



2026:DHC:2160



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

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*Reserved on: 13th January, 2026
Pronounced on: 16th March, 2026*

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RFA 33/2026, CM APPL. 1926/2026

MANOJ KUMAR NARANG

S/o Late Sh. Tara Chand

R/o 20, Cortez Court,

Brampton, Ontario, Canada-L6X3Z1.

..... Appellant

Through: Mr. Sanjeev Sindhwani, Senior
Advocate with Ms. Ruchi
Sindhwani, Ms. Megha Bharara
and Mr. Gaurav Sindhwani,
Advocates.

Versus

1. **AMIT MEHRA**
S/o Yashpal Narang
Rio B-74, Greater Kailash - 1,
New Delhi - 110058
2. **PRADARSHAN MEHRA**
W/o Sh. Inder Nath Mehra
3. **PRIYA MEHRA**
W/o Sh. Rohit Mehra
4. **NITI MEHRA**
W/o Sh. Dhiraj Mehra

All R/o1-B/19, Northern
Extension Area, Ganga Ram
Hospital Road, Rajender Nagar,
New Delhi – 110060



2026:DHC:2160



5. **ANIL KUMAR NARANG**
S/o Late Sh. Tara Chand
R/o 29/20, Third Floor,
Old Rajender Nagar, New Delhi
Through: None.Respondent

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

RFA 33/2026:

1. The Appeal has been filed under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908(hereinafter referred to as 'CPC'), against the impugned Judgment dated 17.10.2025 of the Learned District Judge, Delhi, whereby the **Plaint was rejected under Order VII Rule 11 CPC, as being barred by Section 58 of the Limitation Act,1963, as well as devoid of the cause of action.**
2. The *brief facts* of the case are that the Appellant/Plaintiff filed a **Suit CS DJ 509/2022, for Declaration and Permanent Injunction for declaring two Sale Deeds dated 31.12.1996**, of the property bearing Municipal No. 2628, Ward no XVI, Plot No. 1400/246 measuring 148 sq. yards, situated in Block N, Gali No. 4, Beadonpura, Bank Street, Karol Bagh New Delhi-110005(hereinafter referred to as '*Suit Property*'), purportedly executed by the Plaintiff, i.e. Manoj Kumar Narang and his mother Late Smt. Moran Devias null and void, having been obtained *through fraud* and Plaintiff be *declared as owner* to the extent of 1/6th share, having inherited 1/24th share of his mother Late Smt. Moran Devi. The Plaintiff has also sought



Permanent Injunction for restraining the Defendants/Respondents Nos. 2 to 4, from creating third-party interest, in the suit property.

3. The Appellant/Plaintiff averred in his Plaint that he and his two brothers, Shri Raj Kumar Narang and Shri Anil Kumar Narang, i.e. Respondent No.5 and their mother Smt. Moran Devi, were the absolute owners of the entire suit Property, comprising of ground floor, first floor and the second floor, along with its terrace roof rights, having purchased it from erstwhile owner, *vide* four separate Sale Deeds executed on 11.08.1989 and four Sale Deeds dated 07.03.1994.

4. Further, Shri Yashpal Mehra, father of Respondent no.1, was an influential businessman/jeweller, in the area. The Respondent no. 1 and his father, had an evil eye on the property of the Plaintiff. Initially, the attempts of father of Respondent no. 1 were unsuccessful, but after sometime, the father of Respondent no.1 succeeded in pressurizing the family of the Plaintiff, to transfer the 3/4th share, owned by them. The mother of the Plaintiff, Late Smt. Moran Devi was having one room built on the second-floor portion, where she used to reside, for which she had great sentimental value. She agreed to sell the property, subject to the condition that 1/4th portion of the property, on each floor including roof-terrace rights, be retained by them. It was agreed at the time of execution of Sale Deeds itself, that the constructive possession of the suit property shall remain with the Plaintiff and his late mother, as and when the property is reconstructed. Therefore, the Plaintiffs are and were always in constructive possession of the suit property.



5. The Appellant/Plaintiff further claimed, that **it came to his knowledge in around August 2021**, that the Respondent no. 1 had sold his rights in the suit property in favour of the Respondent no. 2 to 4, vide Sale Deed dated 16.06.2021 and 30.07.2021, who started raising fresh construction, therein. Later on, it transpired that the Respondent no. 1 had sold the entire suit property to the Respondents no. 2 to 4 falsely and fraudulently, by claiming that he was the sole and absolute owner. The Appellant/Plaintiff asserted that he immediately sent a Legal Notice, on 22.10.2021.

