



2026:DHC:620



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

Date of decision: 23rdJANUARY, 2026

IN THE MATTER OF:

+ **I.A. 33003/2025**

IN

CS(OS) 593/2019

SMT. VANDANA RANA

.....Plaintiff

Through: Mr. Kunwar Karan, Mr. Shekhar Mann and Mrs. Srishti Bajpai, Advocates

versus

SH. BAL SINGH RANA & ORS.

.....Defendants

Through: Mr. A.K. Thakur, Mr. Naresh Kumar Beniwal, Mr. Rishi Raj and Mr. NingthemOinam, Advocates for D-1. Mr. Birender Singh and Mr Sujeev Kumar, Advocates for D-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 33003/2025

1. This is an application on behalf of Defendant No.1 under Order VII Rule 11 read with Order X Rule 2 of the Code of Civil Procedure, 1908 seeking rejection of plaint.

2. The present Suit is one for permanent injunction, partition with possession and for rendition of accounts. Plaintiff No. 1 and Defendants No. 2, 3, and 4 are children of Defendant No. 1 and Late Smt. Barfo Devi. The present dispute arises out of inheritance of properties of Late Smt. Barfo Devi.



3. The facts as stated in the Plaintiff to the extent necessary and relevant, are as under:

- i. Late Smt. Barfo Devi, owned multiple valuable immovable properties across Delhi and Haryana. As detailed in the Plaintiff, late Smt. Barfo Devi was the absolute owner of the following immovable properties:
 - a. C-137, Pushpanjali Enclave, Pitampura, Delhi (300 sq. yards)
 - b. C-141, Gali No. 7, Majlis Park, Adarsh Nagar, Delhi (200 sq. yards)
 - c. Plot No. 96, Pocket 27, Sector-24, Rohini, Delhi (250 sq. yards, Commercial)
 - d. Ground Floor, 8CD, Aggarwal Chambers, Pitampura, Delhi (3,750 sq. ft., Commercial)
 - e. Agricultural Land, Village Kandela, District Jind, Haryana (15 acres 5 kanals 15 marlas)
 - f. Agricultural Land, Village Kandela, Jind (1 acre 1 kanal 4 marlas)
 - g. Agricultural Land, Village Roopgarh, Jind (4 acres 2 kanals 4 marlas)
 - h. Plot, Village Ferozpur, Sonipat (1,000 sq. yards)
- ii. Prior to 2008, the familial relations between the parties were cordial. In July 2008, Defendant No. 1 took Late Smt. Barfo Devi, the Plaintiff, and a close relative, namely, Ajay Kumar, to the Sub-Registrar's office under the pretext of executing a simple Power of Attorney in favour of Defendant No. 2 for management of



properties. The documents were already prepared, and were not shown to either Late Smt. Barfo Devi or the Plaintiff. Late Smt. Barfo Devi signed these documents in good faith. However, this action of Defendant No.1 created a long-term suspicion in the minds of the Plaintiff and Late Smt. Barfo Devi.

- iii. Between 2015–2016, Late Smt. Barfo Devi began expressing doubts regarding the documents signed in 2008, as Defendants No. 1 and 2 persistently refused to show her the said documents. In order to ensure clarity of her intentions, she executed a registered Will dated 02.03.2017 thereby expressly revoking all earlier wills or testamentary dispositions. In the said Will dated 02.03.2017, Late Smt. Barfo Devi reaffirmed her equal affection toward all her children and wished that all her movable and immovable properties, except for 50% share in Flat No. CGB-086 in DLF Capital Greens, Shivaji Marg, New Delhi, which was purchased by the Plaintiff herein, should devolve equally amongst all her heirs as per law.
- iv. On 24.05.2019, Smt. Barfo Devi passed away and all children, including the Plaintiff herein, became joint owners in equal undivided 1/5th shares of all the above mentioned eight properties. Moreover, the Plaintiff was in constructive possession of all the assets and had physical possession of property mentioned at serial number (a) above, i.e., C-137, Pushpanjali Enclave, Pitampura, Delhi.
- v. Soon after the death of Smt. Barfo Devi, Defendants No. 1 and 2 began pressuring the Plaintiff to give up her share. The



2026:DHC:620



Defendants No. 1 and 2 attempted similar pressure tactics on Defendants No. 3 and 4, who were financially and situationally vulnerable. It is stated that Defendant No. 4, who resided in the Majlis Park property mentioned at serial no. (b) above, feared eviction at the hands of the Defendant No. 1 and was therefore, coerced into silence.

