Dinesh Kumar Bhatia and Mr. Amrish Kumar Bhatia (defendants' predecessor) are the joint owners and co-sharers of the suit property.
- 7.2. Even after the issuance of legal notices dated 17th April 2018 and 27th October 2021 by the plaintiffs, the defendants have failed to disclose the title documents of the suit property.
- 7.3. The plaintiff's case is premised not just on the Agreement to Sell but also on the basis of the General Power of Attorney and a Receipt.
- 7.4. The present suit is a suit for partition, permanent injunction and declaration for cancellation of sale deed dated 2nd January 1981

⁴ (2025) 5 SCC 198



executed in favour of Late Sh. Amrish Kumar Bhatia. Thus, framing of issues and recording of evidence is essential to bring material facts of record and the plea raised by the defendants to decide the case at an early stage may prove fatal.

- 7.5. In a suit for partition, the matter has to be comprehensively adjudicated to decide the right, entitlement and share of the parties. Reliance in this regard has been placed on the judgment passed by the Supreme Court in *Vikrant Kapila v. Pankaja Panda*⁵.

ANALYSIS AND FINDINGS

8. I have heard the counsel for the parties and perused the material placed on record.

9. The plaintiffs claim title in the suit property on the basis of an unregistered Agreement to Sell, a General Power of Attorney and a Receipt. It is no longer *res integra* that the aforesaid documents do not vest any right, title or interest in an immovable property. In this regard, reference may be made to the judgment of the Supreme Court in *Suraj Lamp* (supra). The relevant paragraphs are set out below:

18. It is thus clear that a transfer of immovable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title or interest in an immovable property can be transferred.

19. Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of the TP Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under Section 53-A of the TP Act). According to the TP Act, an agreement of sale, whether with possession or without possession, is not a conveyance. Section

⁵ (2024) 18 SCC 695



54 of the TP Act enacts that sale of immovable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject-matter. This extract is taken from Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656 : (2012) 1 SCC (Civ) 351 : (2012) 340 ITR 1 : (2012) 169 Comp Cas 133 : 2011 SCC OnLine SC 1360 at page 666 Scope of power of attorney

20. A power of attorney is not an instrument of transfer in regard to any right, title or interest in an immovable property. *The power of attorney is creation of an agency whereby the grantor authorises the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him (see Section 1-A and Section 2 of the Powers of Attorney Act, 1882). It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. **Even an irrevocable attorney does not have the effect of transferring title to the grantee.***

[emphasis supplied]

10. The aforesaid observations in ***Suraj Lamp*** (supra) have been followed by the Supreme Court in ***Ramesh Chand*** (supra), reaffirming the legal position that an Agreement to Sell, in the absence of a Sale Deed, would not confer valid title on the plaintiffs as it is not a deed of conveyance under Section 54 of the Transfer of Property Act, 1882. It was also highlighted that a General Power of Attorney and a Receipt would not confer title on the plaintiffs. The relevant observations of the said judgment in this regard are set out below:

*“17. In the instant matter, undisputedly plaintiff claims that there is only an agreement to sell, and there is no sale deed executed in his favour by the father. **As per the settled position of law, this document does not confer a valid title on the plaintiff as it is not a deed of conveyance as per Section 54 of the TP Act. At best, it only enables the plaintiff to seek for specific performance for the execution of a sale deed and does not create an interest or charge on the suit property.**”*



18. A power of attorney is a creation of an agency whereby the grantor authorizes the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him. It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. **A General Power of Attorney does not ipso facto constitute an instrument of transfer of an immovable property even where some clauses are introduced in it, holding it to be irrevocable or authorizing the attorney holder to effect sale of the immovable property on behalf of the grantor. It would not ipso facto change the character of the document transforming it into a conveyance deed.**

19. A power of attorney is not a sale. A sale involves transfer of all the rights in the property in favour of the transferee but a power of attorney simply authorises the grantee to do certain acts with respect to the property including if the grantor permits to do certain acts with respect to the property including an authority to sell the property.

28. Apart from the aforementioned documents, there is also an affidavit dated 16.05.1996 said to have been executed by Sh. Kundan Lal in favour of the plaintiff, along with a **receipt of consideration**, wherein Sh. Kundan Lal is said to have acknowledged receipt of full consideration for the sale of suit property to the tune of Rs. 1,40,000/- from the Plaintiff. **The said instruments do not confer a valid title upon the plaintiff because as per Section 54 of TP Act, only through a deed of conveyance can a title can be transferred, and none of the other documents and recitals in the said affidavit are proved by examining any other independent witnesses.**

[emphasis supplied]

11. From a reading of the aforesaid extracts from the judgments of the Supreme Court, it is abundantly clear that a title to an immovable property cannot be claimed on the basis of an Agreement to Sell, a General Power of Attorney and a Receipt. The title can only be conveyed through a registered conveyance deed/sale deed. Even if there is an Agreement to Sell, at best,



the intending buyer would have a right to file a suit for specific performance.

12. The legal position with regard to the scope of Order VII Rule 11 of CPC was elucidated by the Supreme Court in ***Dahiben v. Arvindbhai Kalyanji Bhanusali***⁶. The relevant observations of the said judgment are set out below:

*“23.4. In Azhar Hussain v. Rajiv Gandhi [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] this Court held that **the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p. 324, para 12)***

“12. ... 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. Even in an ordinary civil litigation, the court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512], read in conjunction with the documents relied upon, or whether the suit is barred by any law.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant,

⁶ (2020) 7 SCC 366



and cannot be adverted to, or taken into consideration. [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]

23.11. *The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] which reads as : (SCC p. 562, para 139)*

“139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed.”

