* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Reserved on: 11.05.2026***
Date of decision: 22.08.2026

\# **CNR No. DLHC010742222025**
\+ FAO(OS) 111/2025

SHRI JAI PRAKASH TAYAL & ORS. .....Appellants
Through: Mr. Shiv Charan Garg, Mr. Imran Khan & Ms. Jahanvi Garg, Advs.

versus

SMT SUNITA AGGARWAL .....Respondent
Through: Mr. Udit Gupta & Mr. Manan Aggarwal, Advs.

CORAM:
HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

1. The present appeal under Section 10 of the Delhi High Court Act, 1966 is directed against the order dated 18.08.2025 passed by the learned Single Judge in CS(OS) 464/2024 whereby the application preferred by the Appellants/Defendants under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC") seeking rejection of the plaint was dismissed.

2. As per the plaint, the Respondent/Plaintiff claims to be one of the legal heirs of late Smt. Padmawati, stated to be the owner of the property bearing No. D-37, Kamla Nagar, Delhi. It is pleaded that in November 2019, the Respondent learnt that the Appellant No.1/Defendant intended to deal with the suit property and apprehending creation of third-party rights, instituted Civil Suit No. 3517/2019, before the learned Civil Judge seeking a decree of

permanent injunction restraining Appellant No.1 from alienating or otherwise creating any third-party interest in the property.

3. The plaint further avers that during the pendency of the said suit, Appellant No.1 filed his written statement on 08.01.2020. In the written statement, Appellant No.1, for the first time, relied upon a registered Gift Deed dated 07.06.2007 allegedly executed by Smt. Padmawati in his favour, along with a registered Will. The Respondent asserts that it was only upon receiving the said written statement that she first became aware of the existence of these documents.

4. The injunction suit was eventually disposed of by judgment dated 07.03.2020, holding that a simplicitor suit for injunction was not maintainable in view of the dispute relating to title. While declining the relief sought, the Trial Court granted liberty to the Respondent to institute a comprehensive suit seeking appropriate declaratory and consequential reliefs.

5. The Respondent challenged the said judgment in appeal. The appeal remained pending for some time and was ultimately withdrawn on 27.05.2024, leaving the liberty granted by the Trial Court undisturbed. Thereafter, the Respondent instituted CS(OS) 464/2024 before this Court seeking, *inter alia*, declarations that the Gift Deed and the Will as null and void, a decree of partition, permanent injunction and other consequential reliefs.

6. Upon entering appearance, Appellant No.1 filed an application under Order VII Rule 11 of the CPC contending that the plaint itself admits that the Respondent had acquired knowledge of the impugned Gift Deed on 08.01.2020. It was, therefore, argued that the suit, instituted on 27.05.2024, was barred by limitation under Article 58 of the Limitation Act and the plaint

deserved to be rejected at the threshold. After hearing the parties, the learned Single Judge dismissed the said application, giving rise to the present appeal.

7. The Appellants contend that the relief of declaration is governed by Article 58 of the Limitation Act, which is three years from date of knowledge i.e. 08.01.2020 when the plea was taken in the written statement in earlier suit, and the suit is *ex facie* barred by limitation. It was further contended that the liberty granted by the Civil Court to institute a comprehensive suit neither enlarged nor suspended the statutory period of limitation. According to the Appellants, the learned Single Judge erred in holding that limitation was a mixed question of law and fact despite the bar being evident from the plaint itself.

8. *Per contra*, learned counsel for the Respondent supports the order under challenge and submits that the application under Order VII Rule 11 of the CPC proceeds substantially on the defence set up by the Appellants, which cannot be looked into while considering an application for rejection of the plaint. It was argued that the plaint, when read in its entirety, sets out the factual and legal foundation on which the Respondent claims that the suit is within limitation. Reference was made to the earlier proceedings between the parties, the liberty granted to institute a comprehensive suit, and the provisions of the Limitation Act relied upon in the plaint. According to the respondent, these pleadings themselves demonstrate that the question of limitation cannot be decided in isolation at the threshold and necessarily requires adjudication after the parties have led evidence. It was, therefore, submitted that the learned Single Judge rightly rejected the application under Order VII Rule 11of the CPC.

