



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL Nos OF 2025
(Arising out of SLP (C) Nos. 3560-3561/2023)

KARAM SINGH

...APPELLANT(S)

VERSUS

AMARJIT SINGH & ORS.

...RESPONDENT (S)

J U D G M E N T

MANOJ MISRA, J.

- 1.** Leave granted.
- 2.** These two appeals impugn two orders of the High Court of Punjab and Haryana at Chandigarh¹. The first is dated 27.01.2022 passed in Civil Revision No.725/2020 whereas the second is dated 04.07.2022 by which

¹ The High Court.

application² seeking recall of the order dated 27.01.2022 has been rejected.

3. The appellant along with Dilbag Singh (i.e., proforma respondent no. 9) instituted Suit No.424 of 2019 against Amarjit Singh (i.e., respondent no.1), Shamsheer Singh (i.e., respondent no.2), Jagdish Singh (i.e., respondent no.3), Smt. Nachhattar Kaur (i.e., respondent no.4), Kuldeep Kaur (i.e., respondent no.5), Sukhdeep Kaur (i.e., respondent no.8), Sandeep Singh (i.e., respondent no.6) and Major Singh (i.e., respondent no.7) for:

- (i) declaring: (a) plaintiff(s) owners of suit land to the extent of their shares as specified in the plaint; and (b) the certificate, registered at 277 on 12.01.1977, and mutation no.1377 as illegal, null and void;
- (ii) possession of suit land to the extent of plaintiffs' share;

² Misc. Application No.7259/2022

- (iii) damages/ compensation/ mesne profits for use and occupation of suit land for the period starting from May 2016 to May 2019; and
- (iv) permanent prohibitory injunction.

4. The plaint case in a nutshell was that the original owner of the suit land was Ronak Singh *alias* Ronaki who died intestate on 05.10.1924, leaving behind his widow Kartar Kaur. A dispute arose regarding succession to the estate of Ronak Singh between Kartar Kaur (i.e. Ronak Singh's widow) and Chinki and Nikki (i.e. sisters of Ronak Singh), predecessor-in interest of the plaintiffs. In between, Kartar Kaur allegedly gifted the suit land to one Harchand. Nikki and Chinki challenged the gift. On 22.03.1935, the civil court held the gift to be invalid as Kartar Kaur had a limited right. Later, Kartar Kaur herself challenged the gift. Ultimately, the gift was set aside by decree dated 11.09.1975 and Kartar Kaur was held owner in possession of the land. Consequent to the decree, on 13.05.1976 mutation was sanctioned and entered in favour of Kartar Kaur. The mutation entry was contested by predecessor-

in-interest of the plaintiffs. During pendency of the proceedings relating to mutation, Kartar Kaur died on 28.12.1983. The defendants in the suit, namely, the contesting respondents herein, in the mutation proceedings, set up a will dated 15.12.1976, alleged to have been executed by Kartar Kaur, in their favour and claimed mutation on basis thereof. However, vide order dated 29.04.1984, mutation was ordered in favour of the legal representatives of Ronak Singh's sister based on natural succession and an appeal against the same, filed by the respondents, was dismissed by the Collector vide order dated 15.04.1985. Subsequently, the mutation matter was taken up to higher courts. Finally, the litigation arising out of mutation ended against the plaintiffs on 20.07.2017. Thereafter, by claiming that the will set up by the defendants is null and void, an act of fraud, the plaintiffs claiming themselves to be natural heirs of Kartar Kaur, through sisters of Ronak Singh, instituted the suit for the aforesaid reliefs.

5. The defendants (i.e. the contesting respondents) filed an application under Order 7 Rule 11 (d) of the Code of Civil Procedure, 1908³ for rejection of the plaint on the ground that the suit is hopelessly barred by time. In the application it was, *inter alia*, stated that the will was set up in the year 1983 after the death of Kartar Kaur; the mutation proceedings based on the will was contested and therefore, the plaintiffs including their predecessor in interest were fully aware of the existence of the will; hence, the relief for declaration *qua* the will, limitation of which is three years, was hopelessly barred by limitation. It was also contended that the plaintiffs' stand that cause of action had arisen on 20.07.2017 is incorrect and wrong. In addition to above, it was stated that plaintiffs have concealed a material fact regarding filing of civil suit no.648/2012, which was filed by father of plaintiff no.1, wherein the order of mutation dated 28.05.2012 was challenged without challenging the will and, therefore, the plaint of the said suit was rejected

³ CPC

under Order 7 Rule 11 of CPC *vide* order dated 17.05.2013. It was thus claimed that the suit was also barred by Order 2 Rule 2 of C.P.C.

