Saranpal Kaur Anand vs Praduman Singh Chandhok on 28 March, 2022

Author: Sanjiv Khanna

Bench: Bela M. Trivedi, Sanjiv Khanna

REP

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022
(ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 27794 OF 2016)

SARANPAL KAUR ANAND ...

VERSUS

PRADUMAN SINGH CHANDHOK AND OTHERS ... RESP

JUDGMENT

SANJIV KHANNA, J.

Leave granted.

2. The appellant before us, Saranpal Kaur Anand, is the plaintiff who has filed a Civil Suit, C.S. (O.S.) No. 873 of 2012, seeking: a decree of declaration that the suit property bearing No. 4-C/7, New Rohtak Road, New Delhi, is a joint undivided family property of the plaintiff and defendant Nos. 3 to 9 being the successors of late Harnam the purported sale deed dated 23rd August 1969 executed by late Harbans Kaur through her alleged attorney in favour of late Tej Kaur is a fictitious, sham, incompetent, bad, illegal, null and void; a decree of declaration that the purported sale deed dated 12th October 1995 executed by late Tej Kaur in favour of Pervinder Singh Chandhok (defendant No. 2) is fictitious, sham, incompetent, bad, illegal, nullity and void ab initio in law; and a decree for permanent injunction restraining Praduman Singh Chandhok and Pervinder Singh Chandhok (defendant Nos.1 and 2), their agents, nominees, successors, assigns, representatives etc., from raising/constructing/adding/ altering or entering into any agreement to sell or creating any third party interest, claims, or parting with possession thereof, in respect of any portion of the suit property besides seeking determination of the amount of damages and mesne profits.

3. Defendant Nos. 1 and 2 filed their respective written statements contesting the suit. They also filed an application for rejection of the plaint on the ground of limitation.

4. By the order dated 7th February 2014, the Single Judge of the High Court settled the preliminary issue of limitation as under:

> "Whether the suit as framed is liable to be rejected under Order VII Rule 11(d) of the CPC on the ground of limitation?"

5. Subsequently the plaintiff filed two applications for amendment of the plaint to incorporate prayer for possession and amending the cause of action clause, which were taken up for hearing along with hearing on the preliminary issue.

6. By the order dated 6th April 2015 the Single Judge decided the preliminary issue holding that the suit being barred by time, the plaint was liable to be rejected. The applications for amendment filed by the plaintiff were dismissed as mala fide and not maintainable.

7. The impugned order dated 25th April 2016 passed by the Division Bench of the High Court dismissed the appeal preferred by the plaintiff upholding the order rejecting the plaint on the ground that it was filed beyond the period of limitation. The applications filed for amendment of the plaint being unnecessary were, therefore, rightly rejected by the Single Judge.

8. A decision under clause (d) of Rule 11 to Order VII1 of the Code of Civil Procedure, 1908 (for short, 'the Code') normally proceeds on 'demurrer'. This means that the party objecting to the legal action assumes the truth of the matter alleged by the opposite party and 1 "Order 7, Rule 11- Rejection of plaint - The plaint shall be rejected in the following cases:—

(d) where the suit appears from the statement in the plaint to be barred by any law;" sets up that it is insufficient in law to sustain the claim or there is some other defect on the face of the pleadings constituting a legal reason why the proceedings should not be allowed to proceed further.2 This is also the underlying principle behind clause (d) of Order VII Rule 11 of the Code which applies when it appears from a statement in the plaint that the suit is barred by any law. The law would include the Limitation Act,1963. Section 3 of the Limitation Act mandates that every suit, appeal or application instituted, preferred or filed after the prescribed period, and subject to provisions of Sections 4 to 24, shall be dismissed although limitation has not been set up as a defence. Sub-rule (2) to Rule 2 of Order XIV3 of the Code lays down that where issues of both law and fact arise in the same suit, and the court is of the opinion that the case or any part thereof can be disposed of on an issue of law only, it may try that issue first if the issue (a) relates to the jurisdiction of the court, or (b) bar to the suit is created by any law for the time being in force. Therefore, when decision on issues of law depend upon decision on issues of fact, the issue of law should 2 See paragraph 14 in Ramesh B. Desai v. Bipin Vadilal Mehta & Ors. (2006) 5 SCC 638. 3 Order XIV Rule 2(2) Court to pronounce judgment on all issues.— (2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to—

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue. not be decided as a preliminary issue4. However, when the issue of law can be adjudicated on 'admitted facts', the court can decide the issue of law as a preliminary issue under Order XIV Rule 2 of the Code. The position of law has been succinctly stated in Nusli Neville Wadia v. Ivory Properties and Others5 in the following words:

> "51...As per Order 14 Rule 1, issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other. The issues are framed on the material proposition, denied by another party. There are issues of facts and issues of law. In case specific facts are admitted, and if the question of law arises which is dependent upon the outcome of admitted facts, it is open to the court to pronounce the judgment based on admitted facts and the preliminary question of law under the provisions of Order 14 Rule 2. In Order 14 Rule 2(1), the court may decide the case on a preliminary issue. It has to pronounce the judgment on all issues. Order 14 Rule 2(2) makes a departure and the court may decide the question of law as to jurisdiction of the court or a bar created to the suit by any law for the time being in force, such as under the Limitation Act." (Emphasis added)
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> 9. At the outset itself, it must be stated that unless the plaintiff succeeds in grant of declaration whereby the validity of the sale deed dated 23rd August 1969 executed and transferring the suit property in favour of late Tej Kaur has been challenged, all other reliefs would fail and cannot be granted. Thus, the question to be

4 See paragraph 13 and 15 in Ramesh B. Desai (supra). 5 (2020) 6 SCC 557 answered is whether the prayer for grant of declaration that the sale deed dated 23rd August 1969 is null and void being fictitious, sham, incompetent, bad and illegal is barred by limitation, can be decided as a legal issue without evidence being led?

10. As per Article 586 of the Schedule of the Limitation Act, in a suit for declaration where Articles 567 and 578 do not apply, the plaint should be filed within a period of three years when the right to sue first accrues. On applying Article 58 to the prayer for declaration, that the sale deed dated 23rd August 1969 is invalid, the suit filed after 42 years on 27th March 2012 is clearly barred by limitation. However, though not adverted to in the impugned order of the Division Bench and the order of the Single Judge of the High Court, it is apparent that the plaint, for the purpose of decree of declaration that the sale deed dated 23rd August 1969 is invalid, relies on Section 17 of the Limitation Act, which deals with the effect of fraud and mistake, and reads:

> "17. Effect of fraud or mistake.—(1) Where, in the case of any suit or application for which a period of Limitation is prescribed by this Act,—

(a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or 6 To obtain any other declaration 7 To declare the forgery of an instrument issued or registered. 8 To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.

(b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or

(c) the suit or application is for relief from the consequences of a mistake; or

(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him, the period of Limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production....." The general principle, which also manifests itself in Section 17 of the Limitation Act, is that every person is presumed to know his own legal right and title in the property, and if he does not take care of his own right and title to the property, the time for filing of the suit based on such a right or title to the property is not prevented from running against him. The provisions of Section 17(1) embody fundamental principles of justice and equity, viz. that a party should not be penalised for failing to adopt legal proceedings when the facts or the documents have been wilfully concealed from him and also that a party who had acted fraudulently should not be given the benefit of limitation running in its favour by virtue of such frauds.9 9 Pallav Sheth v. Custodian and Others, (2001) 7 SCC 549 However it is important to remember that Section 17 does not defer the starting point of limitation merely because the defendant has committed a fraud. Section 17 does not encompass all kinds of frauds, but specific situations covered by clauses (a) to (d) to Section 17(1) of the Limitation Act. Section 17(1)(b) and (d) encompass only those fraudulent documents or acts of concealment of documents which have the effect of suppressing knowledge entitling the party to pursue his legal remedy. Once a party becomes aware of antecedent facts necessary to pursue legal proceedings, the period of limitation commences.10

11. Therefore in the event the plaintiff makes out a case that falls within any or more of the four clauses to sub-section (1) to Section 17 of the Limitation Act, the period of limitation for filing of the suit shall not begin to run until the plaintiff or applicant has discovered the fraud/ mistake or could with reasonable diligence have discovered it or if the document is concealed till the plaintiff has the means of producing the concealed document or compelling its production a fortiori.