6. The Appellant/Plaintiff further averred that Respondent no. 1 fraudulently claimed that Appellant and his mother had executed two Sale Deeds dated 31.12.1996, by virtue of which they had transferred their entire share in the suit property. The alleged Sale Deeds dated 31.12.1996, had been obtained fraudulently and no portions of the suit property, were ever transferred by the said Sale Deeds.

7. Hence, the Suit was filed for ***Declaration for declaring Sale Deed No. 1, dated 31.12.1996, as null and void and Permanent Injunction for Sale Deed No.2, restraining the Respondents from creating Third Party rights in the suit property.***

8. The **Defendant/Respondent no.2 to 4, in their Written Statement**, took the defence that the right to sue first accrued on 31.12.1996 and the subject Suit is barred by Article 58 of the Limitation Act,1963, as the Plaintiff has created an illusion of cause of action in August, 2021 on the basis of concocted story, which admittedly is contradictory to the relied Registered Documents. The Plaintiff has instituted the Suit, after the passage



of almost two and a half decades, on the ground that Plaintiff was misled to put his signatures on the Registered Sale Deed No.1, dated 31.12.1996, under the impression that he was only transferring his 1/4th Share situated on the Ground Floor and not his entire 1/4th share. Further, it is stated by the Plaintiff that his mother was illiterate and she has also signed on various papers, more specifically registered Sale Deed No. 2, dated 31.12.1996, on the pretext that she had her 1/4th share in the first floor, second floor and terrace roof. Respondents further claimed, that the present Suit was filed under two different causes of action, one of disputing the Plaintiff's signatures on the Registered Sale Deed No.1 dated 31.12.1996 and other, Plaintiff being in the capacity of Legal Heir of Late Smt. Moran Devi, by disputing her signatures on the Registered Sale Deed No.2, dated 31.12.1996.

9. Accordingly, the **Defendant no.2 to 4** assert that the computation of the period of limitation for instituting a Suit, begins from the date when the 'Right to sue has first accrued'. In terms of Article 58 of the Limitation Act, the said right would first accrue when the right asserted in the Suit, is infringed or when there is clear or unequivocal threat to infringe that right.

10. The Defendants asserted that the Appellant/Plaintiff is himself the executor of Sale Deed No.1 dated 31.12.1996, wherefrom he knew about the alleged fraud, by Defendant No.1. The cause of action for instituting the Suit had arisen in the year 1996, as per the Sale Deeds dated 31.12.1996 and the period of three years reckoned therefrom, has extinguished in the year 1999. However, the Plaintiff elected to file a misconceived Suit, in the year 2022.



11. Hence, the *Suit is patently and hopelessly barred by limitation* and is liable to be dismissed, under Order VII Rule 11(d) of the CPC.

12. Furthermore, as per the legal principle laid down by the Hon'ble Supreme Court in **Sardool Singh (Supra)**, the Plaintiff herein has to first seek relief of Declaration for the Sale Deed No.1 which has been executed by him and has to pay the Court Fees for his share, as per market value of the property and not the amount stated as the Sale consideration, for the year 1996.

13. Further it is submitted, that the Plaintiff has made a categorical averment, that he is not in possession of the suit property, but no relief of possession has been sought by the Plaintiff. The Plaintiff himself has stated that the Defendant Nos.2-4 are raising construction on the alleged suit premises and has asked for the relief of Injunction for restraining Defendant Nos.2-4, without claiming for the relief of Recovery of Possession. The Plaintiff has not paid the appropriate court fees, in terms of the Court Fees Act, 1870.

14. Reliance is placed on NDMC Vs. Prashant Narula 2016(234) DLT 56, and Sudhakar Vs. P. Buchi Reddy 20084SCC594, wherein it has been reiterated that once the Plaintiff is not in possession of suit property, the Suit for Declaration and Injunction would not be maintainable, in the absence of Plaintiff failing to seek the relief of Possession.

15. Consequently, it is submitted that the Plaintiff herein should have filed two different Suits, as the present Suit is bad in law due to '*Misjoinder of alleged Cause of Action*', as for the seeking the relief of annulment of Sale Deed No.1, executed by him. On the other hand, for the Suit inter alia



praying for annulment of Sale Deed executed by Moran Devi, the Plaintiff has to file Suit for Declaration. Thus, both the reliefs prayed are different and based on different cause of action.

16. The **Defendant/Respondent no.5, in his Written Statement**, had also asserted that the answering Defendants, after the death of Smt. Moran Devi, have also succeeded to her rights along with the Plaintiff and Sh. Raj Kumar. Thus, they are also the necessary party and no Suit could have been filed by the Plaintiff alone, in respect of the share of the late mother, without impleading the other Legal Heirs and in their absence, the Suit is not maintainable.