6. The trial court rejected the application under Order 7 Rule 11 of CPC, *vide* order dated 07.01.2020, holding that on a plain reading of the plaint it cannot be held that the suit is *ex facie* barred by limitation; moreover, the question of limitation is a mixed of question of law and fact therefore, it would not be appropriate to reject the plaint under Order 7 Rule 11 of CPC. As regards the plea of suit being barred by Order 2 Rule 2 of C.P.C., the trial court held that the same can be decided as an issue in the suit.

7. Aggrieved by rejection of their application under Order 7 Rule 11, the contesting respondents preferred revision before the High Court which came to be allowed by the impugned order dated 27.01.2022.

8. As the impugned order dated 27.01.2022 was passed *ex parte* in as much as none had appeared on behalf of the plaintiff in the revision, an application was filed for recall of

the order dated 27.01.2022, which came to be dismissed by second impugned order dated 04.07.2022.

9. Aggrieved by the aforesaid two orders, these two appeals have been filed.

10. We have heard learned counsel for the parties and have also given liberty to the counsel for the parties to file written submissions.

SUBMISSIONS ON BEHALF OF THE APPELLANT

11. The learned counsel for the appellant submitted that the High Court committed a grave error in holding that the suit was barred by time. In holding so, the High Court observed that the suit was instituted after almost 36 years since culmination of mutation proceedings, which is incorrect in as much as mutation proceedings culminated on 20.07.2017 and the suit was instituted on 31.05.2019 (i.e., within three years thereof). In addition to above, it was contended that the suit was for possession, based on title. Since the main relief was for possession, the limitation period would be 12 years from the date when the possession

of defendants became hostile and adverse to the plaintiff. The High Court, however, failed to consider that aspect.

12. Besides above, notice of the revision before the High Court was not served on the respondents and therefore, the first impugned order, which is an *ex parte* order, ought to have been recalled. On the strength of above submissions, the learned counsel for the appellant contended that it is a fit case where the appeals should be allowed and the impugned order(s) set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

13. On behalf of the respondents, it was contended that predecessor in interest of the appellant had earlier instituted civil suit no. 648/2012 seeking permanent prohibitory injunction to restrain the answering respondents from alienating the suit property. The said suit was dismissed on 17.05.2013 on the ground that there could be no injunction against true owner. Since the present suit is based on the same cause of action, the same is liable to be dismissed as being nothing but abuse of the

process of law. Moreover, the suit is barred by limitation as plaintiffs had knowledge of the registered will since 1983.

14. In support of his submissions, the learned counsel for the respondents placed reliance on the following decisions of this court:

- (i) ***T. Arivandandam v. T.V. Satyapal***⁴.
- (ii) ***Rajendra Bajoria & Ors. v. Hemant Kumar Jalan***⁵.
- (iii) ***Ramisetty Venkatanna & Anr. v. Nasyam Jamal Saheb & Ors.***⁶.

DISCUSSION/ANALYSIS

15. Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles governing rejection of a plaint under Order 7 Rule 11⁷ of

⁴ (1977) 4 SCC 467

⁵ (2022) 12 SCC 641

⁶ 2023 SCC Online SC 521

⁷ **11. Rejection of plaint.** -- The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;

CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear that while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be considered to find out whether the suit is barred by law. At this stage, the defense is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint.

16. In the instant case, the plaintiff instituted the suit by claiming title through succession to the estate of late Kartar Kaur. On the other hand, the defendants had set up a will alleged to have been executed by Kartar Kaur in their favour. Neither the plaint nor any document brought on record indicated that the will was probated or its validity was tested and upheld in regular civil proceedings *inter se*

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

parties. As far as mutation proceedings are concerned, it is well settled that mutation entries do not confer title. They serve a fiscal purpose, that is, to realize tax from the person whose name is recorded in the revenue records⁸. Besides above, the plaint averments indicated that the mutation proceedings culminated in the year 2017 and the suit in question was instituted within three years thereafter.

17. Apart from above, the suit was not for a mere declaration of the will being null and void but for possession as well. The plaintiff claimed title over the suit land by natural succession and sought possession based on title. Where a suit is for possession of immovable property or any interest therein, based on title, the limitation period is 12 years when the possession of the defendants becomes adverse to the plaintiff (*vide* Article 65 of the Schedule to the Limitation Act).