10 P. Radha Bai and Others v. P. Ashok Kumar and Another, (2019) 13 SCC 445

12. 'Diligence' as a word of common parlance means attention, carefulness, and persistence in efforts of doing something.11 This Court in Chander Kanta Bansal v. Rajinder Singh Anand,12 in reference to proviso to Order VI Rule 17 of the Code, defined 'diligence' as:

> "16...According to Oxford Dictionary (Edn. 2006), the word "diligence" means careful and persistent application or effort. "Diligent" means careful and steady in application to one's work and duties, showing care and effort. As per Black's Law Dictionary (18th Edn.), "diligence" means a continual effort to accomplish something, care; caution; the attention and care required from a person in a given situation..." The word 'diligence' read with the word 'reasonable' in the context of Section 17(1) of the Limitation Act is subjective and relative, and would depend upon circumstances of which the actor called upon to act reasonably, knows or ought to know. Vague clues or hints may not matter. Whether the plaintiff/applicant had the means to know the fraud is a relevant consideration. It is manifest that Section 17(1) of the Limitation Act does not protect a party at fault for failure to exercise reasonable diligence when the circumstances demand such exercise and on exercise of which the plaintiff/applicant could have discovered the fraud. When the time 11 P. Ramanatha Aiyar, The Major Law Lexicon (4th Edition, Lexis Nexis Publication) 12 (2008) 5 SCC 117.

starts ticking subsequent events will not stop the limitation. The time starts running from the date of knowledge of the fraud/mistake; or the plaintiff/applicant when required to exercise reasonable diligence could have first known or discovered the fraud or mistake. In case of a concealed document, the period of limitation will begin to run when the plaintiff/applicant had the means of producing the concealed document or compelling its production.

13. Thus when the plaintiff relies on Section 17(1) (b) of the Limitation Act asserting fraud or mistake, he has to state the date on which he has discovered the fraud or mistake, and also state that he could not have discovered the fraud or mistake with reasonable diligence on a date earlier than on which he has based his cause of action.

14. Rules of pleadings relating to fraud and exemption from law of limitation are set out in Order VI Rule 413 and Order VII Rule 614 of the Code. Order VI Rule 4 lays down that in all cases where a party pleading relies upon fraud, particulars with respect to the date and 13 "Order VI Rule 4. Particulars to be given where necessary.—In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading." 14 "Order VII Rule 6. Grounds of exemption from limitation law.—where the suit is instituted after the expiration of the period prescribed by the law of limitation, the plaint shall show the ground upon which exemption from such law is claimed:

> Provided that the Court may permit the plaintiff to claim exemption from the law of limitation on any ground not set out in the plaint, if such ground is not inconsistent with the grounds set out in the plaint." item, if necessary, shall be stated in the pleadings. The fraud as alleged in the plaint must state those facts which together taken as a whole, if proved, would show and establish fraud. Pleading of fraud should be conspicuous and palpable, and should not be predicated on mere suspicion and

> conjecture. Of course, the court, at the initial stage when deciding an application under clause (d) to Order VII Rule 11 has to proceed under demurrer, and therefore, should accept the facts as alleged in the plaint, but can in a given case draw irrefutable inferences from the facts stated. Order VII Rule 6 of the Code requires the plaintiff to show the grounds upon which exemption(s) from the law of limitation is claimed, and the plaint should set out the ground(s) for claiming such exemptions, which means that the plaintiff must state the causes or reasons or attributes or basis on which, according to the plaintiff, a period should be excluded and not be counted. The recitals in the plaint should be specific and comply with the terms of Order VI Rule 4 of the Code. Order VI Rule 6 is liberal and flexible as while mandating that a suit instituted post expiry of the period of limitation must state the grounds upon which exemption is claimed, permits the plaintiff to rely on a 'ground' not inconsistent with the ground set out in the plaint. The proviso does not nullify the requirement that in the first place the plaint must set out the ground seeking exemption from limitation. When and to the extent Order VII Rule 6 and Order VI Rule 4 apply, these provisions being specific will prevail over the general rule found in Order VI Rule 2 of the Code. Nevertheless, the requirement of the Rules is to plead specific facts with dates, but not the factual evidence on the basis of which the plaintiff would ultimately seek to establish and justify his claim for exemption of limitation. When the minimum threshold required in terms of Order VI Rule 4 and Order VII Rule 6 is satisfied and met, cannot be put in a straitjacket or rigid formula, as it would depend upon the facts and circumstances including antecedent facts, and in particular the relationship between the parties or their predecessors and the period bygone without challenge. While examining these aspects, especially at the initial stage under clause (d) of Rule 11 to Order VII or Order XIV Rule 2 of the Code, the court cannot proceed on the basis of the assumption as to the evidence that would be led so as to record a finding on the evidence. At the same time, an artifice or clever drafting should not prevent the court from stopping plainly time-barred proceedings, an aspect we would again advert to subsequently. The court can take benefit of Order XII Rule 615 of 15"Order XII Rule 6. Judgment on admissions.— (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

the Code when there are admissions made by the plaintiff in the plaint and the documents which are admitted by the parties, or there being no dispute which would require oral evidence in the context of the documents. There is no bar against invoking provisions of Order VII Rule 11 and Order XIV Rule 2 together, or even applying Order XII Rule 6 while proceeding with demurrer. Provisions of the Code are not watertight compartments, unless such statutory construction is express or manifestly prohibited. we would not in the absence of constraints, deny the trial court or the appellate court flexibility in application of the procedural law. Underlying objective of prescribing procedure is to advance the cause of justice. Therefore unless compelled by express language or

clear intend barring a course, the provisions of the Code as a procedural enactment ought to be construed to leave the court to meet and deal with situations in the ends of justice.

15. Having elucidated in brief the legal position, we would now refer to the averments made in the plaint in some detail:

> 15.1 Initial paragraphs of the plaint state that the plaintiff and defendant Nos. 3 to 9 are related to each other as brother, (2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced." sister, and late brother's wife and sons. They belong to the family of Harnam Singh Anand and Harbans Kaur, who had since demised on 23rd September 1974 and 6th August 2005 respectively. Defendant No.1, Praduman Singh Chandhok, is the brother of late Harbans Kaur. Defendant No. 2, Pervinder Singh Chandhok, is the son of defendant No.1 and also the cousin of the plaintiff. Harnam Singh Anand, prior to his demise, had prosperous joint Hindu family businesses and establishments both in India and Iran. He had purchased various properties, including the suit property, in the name of his wife, Harbans Kaur, from one Ram Rattan vide sale deed dated 20th January 1958 for a consideration of Rs.83,800/- and registered with the Sub-Registrar's Office, Delhi on 17th February 1958. It is averred that the suit property is a benami property of Harnam Singh Anand. The plaintiff and defendant Nos. 3 to 9, being successors-in-interest, are entitled to their respective shares in the suit property under the law of succession. At the time of purchase, the suit property was under tenancy of several tenants who were instructed to pay rent and had attorned to Harbans Kaur. However, Harbans Kaur was merely the ostensible and benami owner of the suit property and never had any right, interest or title.

15.2 Harbans Kaur was very close to her mother Tej Kaur and her brother, defendant No.1. To help them, and as a concession, she had permitted Tej Kaur and defendant Nos. 1 and 2 to temporarily reside in the suit property. Tej Kaur did not have any means to support herself and her family members comprising of defendant Nos. 1 and 2. Harbans Kaur, to make her mother Tej Kaur and her family members, including defendant Nos. 1 and 2, stay in the suit property considering their financial hardships, had negotiated with the tenants and had paid substantial amounts to persuade the tenants to vacate the property. Harbans Kaur had filed several eviction petitions against the tenants who had refused to vacate. Tej Kaur died on 24th July 2007. However, defendant Nos. 1 and 2, after the demise of Tej Kaur, had continued to reside and, thereafter, in spite of requests, refused to vacate the suit property. Tej Kaur was granted a permissive and limited concession to stay in the suit property without conferring any right, interest or title. 15.3 The plaint also states that defendant No. 1 was in employment of Harnam Singh Anand at Iran. This was done to enable defendant No. 1 to earn a living and sustain in life and maintain his family with dignity. Defendant Nos. 1 and 2 were deeply involved in the business activities and affairs at Iran. 15.4 Paragraph 8 of the plaint, which is of some importance, reads as under:

> "8. That in view of the above it is abundantly clear and evident that (i) Smt. Harbans Kaur was never the owner of suit property, (ii) Factually and legally Sh. Harnam Singh was the owner, (iii) Mrs. Harbans Kaur never have had an right or authority or competence to transfer rights, title or interest in the suit property; (iv) Right to stay was granted to Mrs. Tej Kaur which was a permissive usage only and that too during her life time. On death of Mrs. Tej Kaur and/or Mrs. Harbans Kaur, said permissive use came to an end, (v) Mrs. Harbans Kaur never had right to transfer title through any person claiming by or under her. It has two limbs. Firstly Mrs. Harbans Kaur never enjoyed title. Secondly she had never any right to transfer, thirdly she did not have any competence to confer any right upon any person to act for and on her behalf for any of these acts and deeds,
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> (vi) Over and above all these issues, even on the touch tone of law, the alleged sale deed is illegal and nullity in law. Sale Deed is without consideration. No consideration was ever paid at the time of execution of alleged sale deed and terms of the deed were never performed. It was at best a contingent agreement which is not fulfilled and thus it gives or creates no right or title or interest thereunder. Sale Deed is bad, illegal and void document. It does not create any right in favour of deceased Mrs. Tej Kaur and/or the defendants 1 and 2.