- vi. During June–July 2019, Defendants No. 1 and 2 refused to disclose documents or accounts of the various properties, threatened to create third-party interests, and forbade Defendants No. 3 and 4 from speaking to the Plaintiff.
- vii. In September 2019, Defendant No. 4 finally disclosed to the Plaintiff that Defendants No. 1 and 2 had summoned her in June, 2019, to inform that if the daughters don't relinquish their shares, they would use the will, which was fraudulently procured by Defendant No. 1 in July 2008. It is stated that this revelation confirmed that the 2008 document, which was concealed for years, was in fact a will obtained through fraud and misrepresentation.
- viii. With the Defendants continuing to threaten alienation of the properties and refusing partition, the Plaintiff, being a Non-Resident Indian and unable to manage the situation personally, executed a Special Power of Attorney on 04.10.2019 and instituted the present Suit for injunction, partition, and rendition of accounts.

4. Summons in the Suit were issued on 19.11.2019. Written Statements on behalf of Defendants have been filed. Issues are yet to be framed.



5. The Plaintiff by way of an interim application being I.A. 17651/2019 under Order VI Rule 17 of the CPC sought amendment of Plaintiff, which was allowed by this Court *vide* Order dated 01.12.2025.

6. A perusal of the Order dated 01.12.2025 passed by this Court shows that the amendments which were sought to be introduced in the Plaintiff by the Plaintiff pertained to the following:-

- a. challenge to the alleged Will dated 24.07.2008,
- b. challenge to the mutation of agricultural land in favour of Defendant No.2,
- c. incorporating additional factual pleadings (paras 6A to 6G),
- d. addition of declaratory reliefs,
- e. amending the cause of action paragraph, and
- f. amending the valuation and prayer clause accordingly.

7. Defendant No.1 has filed the instant application under Order VII Rule 11 read with Order X Rule 2 of the CPC stating that the plaintiff, as amended, is barred by limitation.

8. According to Defendant No.1, the Plaintiff, way back on 24.07.2008, knew that a Will is going to be executed and Plaintiff visited the office of Sub-Registrar, Pitampura, and not only signed the Will as a witness, but also clicked a photograph of the Will at the time of registration. The registration of the Will was therefore, well within the knowledge of the Plaintiff. It is contended that the Plaintiff is not only the executrix but also the witness, which implies that the Plaintiff has signed the Will only after reading and fully understanding the contentions of the said Will.

9. It is contended by Defendant No.1 that by clever drafting, an illusion



cannot be created of a cause of action and a mere pleading that the Plaintiff did not know as to what the contents of the Will signed in 2008 were, cannot be accepted on the face of it.

10. It is also the case of Defendant No.1 that contradictory stands were taken by the Plaintiff in the initial plaint as compared to the amended plaint. He states that in the un-amended plaint, the Plaintiff's case was that she acquired knowledge of the 2008 Will only in September, 2019. Whereas, in the amended plaint, the Plaintiff pleads that she became aware about the 2008 Will only after receiving the written statement in December, 2019, however, the 2008 Will was revoked on 02.03.2017, which is prior to the written statement, rendering the subsequent plea of ignorance of the Plaintiff as false.

11. The Defendant No. 1 further states that the Court must take aid of Order X Rule 2 of the CPC and examine the Plaintiff to ascertain as to whether the amendment sought by the Plaintiff is abuse of process of law or not.

12. At the outset, this Court notes that the law relating to Order VII Rule 11 of the CPC has been laid down by the Apex Court in Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510, has held as under:

"13. Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.

14. In Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are



the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

15. In I.T.C. Ltd. v. Debts Recovery Appellate Tribunal [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See T. Arivandandam v. T.V. Satyapal [(1977) 4 SCC 467].)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in Roop Lal Sathi v. Nachhattar Singh Gill [(1982) 3 SCC 487] only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.



18. *In Raptakos Brett & Co. Ltd. v. Ganesh Property* [(1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.

19. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

20. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is *prima facie* of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised."

13. Order VII Rule 11 of the CPC gives power to a court to summarily



dismiss the suit at the threshold without proceeding to record evidence on the basis of the averments in the plaint on the ground that the suit if permitted to proceed would amount to the abuse of the process of law.

14. In the present case, the Plaintiff contends that the 2008 Will was not shown to her. Whether the Will was shown to the Plaintiff or not is a matter to be elucidated in the cross-examination, which would be done only at the stage of evidence in the trial. Order X Rule 2 of the CPC cannot be resorted to for this purpose.

15. Order X Rule 2 of the CPC would be applicable primarily when allegations/averments made regarding a person's personal capacity is more in the nature of exception. A liberal use of this provision would mean that in every case before framing of issues, Order X Rule 2 of the CPC would be sought to be resorted to.

16. This Court is of the considered view that Order X Rule 2 of the CPC cannot be used by the Court to examine a particular party and take the job of a counsel for one side.

17. Order X Rule 2 of the CPC is only an enabling provision wherein a Court has the power to ascertain from each party about its pleadings and take clarifications at any stage before the framing of issues [Ref: Vikas Aggarwal v. Anubha, (2002) 4 SCC 468]. However, this exercise of seeking clarifications cannot be substituted for the cross-examination of a party. Such clarification would be for a fact and not to examine the veracity of the statement which can only be brought out in the cross-examination.

18. The plaint has been amended only after the written statement has been filed and since it is well settled that limitation is a question of law and fact [Ref: P. Kumarakurubaran v. P. Narayanan, 2025 SCC OnLine SC 975].



19. The plea of the Defendant No.1 that the Plaintiff, as amended, is barred by limitation, cannot be accepted. The fact whether the Plaintiff was aware of the contents of the Will in the year 2008 has to be ascertained in trial. Reliance in this regard is placed on the judgment of the Apex Court in Salim D. Agboatwala & Others v. Shamalji Oddhavji Thakkar & Others, (2021) 17 SCC 100, wherein it was held as under:

“11. As observed by this Court in P.V. Guru Raj Reddy v. P. Neeradha Reddy [P.V. Guru Raj Reddy v. P. Neeradha Reddy, (2015) 8 SCC 331 : (2015) 4 SCC (Civ) 100], the rejection of plaint under Order 7 Rule 11 is a drastic power conferred on the court to terminate a civil action at the threshold. Therefore, the conditions precedent to the exercise of the power are stringent and it is especially so when rejection of plaint is sought on the ground of limitation. When a plaintiff claims that he gained knowledge of the essential facts giving rise to the cause of action only at a particular point of time, the same has to be accepted at the stage of considering the application under Order 7 Rule 11.

12. Again as pointed out by a three-Judge Bench of this Court in Chhotanben v. Kiritbhai Jalkrushnabhai Thakkar [Chhotanben v. Kiritbhai Jalkrushnabhai Thakkar, (2018) 6 SCC 422 : (2018) 3 SCC (Civ) 524], the plea regarding the date on which the plaintiffs gained knowledge of the essential facts, is crucial for deciding the question whether the suit is barred by limitation or not. It becomes a triable issue and hence the suit cannot be thrown out at the threshold.”

[Emphasis Supplied]

20. Additionally, this Court cannot presume that since the Plaintiff was attesting witness, she knew about the contents of the Will in light of Section



2026:DHC:620



63(c) of the Indian Succession Act, 1925 which states that a witness has to only see the testator signing the will in their presence, and the law does not warrant that attesting witness must know the contents of the will [Ref: Ganesan v. Kalanjam, (2020) 11 SCC 715]. Accordingly, the factum of the Plaintiff being an attesting witness to the 2008 Will on its own cannot lead to the assumption that the Plaintiff knew the contents of the Will also, which is a fact which has been brought out in the amended plaint.

21. Therefore, this Court is of the opinion that the instant Application under Order VII Rule 11 of the CPC and Order X Rule 2 of the CPC is completely unfounded.

22. With the above observations, the Application is dismissed.

CS (OS) 593/2019

List before the Ld. Joint Registrar on 15.04.2026, the date already fixed.

SUBRAMONIUM PRASAD, J

JANUARY 23, 2026

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