18. In *Indira v. Arumugam & Anr.*⁹, this court held that when the suit is based on title for possession, once the title

⁸ See: Balwant Singh v. Daulat Singh, (1997) 7 SCC 137; Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186

⁹ (1998) 1 SCC 614

is established based on relevant documents and other evidence, unless the defendant proves adverse possession for the prescriptive period, the plaintiff cannot be non-suited. Consequently, when a suit is instituted for possession, based on title, to defeat the suit on the ground of adverse possession, the burden is on the defendant to prove adverse possession for the prescriptive period. This, therefore, in our view, cannot be an issue on which the plaint could be rejected at the threshold. Moreover, the plaintiffs herein, had clearly disclosed that they had been contesting the will in the mutation proceedings which culminated in the year 2017. The suit was instituted within three years thereafter to declare the mutation entry illegal. Thus, considering that mutation proceedings are summary in nature, the institution of the regular suit questioning the same is not *ex facie* barred by law¹⁰.

19. That apart, where several reliefs are sought in suit, if any one of the reliefs is within the period of limitation, the

¹⁰ See: Jitendra Singh v. State of Madhya Pradesh and others, 2021 SCC OnLine SC 802; Faqrudin (Dead) through LRs v. Tajuddin (Dead) through LRs, (2008) 8 SCC 12; Rajinder Singh v. State of Jammu and Kashmir & others, (2008) 9 SCC 368

plaint cannot be rejected as barred by law by taking recourse to Order 7 Rule 11 (d) of CPC¹¹.

20. Further, in “*N. Thajudeen v. Tamil Nadu Khadi & Village Industries Board*”¹² relying on earlier decision of this court in “*C. Mohammad Yunus v. Syed Unnissa*”¹³ it was held:

“23. ...in a suit for declaration with a further relief, the limitation would be governed by the Article governing the suit for such further relief. In fact, a suit for a declaration of title to immovable property would not be barred so long as the right to such a property continues and subsists. When such right continues to subsist, the relief for declaration would be a continuing right and there would be no limitation for such a suit. The principle is that the suit for a declaration for a right cannot be held to be barred so long as Right to Property subsist”.

24. Even otherwise, though the limitation for filing a suit for declaration of title is three years as per Article 58 of the Schedule to the Limitation Act but for recovery of possession based upon title, the limitation is 12 years from the date the possession of the defendant becomes adverse in terms of Article 65 of the Schedule to the Limitation Act. Therefore, suit for the relief of possession was not actually barred and as such the court of first instance could not have dismissed the entire suit as barred by time”.

21. In our view, therefore, the plaint as it stood could not have been rejected on the ground that the suit as framed

¹¹ See: Vinod Infra Developers Ltd. v. Mahaveer Lunia, 2025 SCC OnLine SC 1208

¹² 2024 SCC Online SC 3037

¹³ AIR 1961 SC 808

was barred by limitation. The view to the contrary taken by the High Court is erroneous in law.

22. Insofar as the suit being barred by Order 2 Rule 2 of CPC is concerned, the first suit instituted by the predecessor-in-interest of the appellant was not tried. In fact, the plaint of that suit was rejected under Order 7 Rule 11 of CPC as not being properly framed. In such circumstances, a fresh suit with appropriate relief cannot be, *prima facie*, barred by Rule 2 of Order 2 of CPC. Therefore, in our view, the trial court was justified in directing that the issue, whether the suit is barred by Order 2 Rule 2 of CPC, shall be considered and decided during trial.

23. At this stage, we may observe that the High Court while deciding the revision has failed to consider the plaint averments in its entirety and was swayed only by the fact that will set up was 36 years old. It overlooked that will operates only on the death of the testator and here, after the death of the testator, the validity of the will was throughout questioned in mutation proceedings which

continued and, ultimately, settled in the year 2017. In between, whether the defendants perfected their title by adverse possession would be a mixed question of law and fact and can appropriately be addressed only after evidence is led. The same cannot be made basis to reject the plaint at the threshold. In our view, therefore, the order passed by the High Court cannot be sustained and the same is liable to be set aside. The appeals are, therefore, allowed. The impugned judgment and order(s) of the High Court are set aside. The order of the trial court rejecting the prayer to reject the plaint under Order 7 Rule 11 CPC is restored. The trial court shall proceed with the suit and bring the proceedings to its logical conclusion in accordance with law. It is made clear that any observation made by us shall not be taken as an opinion on the merit of the issues which may arise for consideration in the course of the suit proceedings. We clarify that we have addressed those issues only with a view to find out whether it was a fit case for rejection of the plaint under Order 7 Rule 11 of CPC.

24. Pending application (s), if any, shall stand disposed of.

.....**J.**
(J.B. PARDIWALA)

.....**J.**
(Manoj Misra)

New Delhi;
October 15, 2025.