Plaintiff has therefore, sought a declaration with respect to said sale deed and has also prayed for its cancellation and finally (vii) After death of Mrs. Harbans Kaur and/or Mrs. Tej Kaur, the Defendants 1 and 2 were bound in law to hand over vacant peaceful possession of the suit property when called upon to do so which they have failed. Their possession IS absolutely illegal, unlawful and unauthorized and they are liable to pay charges towards illegal/unlawful and unauthorized use and occupation / mesne / profits / damages. These charges are payable from date of possession till date of delivery of vacant peaceful possession of suit property unto plaintiff and her family members. Inquiry is required to be caused by the Hon'ble Court to determine the quantum of damages/mesne profits admissible and payable by Defendants 1 and 2 in the present case." 15.5 Paragraphs 12, 13, 14 of the plaint read as under:

> "12. That the plaintiff now has learnt recently that Smt. Tej Kaur together with Defendants 1 & 2 actuated with greed and taking undue advantage of the faith and trust reposed by Smt. Harbans Kaur, conspired to usurp the assets and properties of the Plaintiff's family. Late Smt. Tej Kaur and Defendants No. 1 & 2 fraudulently and deceitfully got signed from Late Smt. Harbans Kaur through her attorney the Defendant No. 3 a document purporting to be Sale Deed dated 23.08.1969 seeking to transfer/convey the right/interest/title in the said property in favour of Smt. Tej Kaur against purported consideration of Rs. 90,000/- and by falsely alleging that Rs. 20,000/- will be as an advance and Rs. 30,000/- will be paid before Sub-Registrar, Delhi and balance Rs. 40,000/- would be paid in equal 4 instalments in four years. Not only the documents created are forged, fictitious, sham, inconsequential in law but also a nullity being void ab-initio in as much neither Smt. Harbans Kaur was ever entitled/competent to create any third- party rights/interest/title in the said property

but also Smt. Tej Kaur never had any ability to pay any amount and much less the alleged amounts in question and which till date has not been received. All this while Smt. Tej Kaur had been representing herself to be using the said property on the basis of the permission/consent granted by the family of the Plaintiff.

13. That pursuant to and acting on the basis of the fictitious Sale Deed dated 23.08.1969 claimed to have been registered on 27.08.1969 Late Smt. Tej Kaur purportedly acting as owner without any valid/lawful authority conferred upon her by the family of the Plaintiff and acting dishonestly to dilute the rights/interest/title of the Plaintiff and her family members fraudulently executed a fictitious General Power of Attorney dated 04.04.1982 in favour of the Defendant No. 1 in respect of the said property. That pursuant to the fictitious Sale Deed dated 23.08.1969 Late Smt. Tej Kaur purportedly made the document purporting to be a Sale deed dated 12.10.1995 in favour of the Defendant No. 2 for the afore-said property against the purported sham consideration of Rs. 4,00,000/-. The same is totally and absolutely illegal, null and void, non-est, fraudulent, sham and bogus transaction. No consideration was received by the family members of the plaintiff in any manner whatsoever nor the transaction permitted or even ratified by her family members.

14. That it is pertinent to mention that the Plaintiff has further come to know from the certified copies of proceedings before this Hon'ble Court in C.M. (Main) No. 982 of 2004 that during the pendency of the said proceedings Smt. Tej Kaur demised on 24.07.2007 and the defendant No. 1 filed an application under Order 22 Rule 3 read with Section 151 CPC registered as C.M. No. 5848 of 2008 seeking impleadment of LRs of deceased Smt. Tej Kaur wherein he placed on record the copy of the Will dated 03.05.2007 executed by Smt. Tej Kaur allegedly claiming herself to the exclusive and sole owner of the said property having purchased vide the purported fictious Sale Deed dated 23.08.1969 claimed to have been registered on 27.08.1969 and bequeathing the same in favour of the Defendant No. 2 which is totally contradictory to the purported sham/illegal and null and void transaction made out herein above."
15.6 Paragraphs 15 to 18 of the plaint refer to an order passed by this Court dated 30th January 1973, which is a reported decision, relating to eviction proceedings filed by Harbans Kaur for misuse of property for commercial purposes by one of the tenants. The matter was remanded to the Rent Controller to adjudicate the issues afresh. Thereupon, one of the tenants had filed a second appeal against the order of the Rent Controller before the Delhi High Court. In 2004, Tej Kaur had also filed a petition under Article 227 before the High Court against an order passed by the Rent Controller. After the death of Tej Kaur, defendant No.1 had moved an application seeking impleadment as a legal heir disclosing and relying upon the Will dated 3rd May 2007. In terms of the said Will, defendant No.1 had become the sole and exclusive owner of the suit property. The Will, it is stated, does not refer to the sale deed dated 12th October 1995 and rather claims to have been executed by Tej Kaur in favour of defendant No.2. The plaintiff had appeared in the said proceedings after the publication of notices in the newspaper and opposed the prayer claiming that she too

> is a legal representative, being the daughter of Harbans Kaur. Immediately thereafter, defendant Nos. 1 and 2 compromised the matter with the tenant. The petition filed under Article 227 was withdrawn by defendant Nos.1 and 2, but the court vide order dated 29th September 2008 had given liberty to the legal representative of Harbans Kaur to raise claim/right as and when any subsequent proceeding arises. First Appeal filed by the tenant was also withdrawn on the same day. It is pleaded that Harbans Kaur had continued to prosecute the eviction proceedings against the tenants and there was no attornment of rights as Harbans Kaur had retained all rights with her. There were judicial findings on title against Tej Kaur by the Rent Controller against which no steps were taken to perform or conclude the sale transaction, and it remained inconclusive. It is averred that Tej Kaur had never acquired any right or title in the property because of which Harbans Kaur was always impleaded and remained a party in the eviction proceedings as an owner and landlord.
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> 15.7 Paragraphs 19 to 21 of the plaint refer to the legal notice dated 10th October 2008 served by the plaintiff and her family members, including defendant No. 3, on defendant Nos.1 and 2;

the reply thereto dated 15th October 2008 by defendant Nos.1 and 2 without furnishing details; rejoinder dated 24th October 2008, followed by specific legal notice dated 24th October 2008 to defendant Nos. 1 and 2; and the reply thereto dated 4th November 2008, which again was without providing any details or documents. we shall subsequently refer to these letters/legal notices as they are of substantial importance and relevance. It is pleaded that defendant Nos. 1 and 2, acting illegally and arbitrarily, have instigated and induced defendant Nos. 6 to 8, namely Damanpal Kaur Anand, Jaspreet Singh Anand and Gursimar Singh Anand (wife and children of late Kultaran Singh Anand, brother of the plaintiff), to rake up false, inconsistent claims and issues to divide the family and drag them into inter se litigation. At the behest and insistence of defendant Nos. 1 and 2, defendant Nos. 6 to 8 have initiated several proceedings against the plaintiff, her brother and other family members, which are still pending. In one such proceeding, from the written statement filed by defendant Nos. 7 and 8 on 16th December 2010, the plaintiff for the first time came to vaguely know about the purported sale of the suit property by Harbans Kaur to Tej Kaur. The plaintiff and other family members were utterly shocked and surprised and thus became suspicious about the intentions of defendant Nos. 1 and 2. Thereafter, the plaintiff had made enquiries of various court proceedings, pending and disposed of matters. Whereas at one such enquiry made in the Office of the Sub-Registrar, Delhi, they came to know about the fictitious, sham, illegal, fraudulent transactions created by defendant Nos. 1 and 2.