17. The **Plaintiff in his Replication**, stated that the Defendants have, very conveniently, chosen to conceal the law as laid down in *Khatri Hotels (Supra)* and talks only about the limitation period with respect to Suits to which *Article 58 of the Limitation Act, 1963* is applicable, wherein the Suits for which no time period of limitation has been provided.

18. In the present case, *Article 59 of the Limitation Act, 1963*, is applicable which provides that the time from which the period of limitation for Cancellation/setting aside of an instrument, begins from the date **when the facts entitling the Plaintiff to have the instrument to be cancelled, becomes known to him**. Therefore, the reliance of the Plaintiff on the law as laid down in *Khatri Hotels (Supra)*, is entirely misplaced.

19. Thus, it is absolutely misconceived to allege that the cause of action for instituting a Suit for Declaration and Cancellation of documents, first arose in the year 1996 or that the period of limitation reckoned from the said date, got extinguished in the year 1999.



20. The Appellant/Plaintiff has also averred, that the Defendant No. 1 has a defective title over the Suit Property, as he was only the owner of 3/4th share in total; as such, he could not have sold more than what he owned, to the remaining Defendants. Hence, the Defendant Nos. 2 to 4 are not bona fide purchasers of the Suit Property.

21. Further, it is submitted by the Plaintiff that he is and always has been in joint possession of the property, as it was specifically agreed at the time of handing over possession, that the constructive possession of the property shall remain with the Plaintiffs. The Plaintiff asserts that all necessary/proper parties are already a party in the present Suit and the *court fee* has duly been calculated and paid by the Plaintiff. Further, the Plaintiff vehemently denied that both the reliefs prayed, are different causes of action.

22. The **Defendants also filed Counter-Claim to the Suit wherein** it was again submitted that the Plaintiff has instituted the Suit on two different causes of action, one disputing his individual signatures on the Registered Sale Deed No.1, dated 31.12.1996 and other in the capacity of Legal Heir of Late Smt. Moran Devi, by disputing her signatures on the Registered Sale Deed No.2, dated 31.12.1996. Now, after passage of more than two and half decades, the Plaintiff is allegedly trying to take advantage of the bonafide inadvertent typo error of the Deed writer, as an afterthought.

23. The **Ld. District Judge, after appreciation of the rival contentions, held** that the Suit filed by the Plaintiff is **time barred as well as devoid of cause of action**. The Application under Order VII Rule 11 CPC, filed on



behalf of Defendant nos. 1 to 4, was allowed and the Suit filed by the Plaintiff, was rejected.

24. The Application under Order VI Rule 17 CPC on behalf of the Plaintiff, whereby he sought the relief of Possession by amending the Plaint, which was filed subsequent to the filing of Application under Order VII Rule 11 CPC on behalf of Defendant nos. 1 to 4, was dismissed as being infructuous.

25. The ***grounds of challenge*** raised in the present Appeal, is that the Ld. Trial court erred in holding that the Appellant being the executor of Sale Deed no. 1, was aware of the alleged fraud by Respondent no. 1, on the date of its execution itself, i.e. on 31.12.1996.

26. The Appellant further agitated that the Ld. Trial Court erred in holding that the Appellant cannot seek *cancellation of Sale Deed no. 1*, as the said relief was time barred. It has not been appreciated that the said Sale Deed No. 1, *had been fraudulently obtained by the Respondent no. 1*. The Respondent no. 1 on the basis of the said Sale Deed, alleged that he had purchased all the right, title and interest of the Appellant in the suit property and further allegedly sold the suit property, to the Respondents nos. 2 to 4. The cause of action, as per Plaint, arose only around August, 2021, when the Respondent no. 1 claimed that he had purchased all right, title and interest of the Appellant in the suit property, through the said Sale Deed. Hence, the Suit was filed within three years, i.e. 01.04.2022, and is not barred by the Limitation Act, 1963.

27. It is further asserted that whilst deciding the Application under Order VII Rule 11 CPC, the Ld. Trial Court erred in holding that it is not the case



of the Appellant of not being aware of the contents of the Sale Deed no. 1, and further erred in holding that the '*Right to sue first accrued*' to the Appellant, in the year 1996 itself.

28. The Appellant/Plaintiff further agitated that the Ld. Trial Court failed to appreciate that once an Application under Order VI Rule 17 CPC is filed by a Plaintiff, it necessarily has to be decided, prior to deciding the Application under Order VII Rule 11 CPC. It is irrelevant, whether the Application for Amendment is filed prior or subsequent to the filing of the Application under Order VII Rule 11 CPC.

Submissions heard and record perused.