23.13. *If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.*

23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] . The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain case [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] .

23.15. *The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.”*

[emphasis supplied]

13. In ***RBANMS Educational Institution*** (supra), a suit was filed by the



plaintiff against the defendant restraining the defendant from creating third party interest over the suit property based on an Agreement to Sell executed in favour of the plaintiff therein. The defendant filed an application under Order VII Rule 11 of CPC, which was dismissed by the Trial Court. The revision filed by the defendant against the judgment of the Trial Court was also dismissed by the High Court. In these circumstances, the defendant had filed the present appeal before the Supreme Court. Following the judgment in ***Dahiben*** (supra), the Supreme Court allowed the appeal and rejected the plaint under Order VII Rule 11 of CPC, holding that the plaintiff's claim in the said case was based on an Agreement to Sell, which does not create any interest in the property.

14. Following the dicta of ***Suraj Lamp*** (supra), it was held that unless there is a sale deed, the purchaser is not vested with any right, title or interest in the property except to the limited extent of seeking specific performance from his vendor. The relevant observations are set out below:

“15.1.1. Therefore, unless and until the sale deed is executed, the purchaser is not vested with any right, title or interest in the property except to the limited extent of seeking specific performance from his vendor. An agreement for sale does not confer any right to the purchaser to file a suit against a third party who is either the owner or in possession, or who claims to be the owner and to be in possession. In such cases, the vendor will have to approach the court and not the proposed transferee.

15.2.2. Secondly, and perhaps more fundamentally, as we have seen and held above, the respondents have no legal right that can be enforced against the appellant as their claim is impliedly barred by virtue of Section 54 of the Transfer of Property Act, 1882. Their remedy, if any, lies against their proposed vendors. The plaint averments remain silent regarding the execution of a registered sale deed in favour of the respondents, which alone can confer a valid right on them to file a suit



against the appellant as held by us earlier. Another, remedy available to them is to institute a suit against the vendors for specific performance.”

[emphasis supplied]

15. The facts in the present case are quite similar to the facts in ***RBANMS Educational Institution*** (supra) and therefore, the dicta of the judgment in ***RBANMS Educational Institution*** (supra) is squarely applicable to the facts of the present case.

16. Now I proceed to examine the plaint in the light of the aforesaid legal principles. A perusal of the plaint reveals that there is no mention of any registered title documents in favour of Sh. Dinesh Kumar Bhatia, the predecessor of the plaintiffs. The only documents that the plaintiffs have relied upon to claim their share (50%) in the suit property are the ATS, GPA and the Receipt, all dated 7th April 1981. In light of the aforesaid judgments of the Supreme Court, it is clear that the said documents do not create right, title or interest in the suit property.

17. To be noted, the present suit has been filed for partition of the suit property and declaration of title. Admittedly, the plaintiffs have not claimed the relief of specific performance in the present suit, nor have they made the seller/vendor under the Agreement to Sell a party to the present suit.

18. The plaintiffs are seeking to annul a sale deed executed in favour of the predecessor of the defendants as far back as 1982. Pertinently, the predecessor of the plaintiffs, who was alive till 1985, never challenged the said sale deed during his lifetime. Further, the sale deed was also never challenged by the plaintiffs during the lifetime of the defendants’ predecessor, who expired in 2010.

19. In a recent judgment passed by the Division Bench of this Court in



Mania Ghai v. Nishant Chander⁷, following the judgment of the Supreme Court in ***Patil Automation (P) Ltd. v. Rakheja Engineers (P) Ltd.***⁸ it was held that the Courts can *suo moto* reject a plaint when it is apparent, on the face of the record, that the suit lacks a cause of action and there need not be an application seeking rejection of plaint under Order VII Rule 11 of CPC. The relevant extract of the said judgment is extracted below:

“10. We also take note of the Judgment of the Hon'ble Supreme Court in Patil Automation (P) Ltd. v. Rakheja Engineers (P) Ltd., wherein the Apex Court has held that the powers of the Court, while appreciating a Plaint are not circumscribed by the procedural requirement of the filing of an Application under Order VII Rule 11 of the CPC and such a power is implicit in the provision itself. In our opinion, the same is also commensurate with the use of the word “shall” in Order VII Rule 11 of the CPC, mandating the Court to reject a Plaint on the grounds mentioned therein.

...

12. It is, therefore, abundantly clear that Courts are not powerless to act suo motu in rejecting a plaint when it is apparent, on the face of the record, that the suit lacks a cause of action. On the contrary, it is the obligation of the Court to terminate such frivolous proceedings at the inception itself, thereby conserving judicial time and protecting the opposite party from being subjected to vexatious litigation.”

[emphasis supplied]

20. Examined in the aforesaid backdrop, in my considered view, the present suit is manifestly vexatious and does not disclose a cause of action. The plaintiffs have tried to create a cause of action by clever drafting. Continuation of the present suit would result in a waste of judicial time of the Court. This is a fit case where the Court should exercise its jurisdiction under Order VII Rule 11 of CPC to reject the plaint.

⁷ 2025 SCC OnLine Del 5928

⁸ (2022) 10 SCC 1



21. Therefore, in exercise of powers under Order 7 Rule 11(a) of CPC, the plaint is rejected.

**AMIT BANSAL
(JUDGE)**

JANUARY 29, 2026
Vivek/-