15.8 Paragraph Nos. 22 and 33 of the plaint state that the plaintiff was completely in the dark and had no knowledge of the sale deed dated 23rd August 1969 and the subsequent sale deed dated 12th October 1995. Regarding the date on which the cause of action arose, the plaint states:

> “22. That Smt. Harbans Kaur including the Plaintiff and her family members have been totally kept in dark about these false, mischievous and fraudulent deals entered

> into amongst Late Tej Kaur and the defendant No. 1 & 2 as made out herein above. The Plaintiff or even his mother Smt. Harbans Kaur deceased was at no point of time either apprised about the same or her concurrence or even her signatures were ever obtained in the said purported illegal and sham Deed of Sale dated 23.08.1969 claimed to have been registered on 27.08.1969 or even the subsequent purported fictitious documents/sale deeds dated 12.10.1995 and Will dated 30.05.2007 which are null and void ab initio being nullity and fraud conveying no right/interest/title upon the defendants No. 1 & 2 or even Smt. Tej Kaur in any manner at any point of time and thus does not affect the right/interest/title of the plaintiff and her family members to own, enjoy and possess the same.
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> 33. That the cause of action first arose on 23.08.1969 claimed to be registered on 27.08.1969 when the purported fictitious sale deed was executed by Late Harbans Kaur in favour of Late Smt. Tej Kaur in respect of the subject property. It again arose on 04.05.1982 when purported General Power of Attorney was executed by Late Tej Kaur in favour of defendant no. 1.

It again arose on 12.10.1995 when purported fictitious sale deed was executed by Late Smt. Tej Kaur in favour of defendant no. 2 in respect of the subject property. The cause of action further arose on 30.05.2007 when purported Will bequeathing the subject property was executed by Smt. Tej Kaur in favour of Defendant No. 2 on the basis of the purported fictitious sale deed dated 23.08.1969 claimed to be registered on 27.08.1969. The cause of action again arose in on 10.10.2008, 24.10.2008, when the defendants No.1 & 2 when called upon to admit and acknowledge the rights/interest/title of the Plaintiff and her family members and handover the possession of the suit property denied vide reply dated 15.10.2008 and 04.11.2008…"16 16The plaintiff had filed an application under Order VI Rule 17 of the code (I.A. No. 7950 of 2014), seeking to amend paragraph 33 of the plaint by incorporating the following additional facts:

> "The cause of action further arose on 27.02.2012 and on 29.02.2012/15.06.2012 when the plaintiff upon coming to know about the frauds played by the Defendants Nos.1 15.9 Paragraphs 23 to 28 of the plaint state that defendant Nos. 1 and 2, along with Tej Kaur, had a mala fide and ulterior intention in usurping the suit property and assets of the plaintiff and her family members. Defendant Nos. 1 and 2 in their possession have certain blank papers and other documents of other properties allegedly signed by Harbans Kaur and other family members of the plaintiff and Tej Kaur, and based upon which they are now trying to forge and create fictitious documents. The sale deed executed by Harbans Kaur in favour of Tej Kaur and the sale deed executed by Tej Kaur in favour of defendant No.1 are null and void, being vitiated by fraud, cheating, fraudulent misrepresentation, forgery, illegality etc. and thus, inconsequential in law. It is averred that Harbans Kaur could not have transferred a better title in favour of Tej Kaur, and further, Tej Kaur could not have transferred a better title than she had.

and 2 in resorting to illegal/unlawful creation of purported sale deeds applied and obtained certified copies of the purported sale deeds dated 12.10.1995 and the purported sale deed dated 23.08.1969 registered on 27.08.1969 respectively from the office of the Sub-Registrar, Delhi pursuant to the disclosures made in the Written Statement dated 16.12.2010 filed by the defendants Nos. 7 and 8 in C.S. (O.S.) No. 1677 of 2010 titled as Gurdev Singh Anand and Ors. v. Jaspreet Singh Anand and Anr., legal notices and responses received and the extensive inquries/searches made in the office of the Sub-Registrar Delhi." The additional facts, as mentioned, would not make any difference to the present outcome in view of the finding that the plaintiff had knowledge about execution of the sale deed dated 23 rd August 1969, if not earlier at least in 2008. It is also discernible that she could have with reasonable diligence in the given facts as pleaded in the plaint, ascertained and known facts relating to the execution of the sale deed dated 23rd August 1969.

The sale deeds are also fraudulent on the count of being without consideration. They are a result of a conspiracy hatched by the defendant Nos. 1 and 2 amongst themselves with Harbans Kaur and Tej Kaur with the sole and cheap objective to usurp the lawful ownership and title of the plaintiff and the defendant Nos. 3 to 9. The plaintiff's deceased mother could never have and had no intent or purpose or necessity to execute the sale deed in favour of Tej Kaur. Defendant Nos. 1 and 2 are in permissive possession, having limited and restricted rights to use and occupy the property through late Tej Kaur. The ownership, title and interest claim predicated by them are based on documents, mutations, etc., that are inconsequential in law, not valid, being fraudulent, concocted act of forgery, fabrication, misrepresentation, etc. Defendant Nos. 1 and 2 are liable to be removed from the suit property once the purpose and object of granting permissive possession, restricted and limited right to use and occupy the suit premises has been served. It is claimed that the plaintiff is entitled to seek recovery of mesne profits at the rate of Rs. 1 lakh per year or such rate as determined by courts from defendant Nos. 1 and 2 for the illegal, unlawful and unauthorised use and occupation of the suit property.

16. The sale deed dated 23rd August 1969 in favour of Tej Kaur was executed by Gurdev Singh Anand as the attorney of Harbans Kaur. Gurdev Singh Anand, the third defendant in the suit, is the brother of the plaintiff. Execution of the sale deed and signatures of Gurdev Singh Anand acting as the attorney of his mother Harbans Kaur are undisputed. The sale deed is a registered document. The plaint accepts that the sale was for a consideration of Rs.90,000/- . The sale deed states that Rs.20,000/- was received in advance and Rs.30,000/- was paid before the Sub-Registrar. The balance amount of Rs.40,000/- was to be paid to the vendor by the vendee in four equal monthly instalments. The plaint does not state if any suit or proceedings were initiated for the recovery of Rs.40,000/-. Any suit or proceedings for recovery of Rs.40,000/- would be barred by limitation. The sale deed mentions that on the date of execution Harbans Kaur was present in Tehran, Iran, and therefore, her son Gurdev Singh Anand, who is the brother of the plaintiff, as an attorney, was executing the sale deed as authorised vide Special Power of Attorney authenticated on 23rd August 1969. These facts are again not challenged and contested in the plaint. Sale deed dated 23th August 1969 is more than thirty years old, and during the lifetime of Harbans Kaur or Tej Kaur it was never challenged and questioned by Harbans Kaur or any of their family members. In terms of Section 90 of the Evidence Act, the presumption is that the signature and every other part of the document, its execution and attestation is by persons by whom it purports to be executed and attested.

17. Legal notice dated 10th October 2008, states that late Harbans Kaur, after her marriage, took steps to establish late Tej Kaur and her son Praduman Singh Chandhok, the first defendant. The legal notice dated 10th October 2008 regarding the suit property states:

> "3. In fact property No. 4-C/7, New Rohtak Road, New Delhi – 110005 was given by Smt. Harbans Kaur unto her mother Ms. Tej Kaur and she took all steps to establish her brother namely Praduman Singh Chandhok. Smt. Harbans Kaur settled her brother by entrusting him with jobs of managing various business(s) and estate of her late husband Shri Harnam Singh in Iran and elsewhere.
>
> 4. Since Ms. Tej Kaur died intestate, Ms. Harbans Kaur legally succeeds to her share in estate of Ms. Tej Kaur along with other remaining legal heirs, Praduman Singh, Chandhok and others. Her share to the estate is joint and undivided and is to be succeeded upon my clients jointly." xx xx xx "9 (iii) All my clients being sons daughters and grandsons of deceased Ms. Harbans Kaur are jointly entitled and have their claims in joint undivided share to the estate of Ms. Tej Kaur claiming by or under or through Ms. Harbans Kaur and further notify that they are no longer interested in having unity of the and possession in said estate of Ms. Tej Kaur." Legal Notice dated 24th October 2008 states:
>
> "3. Post to marriage of Mrs. Harbans Kaur to Shri Harnam Singh, she took all steps to establish home for her mother & brother (late Ms. Tej Kaur and her son- noticee No/1) in furtherance thereof, property No. 4- C/7 New Rohtak Road, New Delhi 110 005 was given by Smt. Harbans Kaur into her mother Ms. Tej Kaur and she also took all steps to establish & same her brother, noticee No.1. Smt. Harbans kaur settled her brother in his life by entrusting him with jobs of managing various business(s) and estate of her husband Shri Harnam Singh (since deceased now) in Iran and elsewhere.
>
> xx xx xx 13 (v). partition property No. 4C/7, New Rohtak Road, New Delhi where deceased Harbans Kaur has acquired her undivided share in the eve of death of Mrs. Tej Kaur." (Emphasis Supplied)

18. The language and the words used in the legal notices on behalf of the plaintiff and other family members are admissions of facts which uncover the illusion made by creative and crafty narration to obfuscate the patent delay of over four decades. To get over the admissions, the plaintiff has submitted that the word/expression used in the notices is 'given' and not 'transfer/sale'. That the word 'given' used is factually correct, albeit when one reads the notices holistically it is lucid that the plaintiff, along with her family members and defendant No.3, have accepted that there was transfer of the suit property in favour of Tej Kaur. The notice was for partition of the estate left behind by Tej Kaur in the form of the suit property. The plaintiff in the notices did not challenge the legal title of Tej Kaur but had claimed the right of inheritance being a granddaughter of Tej Kaur. Further, the plaintiff was aware and had knowledge of the Will dated 3rd May 2007 executed by Tej Kaur. The bequest included the suit property is a fact admitted by the plaintiff in paragraph 14 of the plaint.