9. We have heard the learned counsel for the parties and perused the material placed on record.

10. The question before us is not whether the Respondent will succeed on her pleas of limitation, but whether the plaint reaches at only one conclusion, namely, that the suit is barred by limitation. The plaint sets out the date of knowledge gained in earlier suit, the subsequent proceedings, the liberty granted by the Trial Court in earlier suit , the pendency and withdrawal of the appeal, and the exclusion of time directed by the Supreme Court during the COVID-19 pandemic *vide* order dated 10.01.2022. The legal effect of these averments cannot be determined by reading a single paragraph in isolation.

11. A relief of declaration is governed by Article 58 of the Limitation Act, which provides a period of three years from the date on which the right to sue first accrues. In the present case, the Respondent has herself pleaded that she first came to know of the registered Gift Deed and the Will when the written statement of Appellant No.1 was filed on 08.01.2020. Proceeding on that basis, the ordinary period of three years of limitation would have expired on 07.01.2023. However, the Respondent, also relies upon the orders passed by the Supreme Court in *In Re: Cognizance for Extension of Limitation*, *Suo Motu* Writ Petition (C) No. 3 of 2020, particularly the order dated 10.01.2022, by which the period from 15.03.2020 to 28.02.2022 was directed to be excluded while computing limitation. The reference in the plaint to the period "15.03.2020 till 28.02.2020" is plainly a typographical error and we take judicial notice of the correct dates from the order of Supreme Court. Once this excluded period of about twenty-three months and few days is taken into account, the limitation would stand extended till around December. The present suit, instituted on 27.05.2024, is therefore filed within the prescribed

period of limitation. In this view of the matter, it cannot be said that, from the readings of the averments in the plaint, a bar of limitation is made out so as so as to attract Order VII Rule 11(d) of the CPC.

12. Additionally, the plaint shows that the Respondent had earlier filed Civil Suit No. 3517/2019 for injunction. Those proceedings remained pending until the judgment dated 07.03.2020, and the appeal arising therefrom continued until it was withdrawn on 27.05.2024. According to the Respondent, the earlier proceedings were pursued *bona fide* and with due diligence, but the Court ultimately held that a simple suit for injunction was not maintainable in view of the dispute relating to title. Instead of permitting respondent to amend the earlier plaint, the court permitted him to file a fresh suit. In that background, any benefit based on Section 14 of the Limitation Act, also cannot be brushed aside at this stage. The said provision permits exclusion of the time spent in prosecuting an earlier civil proceeding pursued in good faith before a Court which was unable to entertain it for want of jurisdiction or for a cause of a similar nature. Whether the Respondent, if required, is ultimately entitled to the benefit of Section 14 is a matter that will have to be examined on evidence at the appropriate stage. For the present, the existence of such a plea arising from the earlier proceedings is sufficient to indicate that the question of limitation is not clear and can be decided only after framing of issues and not in an application under Order VII Rule 11(d) CPC.

13. In this context, reference may be made to ***Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department & Ors.*, (2008) 7 SCC 169**, where the Supreme Court held that Section 14 of the Limitation Act is founded on the principle that a litigant who has been *bona fide* pursuing

an earlier civil proceeding against the same party and for the same relief should not be prejudiced merely because that proceeding was found to be incapable of being entertained for want of jurisdiction or for a cause of a similar nature in paras 52 and 54. The Court also clarified that Section 14 does not enlarge the period of limitation; it only permits exclusion of the time spent in such earlier proceedings while computing limitation. In the present case, the plaint refers to the earlier injunction suit and the appeal arising from it. These pleadings provide a sufficient basis for raising a plea under Section 14, and it would not be appropriate to reject that plea at the threshold. Whether the earlier proceedings were in fact pursued *bona fide* and with due diligence within the meaning of Section 14 is a matter that can be properly examined only after the parties have led evidence, and at the time of trial.

14. In these circumstances, the plaint cannot be said to disclose an unequivocal bar of limitation on its face; consequently, rejection under Order VII Rule 11(d) CPC is not warranted.

15. For the aforesaid reasons, the appeal is dismissed. Nothing contained in this judgment shall be construed as an expression of opinion on the merits of the rival contentions concerning limitation and all questions are left open to be decided in the suit.

16. Pending application(s), if any, stand disposed of. There shall be no order as to costs.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

AUGUST 22, 2026/kp/ss

Signature Not Verified
Signed By:ROHIT SAIN
Signing Date:24.08.2026
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