29. The three main issues have been raised for the consideration, by this court, which are:

- (i) *When did the 'Right to Sue first accrued' in the Sale Deed No.1?*
- (ii) *Whether the Suit filed by the Appellant/Plaintiff is barred by the Limitation Act, 1963.and;*
- (iii) *Whether the suit is devoid of any cause of action?*

30. *Firstly*, a substantial part of the averments pertains to alleged Sale Deed Nos. 1&2 dated 31.12.1996 executed between Late Smt. Moran Devi and Mr. Amit Mehra, and the other between Mr. Manoj Kumar Narang and Mr. Amit Mehra, respectively. The perusal of Sale Deeds Nos. 1&2 explains that for their bona fide needs and requirements, they have agreed to sell the entire 1/4th undivided built-up share of entire Ground floor, First floor, Second floor, its terrace/roof along with 1/8th undivided share in the leasehold rights of the suit property, for a sum of Rs. 2,00,000/- (Rupees Two



Lacs only), to the Defendant No.1 and his father. There is no clause in the Sale Deed that the constructive possession in the suit property, shall be retained by the mother. Moreover, when the property had been sold, there is no occasion for the Seller, to assert that the constructive possession remained with them.

31. **Secondly**, the Appellant/Plaintiff himself has averred that he first came to know about the Respondent no. 1 had sold his rights in the Suit property in favour of the Respondent no. 2 to 4, in August, 2021, who started a fresh construction on the suit property. Later on, it transpired that the Respondent no. 1 had sold the whole of the suit property to the Respondents no. 2 to 4 falsely/fraudulently, claiming that he was the sole and absolute owner. The Appellant/Plaintiff claimed that the cause of action first arose when he became aware of the reconstruction of the suit property in August, 2021. He immediately sent a Legal Notice on 22.10.2021.

32. Pertinently, the Appellant/Plaintiff himself is the executor of Sale Deed No.1, dated 31.12.1996. Therefore, he was aware of the alleged fraud by Defendant No.1 and his father. Consequently, the Suit should have been instituted within the 3 years of limitation period as stated under Article 58 of the Limitation Act, 1963, that expired in the year 1999. However, the Appellant/Plaintiff decides to file the Suit in 2022, which is nearly two and a half decades later. Hence, the suit is devoid of any cause of action.

33. The claim of Plaintiff is that he only came to know about the fabrication of Sale Deeds when the fresh construction was initiated by the Defendant Nos. 2 to 4 in August, 2021. However, the Plaintiff has himself



executed the Sale Deed No.1, bearing his signature which is admitted by him, and denial that he was not aware of its content is implausible.

34. Article 58 of the Schedule of Limitation Act, 1963, provides the period of limitation as three years and it has to be reckoned from “*when the facts entitling the Plaintiff to have the instrument or decree cancelled or set aside for the contract rescinded first become known to him.*” Thus, the cause of action originated on 31.12.1996, when the Sale Deed No.1 was executed by the Plaintiff, and the limitation period for the same was ended in the year 1999, as per Article 58 of the Limitation Act, 1963, not as claimed by the Plaintiff, in August, 2021.

35. Therefore, the Ld. Additional District Judge, has rightly relied on the Khatri Hotels Pvt. Ltd., (Supra) wherein it was held, “*The word ‘first’ has been used between the words ‘sue’ and ‘accrued’. This would mean that if a Suit is based on multiple causes of action, the period of limitation will begin to run from the date when the right to sue first accrues. To put it differently, successive violation of the right, will not give rise to fresh cause and the suit will be liable to be dismissed, if it is beyond the period of limitation counted from the day when “the right to sue first accrued.”*”

36. The Plaintiff claims that he was in constructive possession of the Suit property, however there is no material on record to prove such claim. Admittedly, the Respondents nos. 2 to 4 are currently in possession of the Suit Property. Hence, there is no dispute as to possession of the suit property.

37. The Ld. Additional District Judge, has rightly relied on the Meena Vohra Vs. Master Hosts Pvt. Ltd. & Ors. 2025 SCC Online DEL 1758 and



Azhar Hussain Vs. Rajiv Gandhi 1986 Supp SCC 315, wherein scope of the Order VII Rule 11 CPC is described and it was held 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. 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.*”

38. The Plaintiff is contesting the authenticity of the signatures of his Late mother Smt. Moran Devi on Sale Deed No.2, dated 31.12.1996, **being in the capacity of her Legal Heir**. However, the Respondent no.5, i.e. the brother of the Plaintiff, has also succeeded to the rights of the deceased. So, no Suit can be proceeded alone by the Plaintiff himself, without making all the Legal Heirs of Late Smt. Moran Devi, a party to the suit.

39. In view of aforesaid observations, it is hereby concluded that there is no infirmity in the Impugned Order dated 17.10.2025. Hence, the Suit No. 509/2022 is time barred as the limitation period for the suit has already lapsed in the year 1999.

40. There is no merit in the Appeal, which is hereby dismissed. The pending Applications are disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH 16, 2026/RS