Reliance placed on the eviction proceedings does not further the plaintiff's case, as on reading of paragraphs 14 to 18 of the plaint it is manifest that the compromise between the tenant and defendant Nos. 1 and 2 as owners/landlord had led to the withdrawal of the proceedings vide order dated 29th September 2008. This order placed on record and relied by the plaintiff states that the rights and claims of the plaintiff and the legal representatives of Harbans Kaur are protected, while referring to the ownership and inheritance claimed by defendant Nos. 1 and 2 as legal heirs of Tej Kaur. Legal notices dated 10th October 2008 and 24th October 2008 were issued after the order dated 29th September 2008 was passed.

19. In view of the said background, the assertions made in the plaint by the plaintiff against her mother late Harbans Kaur that she had acted in an active and joint concert, connivance and conspiracy with late Tej Kaur are self-serving and phantastic. As per need and factual background of the matter, assertions in the pleadings have to be examined and understood with other statements and documents relied by the plaintiff without feeling helpless and paralysed by unclear, illusory or contradictory drafting. Meaningful reading of the entire plaint may be required when grossly implausible and dubious statements are made.17 The idea is to check and weed out manifestly vexatious and meritless cases at the threshold.18

20. The plaint accepts the close relationship inter se the parties as relatives and in business activities. The person who had executed the sale deed in 1969 as attorney of Harbans Kaur is the brother of the plaintiff with whom the plaintiff has no dispute. Tej Kaur and defendant Nos. 1 and 2 were residing in the suit property. No claim was made until the death of the plaintiff's mother and grandmother, Harbans Kaur and Tej Kaur respectively, on 6th August 2005 and 24th July 2007. Harnam Singh Anand had died earlier in 1974. For 42 years post the execution of the sale deed in 1969, there was no dispute and challenge to the ownership of Tej Kaur. In 2008, disputes had arisen but regarding inheritance of the estate of Tej 17 See T. Arivandandam v. T.V. Satyapal (1977) 2 SCC 467 18 See Madanuri Sri Rama Chandra Murthy v. Syed Jala (2017) 13 SCC 174 Kaur however the plaintiff and defendant No. 3 did not challenge the title and ownership of Tej Kaur. In this background, as the plea of lack of knowledge appears to be conjured and unreal, we read the pleading and the documents with discernment and perceptiveness without getting carried away by bald and pretentious accusations that do not infuse with the accepted and 'admitted' facts.

21. As already observed, the notices dated 10th October 2008 and 24th October 2008 are admitted and referred to without reservation in the plaint. They have been filed by the plaintiff with the plaint as relevant documents relied upon by the plaintiff. The plaint does not dispute or explain the contents and admissions made in the two notices.

22. Consequently, on application of the principle of demurrer, it has to be held, on the basis of the averments made in the plaint and the documents relied upon and admitted by the plaintiff, that even prior to 2008, the plaintiff was aware and had knowledge of the sale deed dated 23rd August 1969 by which the ownership rights were transferred to Tej Kaur. The plaintiff did not, in 2008, question and challenge the transfer, though she was fully aware that Tej Kaur had acquired ownership rights.

23. We have denoted the ambit and conditions of Section 17(1) of the Limitation Act, which is to protect rights of a party defrauded from lapse of time till he remains in ignorance of the fraud, or with reasonable diligence could have discovered the fraud. Section 17(1) does not assist a person who merely shuts his eyes in spite of circumstances requiring him to ascertain facts on which he would have discovered the fraud. Section 17(1) of the Limitation Act saves rights of the party defrauded from lapse of time as long as the party is not at fault on his own account. In the aforesaid factual background, it is apparent that the plaintiff was aware and had knowledge in October 2008 about execution and transfer of the ownership rights in favour of late Tej Kaur vide sale deed dated 23rd August 1969 executed by defendant No.3, Gurdev Singh Anand. Unadorned assertion in the plaint feigning ignorance as to the sale deed would not help, as in the facts as pleaded and accepted in the plaint, the plaintiff was required to state and indicate that ignorance was not due to failure to exercise reasonable diligence.

24. In view of the aforesaid facts and position of law, we dismiss this appeal and uphold the judgment of the Single Judge and the Division Bench of the High Court dismissing the suit as being barred by limitation. We also affirm the judgment of the Single Judge and the Division Bench with regard to the dismissal of two applications filed by the plaintiff for amendment of pleadings under Order VI Rule 17 of the Code, namely IA Nos. 17994/2012 and 7590/2014 on the ground that when the suit itself has been barred by limitation, amendments to such a suit will be unnecessary.

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

26. Parties to bear their own costs.

.....J. (SANJIV KHANNA) NEW DELHI;

MARCH 28, 2022.

REPORTABLE IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL NO. OF 2022 [Arising out of SLP(CIVIL) NO. 27794 OF 2016] SARANPAL KAUR ANAND ..... APPELLANT VERSUS PRADUMAN SINGH CHANDHOK & ORS ..... RESPONDENTS J U D G M E N T BELA M. TRIVEDI, J.

1) Having gone through the opinion expressed by my esteemed brother Justice Sanjiv Khanna, I with respect, express my inability to agree with the same. In my humble opinion, the impugned judgments of the High Court of Delhi, passed by the Single Bench and the Division Bench are in utter disregard to the provisions contained in the Code of Civil Procedure (CPC) as also to the legal position well settled by this Court in umpteen number of cases. The basic legal premise on which both the courts have proceeded for rejecting the plaint, being erroneous the same cannot be vindicated for the reasons to follow.

2) Special leave to appeal is granted.

3) Though I propose to deal with only the legal issues involved in the case, a few basic facts emerging from the record need to be stated. For the sake of convenience, the parties shall be referred as per their original status in the suit.

(i) The Appellant in the present Appeal Smt. Saranpal Kaur Anand (Daughter of Late Sardar Harnam Singh Anand and Smt. Harbans Kaur) was the plaintiff in the Civil Suit being CS(OS) No. 873 of 2012 filed her in the Delhi High Court in its original jurisdiction.

(ii) The respondent nos. 1 to 9 herein were the defendant nos. 1 to 9 in the suit. The defendant no. 1 Praduman Singh Chandhok happened to be the brother of the plaintiff's mother and defendant no. 2 happened to be the son of defendant no.1. The defendant nos. 3 to 9 happened to be the legal heirs and successors of the Late Sardar Harnam Singh Anand and Smt. Harbans Kaur.

(iii) The plaintiff filed the suit in question on 27th March, 2012 against the defendants seeking a decree of declaration that the suit property being No.4-C/7, New Rohtak Road, New Delhi was the joint undivided family property of the plaintiff and defendant nos. 3 to 9 and that defendants nos. 1 & 2 had no right title or interest upon or to the said property. The plaintiff sought further declaration that the purported sale deed dated 23 rd August, 1969 alleged to have been executed by Smt. Harbans Kaur through her alleged attorney in favour of Smt. Tej Kaur was fictitious, sham, nullity and void ab initio and, therefore, deserved to be cancelled. The plaintiff also sought a declaration that the purported sale deed dated 12.10.1995 executed by Smt. Tej Kaur in favour of defendant no. 2 was fictitious, sham, nullity and void ab initio. The plaintiff further sought a prayer for permanent injunction against defendant nos. 1 and 2 for restraining them from carrying out any construction/addition/alteration, or entering into any agreement to sell or creating third party interest in respect of any portion of the suit property.

(iv) On 10.05.2012, the defendant nos. 1 & 2 filed their respective written statements raising various contentions and praying for the dismissal of the suit.

(v) On 15.05.2012, the defendant no. 2 filed an application seeking rejection of the plaint under Order VII Rule 11(d) CPC being I.A. No. 9950 of 2012 in the suit.

(vi) On 11.09.2012, the plaintiff filed an application under Order VI Rule 17 CPC being I.A.No. 17994 of 2012 seeking amendment in the plaint for incorporating the relief of possession in the prayer clause.

(vii) On 07.02.2014, the Trial Court i.e. the Single Bench of the High Court framed a preliminary issue as under:

> "1. Whether the suit as framed is liable to be rejected under Order VII Rule 11(d) of the CPC on the ground of limitation? OPD"
>
> (viii) On 28.04.2014, the plaintiff filed another application under Order VI, Rule 17 seeking to amend cause of action clause to explain/elaborate the incident leading to

filing of the suit. The said application was registered as I.A. No. 7950/14 in the said suit.

(ix) The Single Bench vide the common order dated 6th April, 2015, decided the preliminary issue along with the I.A. No. 17994/12 and IA No. 7950/14, rejecting the plaint. The operative part contained in the paras 39 and 40 of the said order reads as under:

"39. The suit is apparently time barred. Hence, the plaint is rejected. The issue framed in the matter is accordingly decided against the plaintiff and in favour of defendant nos. 1 & 2, the amendment applications filed by the plaintiff are malafide and are not maintainable as the same itself is time barred on the face of pleadings and documents placed on record. Both applications are accordingly dismissed.

40. The plaint is rejected. All pending applications are also disposed of consequently".

(x) Being aggrieved by the said judgment and decree passed by the Trial Court /Single Bench, the plaintiff preferred an appeal being RFA (OS) No.54 of 2015 under section 96 of CPC before the Appellate Court/Division Bench of the High Court. The Division Bench confirmed the order passed by the Single Bench and dismissed the said Appeal vide the impugned judgment and order dated 25th April, 2016. The Division Bench while dismissing the Appeal also took recourse to the provisions contained in Order XII Rule 6 CPC, which was not the issue before the Single Bench.

4) Being aggrieved by the impugned judgment passed by the Division Bench of the High Court, the appellant-plaintiff has filed the present Appeal.

5) Having regard to the impugned orders passed by the Single Bench and the Division Bench of the High Court, following questions fall for consideration:-

a. Whether the Single Bench i.e. the trial court could have framed the preliminary issue under Order XIV Rule 2 with regard to the issue of limitation which was a mixed question of law and fact, for the purpose of rejecting the plaint under Order VII Rule 11(d) of the CPC?

b. Whether the Division Bench i.e. the appellate court could have travelled beyond the scope of Appeal and taken recourse to Order XII Rule 6 CPC, which was not the issue before the Single Bench, for the purpose of rejecting the plaint under Order VII Rule 11(d), CPC?

c. Whether Single Bench and Division Bench had committed an error of law apparent on the face of record by referring to the written statements and the other documents which were not part of the plaint while rejecting the plaint under Order VII Rule 11(d) on the ground that the suit was barred by law of Limitation?

6) The learned Senior Counsel Mr. Shyam Divan for the appellant-original plaintiff has made following submissions:

(i) Limitation being a mixed question of facts and law, the plaint could not be rejected under Order VII Rule 11(d) CPC.

(ii) An application under Order VII Rule 11(d) ought to be decided solely on the basis of the averments made in the plaint and not on the basis of the written statements and other documents or material.

(iii) A case involving disputed questions of facts cannot be decided by the way of preliminary issue under Order XIV Rule 2 of the CPC. The issue of limitation cannot be treated as a pure question of law under Order XIV Rule 2(2), in view of the settled legal position.

(iv) Once fraud has been pleaded in the suit, the plaint cannot be rejected without affording an opportunity to the parties to adduce the evidence.

(v) The Single Bench and the Division Bench had committed gross error in referring to the documents which were not part of the plaint in the impugned orders. The Single Bench was required to first decide the applications of the plaintiff seeking amendments in the prayer clause and the cause of action clause of the plaint, before deciding the preliminary issue framed by it.

(vi) The Division Bench had travelled beyond the scope of appeal by relying upon the provisions contained in Order XII Rule 6 for rejecting the plaint of the appellant-plaintiff, though it was not the issue before the Single Bench. Even otherwise there was no admission made by the plaintiff in the plaint or otherwise which would entitle the appellate court to pass a judgment dismissing the suit of the plaintiff.

(vii) Mr. Divan, learned senior advocate for the appellant-plaintiff had drawn the attention of the court to the documents referred by the Single Bench and Division Bench which were not part of the plaint. He also drew the attention of the court to the erroneous findings recorded by the Division Bench while confirming the order passed by the Single Bench.

(viii) Reliance has been placed by the learned senior advocate Mr. Divan on the various judgments of this court to buttress his submission that the plaintiff having alleged commission of fraud, and the issue of limitation being a mixed question of fact and law, the plaint could not be rejected under Order VII Rule 11(d) of the CPC. Order XIV Rule 2 also does not confer any jurisdiction upon the court to try the issue of limitation as a preliminary issue, the same being not a pure question of law.

7) The learned Senior Counsel Mr. P.S. Patwalia appearing for the contesting respondent nos. 1 and 2 (Original defendant no. 1 and 2) made following submissions:

(i) The Single Bench had rightly framed the preliminary issue with regard to the issue of limitation, which was a pure question of law, and had rightly rejected the plaint under Order VII Rule 11(d) of CPC. The said judgment having been confirmed by the Division Bench, this Court may not interfere with the said concurrent findings of the facts recorded by the two courts.

(ii) The plaintiff had filed the applications for amendments in the plaint under Order VI Rule 17 as an afterthought to cover up the issue of limitation, misusing the process of law.

(iii) Placing reliance on the decision of this Court in case of Khatri Hotels Pvt. Ltd. Vs. Union of India1, Mr. Patwalia submitted that if the suit is based on multiple causes of action, the period (2011) 9 SCC 126 of limitation would begin to run from the date when the right to sue first accrued.

(iv) Having regard to the nature of the pleadings and admitted documents, the Division Bench of the High Court had rightly exercised its Suo moto powers under Order XII Rule 6 for the purpose of rejecting the plaint.

(v) In view of the admission of the plaintiff with regard to the ownership of Smt. Tej Kaur by seeking succession to her estate and the knowledge of the will dated 03rd May, 2007 executed by late Smt. Tej Kaur in favour of the defendant no. 2 in the year 2008, and the suit having been filed in March, 2012, it was clearly beyond the period of limitation of three years prescribed under the Limitation Act.

(vi) The Division Bench of the High Court was well within its jurisdiction to exercise the power under Order XII, Rule 6 CPC and pass a judgment Suo moto. In this regard he has placed reliance on the decisions of this court in case of Karam Kapahi & Ors. Vs. M/S Lal Chand Public Charitable Trust & Anr.2 and in case of Charanjit Lal Mehra & Ors. Vs. Smt. Kamal Saroj Mahajan & Anr.3 (2010) 4 SCC 753 (2005) 11 SCC 279

(vii) Placing reliance on the decision in case of T. Arivandandam Vs. T. V. Satyapal & Anr.4, he submitted that if on a meaningful reading of the plaint, it appears to be manifestly vexatious and meritless, the court should exercise its powers under Order VII Rule 11 of CPC, which has been rightly exercised by the High Court.

8) At the outset, it may be noted that the suit having been filed by the plaintiff in the High Court in its original jurisdiction, the Single Bench as a trial court and the Division Bench as an appellate court were required to adhere to the specific

provisions contained in the CPC while deciding the suit and the Appeal respectively.

9) As discernible from the record, though the defendant no. 2 had filed an application seeking rejection of plaint under Order VII Rule 11(d) of CPC, the Single Bench instead of deciding the said application, framed a preliminary issue under Order XIV Rule 2, as to 'whether the suit as framed is liable to be rejected under Order VII Rule 11(d) of CPC on the ground of limitation'. The Single Bench then decided the preliminary issue against the plaintiff holding that the plaint was liable to be rejected under Order VII, Rule 11(d), considering the written statement and other documents filed by the concerned defendants, which were not part of the Plaint. The Division Bench in the Regular Appeal filed by the (1977) 4 SCC 467 appellant-plaintiff against the judgment and order passed by the Single Bench, committed further error by relying upon the provisions contained in Order XII Rule 6 of CPC, which was not even the issue before the Single Bench, and confirmed the order passed by the Single Bench. It is needless to say that the scope, ambit and parameters for deciding an application under Order VII Rule 11(d) for the rejection of the plaint; for raising a preliminary issue under Order XIV Rule 2(2); and for passing the judgment on admission of fact in the pleading or otherwise under Order XII Rule 6 being absolutely different and mutually exclusive, all the three provisions could not be interchangeably used for the purpose of rejecting the plaint under Order VII Rule 11(d) of the CPC. It is also well settled proposition of law that when a power is to be exercised by a Civil Court under an express provision, the inherent power under Section 151 of CPC cannot be taken recourse to.

10) In order to make the position more clear, let us refer to the relevant provisions as contained in the CPC.

-Order VII Rule 11 reads as under:

11. Rejection of plaint.— The plaint shall be rejected in the following cases:—

(a) Where it does not disclose a cause of action;

(b) ...

(c) ...

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) ...

(f) ...

-Order XII Rule 6 reads as under:

> 6. Judgment on admissions—(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions. (2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.

-Order XIV Rule 2 reads as under:

> 1. Framing of issue:...
>
> 2. Court to pronounce judgment on all issues.— (1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to— (a) the jurisdiction of the Court, or (b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.

11) The basic postulate underlined in clause (a) and clause (d) of Rule 11 Order VII is that while rejecting the plaint under the said provisions, the court is required to see only the averments made in the plaint and the documents, if any, annexed to the plaint, and not to the written statement or other documents which are not part of the plaint. In case of Kamala & Ors Vs. K.T. Eshwara Sa & Ors.5, it has been observed that for the purpose of invoking Order VII Rule 11 (d) of CPC, no amount of evidence can be looked into and that the conclusion that the suit is barred under any law must be drawn from the averments made in the plaint. To be precise, it was held as under:-

> “21. Order VII, Rule 11(d) of the Code has limited application. It must be shown that the suit is barred under any law. Such a conclusion must be drawn from the averments made in the plaint. Different clauses in Order VII, Rule 11, in our opinion, should not be mixed up. Whereas in a given case, an application for rejection of the plaint may be filed on more than one ground specified in various sub-clauses thereof, a clear finding to that effect must be arrived at. What would be relevant for invoking Clause (d) of Order VII, Rule 11 of the Code is the averments made in the plaint. For that purpose, there cannot be any addition or subtraction. Absence of jurisdiction on the part of a court can be invoked at different stages and under different provisions of the Code. Order VII, Rule 11 of the Code is one, Order XIV, Rule 2 is another.

> 22. For the purpose of invoking Order VII, Rule 11(d) of the Code, no amount of evidence can be looked into. The issues on merit of the matter which may arise between the parties would not be within the realm of the court at that stage. All issues shall not be the subject matter of an order under the said provision.
>
> .....
>
> 25. The decisions rendered by this Court as also by various High Courts are not uniform in this behalf.

But, then the broad principle which can be culled (2008) 12 SCC 661 out therefrom is that the court at that stage would not consider any evidence or enter into a disputed question of fact of law. In the event, the jurisdiction of the court is found to be barred by any law, meaning thereby, the subject matter thereof, the application for registration of plaint should be entertained."

12) In case of Salim Bhai and Ors. Vs. State of Maharashtra and Ors.6, it was made clear that for the purpose of deciding an application under clauses (a) and

(d) of Rule 11 of Order VII, CPC, the averments in the plaint are germane; the plea taken by the defendant in the written statement would be wholly irrelevant. Similar view has been taken by this Court in case of Soumitra Kumar Sen Vs. Shyamal Kumar Sen and Ors.7, in para 9 thereof, it was observed as under:-

> "9. In the first instance, it can be seen that insofar as relief of permanent and mandatory injunction is concerned that is based on a different cause of action. At the same time that kind of relief can be considered by the trial court only if the plaintiff is able to establish his locus standi to bring such a suit. If the averments made by the appellant in their written statement are correct, such a suit may not be maintainable in as much as, as per the appellant it has already been decided in the previous two suits that respondent no. 1/plaintiff retired from the partnership firm much earlier, after taking his share and it is the appellant (or appellant and respondent no. 2) who are entitled to manage the affairs of M/s. Sen Industries. However, at this stage, as rightly pointed out by the High Court, the defense in the written statement cannot be gone into. One has (2003) 1 SCC 557 (2018) 5 SCC 644 to only look into the plaint for the purpose of deciding application under Order VII Rule 11, CPC. It is possible that in a cleverly drafted plaint, the plaintiff has not given the details about Suit No. 268 of 2008 which has been decided against him. He has totally omitted to mention about Suit No. 103 of 1995, the judgment wherein has attained finality. In that sense, the plaintiff/respondent no. 1 may be guilty of suppression and concealment, if the averments made by the appellant are ultimately found to be correct. However, as per the established principles of law, such a defence projected in the written statement cannot be looked into while deciding application under Order VII Rule 11, CPC."
>
> 13) In one more recent judgment in case of Shakti Bhog Food Industries Ltd.

Vs. Central bank of India and Another 8, it was also observed as under:-

> "18. It is clear that in order to consider Order VII Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in written statement are immaterial and it is the duty of the Court to scrutinize the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averment. These principles have been reiterated in Raptakos Brett & Co. Ltd. V. Ganesh Property, (1998) 7 SCC 184 and Mayar (H.K.) Ltd. V. Vessel M.V. Fortune Express, (2006) 3 SCC 100." 2020 SCC Online SC 482

14) In the latest decision in case of Srihari Hanumandas Totala Vs. Hemant Vithal Kamat9, also it has been categorically stated that whether the suit is barred by any law or not must be determined from the statements made in the plaint and it is not open to decide the issue on the basis of any other material including the written statement filed in the case.

15) From the afore-stated legal position, it is absolutely clear that for invoking Order VII Rule 11 (d), and for the purpose of rejecting the plaint on the ground that the suit is barred by any law, only the averments made in the plaint have to be referred to and that the defence taken by the defendant in the written statement being wholly irrelevant, must not be considered.

16) As regards framing of preliminary issue under Order XIV Rule 2(2) also, the legal position is well settled. Sub Rule 2 of Rule 2 of Order XIV specifies that where issues both of law and of fact arises in the same suit and the court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to – (a) the jurisdiction of the court, or (b) a bar to the suit created by any law for the time being in force.

17) In Satti Paradesi Samadhi & Philliar Temple Vs. M. Sakuntala10, it has been observed as under:-

> "15. In the case at hand, we find that unless there is determination of the fact which would not protect the plaintiff under Section 10 of the (2021) 9 SCC 99 (2015) 5 SCC 574 Limitation Act the suit cannot be dismissed on the ground of limitation. It is not a case which will come within the ambit and sweep of Order 14 Rule 2 which would enable the court to frame a preliminary issue to adjudicate thereof. The learned Single Judge, as it appears, has remained totally oblivious of the said facet and adjudicated the issue as if it falls under Order 14 Rule 2. We repeat that on the scheme of Section

10 of the Limitation Act we find certain facts are to be established to throw the lis from the sphere of the said provision so that it would come within the concept of limitation. The Division Bench has fallen into some error without appreciating the facts in proper perspective. That apart, the Division Bench, by taking recourse to Articles 92 to 96 without appreciating the factum that it uses the words "transferred by the trustee for a valuable consideration" in that event the limitation would be twelve years but in the instant case the asseveration of the plaintiff is that the trustee had created three settlement deeds in favour of his two daughters and a granddaughter. The issue of consideration has not yet emerged. This settlement made by the father was whether for consideration or not has to be gone into and similarly whether the property belongs to the Trust as Trust is understood within the meaning of Section 10 of the Limitation Act has also to be gone into. Ergo, there can be no shadow of doubt that Issue 1 that was framed by the learned Single Judge was an issue that pertained to the fact and law and hence, could not have been adjudicated as a preliminary issue. Therefore, the impugned order [Satti Paradesi Samadhi v. M. Sankuntala, (2012) 2 LW 865 (Mad)] is wholly unsustainable."

18) In Ramesh B. Desai Vs. Bipin Vadilal Mehta11, it has been held as under:-

> "13. Sub-rule (2) of Order 14 Rule 2 CPC lays down that where issues both of law and of fact arise in the same suit, and the court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to (a) the jurisdiction of the court, or (b) a bar to the suit created by any law for the time being in force. The provisions of this Rule came up for consideration before this Court in Major S.S. Khanna v. Brig. F.J. Dillon [(1964) 4 SCR 409 : AIR 1964 SC 497] and it was held as under:
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> (SCR p. 421)" "Under Order 14 Rule 2, Code of Civil Procedure where issues both of law and of fact arise in the same suit, and the court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined. The jurisdiction to try issues of law apart from the issues of fact may be exercised only where in the opinion of the court the whole suit may be disposed of on the issues of law alone, but the Code confers no jurisdiction upon the court to try a suit on mixed issues of law and fact as preliminary issues. Normally all the issues in a suit should be tried by the court; not to do so, especially when the decision on issues even of law depend upon the decision of issues of fact, would result in a lopsided trial of the suit." Though there has been a slight amendment in the language of Order 14 Rule 2 CPC by the amending Act, 1976 but the principle enunciated (2006) 5 SCC 638 in the abovequoted decision still holds good and there can be no departure from the principle that the Code confers no jurisdiction upon the court to try a suit on mixed issues of law and fact as a preliminary issue and where the decision on issue of law depends upon decision of fact, it cannot be tried as a preliminary issue."

> 19) The issue of limitation has not been considered to be a pure question of law to be decided as a preliminary issue under Order XIV Rule 2 of CPC, by three Judge Bench of this Court in case of Nusli Neville Wadia Vs. Ivory Properties12.

In the said case, a reference was made to the three Judge Bench with respect to the interpretation of the provisions contained in section 9 A of CPC as inserted by the Maharashtra Amendment Act, 1977 and the court held that the provisions contained in section 3 read with sections 4 to 24 of the Limitation Act, 1963 do not provide that the court has no jurisdiction to deal with the matter. It has been further held that so long as the court has the jurisdiction to try the suit, it cannot proceed to dismiss it on the ground of limitation under section 3, and that unless the question is a pure question of law, it cannot be decided as a preliminary issue under Order XIV Rule 2. The Bench further opined that mixed question of law and fact cannot be decided as a preliminary issue under Order XIV Rule 2. The court elaborately dealt with the provisions contained in Order XIV Rule 2 (2) in the light of the Limitation Act and observed as under:-

> (2020) 6 SCC 557 "51. - - - - As per Order XIV Rule 1, issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other. The issues are framed on the material proposition, denied by another party. There are issues of facts and issues of law. In case specific facts are admitted, and if the question of law arises which is dependent upon the outcome of admitted facts, it is open to the Court to pronounce the judgment based on admitted facts and the preliminary question of law under the provisions of Order XIV Rule 2. In Order XIV Rule 2(1), the Court may decide the case on a preliminary issue. It has to pronounce the judgment on all issues. Order XIV Rule 2(2) makes a departure and Court may decide the question of law as to jurisdiction of the Court or a bar created to the suit by any law for the time being in force, such as under the Limitation Act.

52. In a case question of limitation can be decided based on admitted facts, it can be decided as a preliminary issue under Order XIV Rule 2(2)(b). Once facts are disputed about limitation, the determination of the question of limitation also cannot be made under Order XIV Rule 2(2) as a preliminary issue or any other such issue of law which requires examination of the disputed facts. In case of dispute as to facts, is necessary to be determined to give a finding on a question of law. Such question cannot be decided as a preliminary issue. In a case, the question of jurisdiction also depends upon the proof of facts which are disputed. It cannot be decided as a preliminary issue if the facts are disputed and the question of law is dependent upon the outcome of the investigation of facts, such question of law cannot be decided as a preliminary issue, is settled proposition of law either before the amendment of CPC and post amendment in the year 1976.

53. The suit/application which is barred by limitation is not a ground of jurisdiction of the court to entertain a suit. If a plea of adverse possession has been taken under Article 65 of the Limitation Act, in case it is successfully proved on facts; the suit has to be dismissed.

However, it is not the lack of the jurisdiction of the Court that suit has to be dismissed on the ground of limitation, but proof of adverse possession for 12 years then the suit would be barred by limitation

such question as to limitation cannot be decided as a preliminary issue.

.....

55. Reliance has been placed on the provisions of Section 3 of the Limitation Act to submit that the Court cannot proceed with the suit which is barred by limitation although limitation has not been set up as a defence. No doubt about it that Section 3 of the Act provides that subject to the provisions contained in Section 4 and 24 of the Limitation Act, every suit instituted, appeal preferred, and the application made after the prescribed period shall be dismissed, it nowhere provides that Court has no jurisdiction to deal with the matter. Until and unless Court has the jurisdiction, it cannot proceed to dismiss it on the ground of limitation under Section 3."

20) From the afore-stated decisions of this Court, there remains no shadow of doubt that a plea of limitation cannot be decided as an abstract principle of law divorced from the facts as in every case the starting point of limitation has to be ascertained which is entirely a question of fact. A plea of limitation being mixed question of law and fact cannot be decided as a preliminary issue under Order XIV, Rule 2(2).

21) Now, so far as pronouncing a judgement on admission under Order XII Rule 6 is concerned, again the law is well settled that for an admission to qualify as a valid admission, it necessarily has to be an unequivocal, unambiguous and unconditional. Considering the objects and reasons for amending Order XII, Rule 6, it has been held in case of Uttam Singh Dugal & Co. Ltd. Vs. United Bank of India & Ors13. that:-

> "10. As to the object of the Order XII Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said rule, it is stated that where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled. We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission to succeed." 2000 (4) RCR Civil 89
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> 22) In the case of Himani Alloys Ltd. Vs. Tata Steel Ltd. 14, it has been categorically observed that the admission made by the party should be clear, unambiguous and unconditional and the court should exercise its judicial discretion on examination of facts and circumstances of the case. Para 10 thereof reads as under:-
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> "10. It is true that a judgment can be given on an "admission" contained in the minutes of a meeting. But the admission should be categorical. It should be a

> conscious and deliberate act of the party making it, showing an intention to be bound by it. Order XII Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits.
>
> Therefore, unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short, the discretion should be used only when there is a clear "admission" which can be acted upon. (See also Uttam Singh Duggal & Co. Ltd. Vs. united Bank of India [2000 (7) SCC 120], Karam Kapahi Vs. Lal Chand public Charitable Trust [2010 (4) SCC 753] and Jeevan Diesels and Electricals Ltd. Vs. Jasbir Singh Chadha [2010 (6) SCC 601]." 2011 (3) Civil Court Cases 721
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> 23) Though the learned senior Advocate Mr. Patwalia for the respondents has placed heavy reliance on the decision in case of Karam Kapahi & Ors Vs. M/S Lal Chand Public Charitable Trust15 and in case of Charanjit Lal Mehra & Ors Vs. Smt.Kamal Saroj Mahajan &Anr16, they are hardly helpful to the respondents. There cannot be any disagreement to the proposition of law laid down in the said judgments that the principle behind Order XII, Rule 6 is to give the plaintiff a right to speedy judgment. As such, under this Rule, either party may get rid of so much of the rival claims about which there is no controversy.

Even the admissions made by the parties to the interrogatories and recorded by the court as contemplated in Order X CPC also could be taken into consideration, nonetheless Order XII, Rule 6 could be resorted to only when there is clear and unambiguous admission of facts, and not otherwise. The said Rule 6 also could not be invoked by the Appellate Court suo moto in the Appeal, when the trial court had not dealt with such issue, and had rejected the plaint under Order VII, Rule 11(d) CPC.

24) So far as the facts of the present case are concerned, as stated earlier the Single Bench had rejected the plaint under Order VII Rule 11(d) after framing a preliminary issue under Order XIV Rule 2(2) of CPC. The Single Bench after taking into consideration the written statement and other documents held that the suit was barred by law of Limitation and rejected the plaint under Order VII, Rule (2010) 4 SCC 753 (2005) 11 SCC 279 11(d) CPC. Apart from the fact that no preliminary issue could have been framed under Order XIV, Rule 2(2) with regard to the issue of limitation which was a mixed question of law and fact, the Single Bench erroneously considered the written statement and the documents filed by the defendant while rejecting the plaint under Order VII Rule 11(d) of CPC. The Division Bench also fallaciously referred to the contentions raised in the written statement and referred to the documents namely CM Applications filed in some eviction proceedings, which were neither referred to in the plaint nor annexed to the plaint. The Division Bench further erroneously relied upon some statements made in the legal notices dated 10.10.2008 and 24.10.2008 construing them as an admission on the part of the plaintiff for passing judgment

under Order XII, Rule 6 against the plaintiff, while confirming the order passed by the Single Bench rejecting the plaint of the plaintiff under Order VII, Rule 11(d) CPC. In the opinion of the Court there was no clear, unambiguous and unconditional admission made by the plaintiff in any of the said legal notices which could be termed as an admission of the claim made by the defendant with regard to the knowledge of the plaintiff in respect of the execution of the alleged sale deeds. On the contrary, the plaintiff had pleaded fraud committed against her and other defendants who were the legal representatives of Smt. Harbans Kaur. The Court at this juncture is not inclined to go into the merits of the issues involved in the suit. Suffice it to say that the Single Bench and the Division Bench have passed the impugned orders de hors the specific provisions of CPC and in utter disregard of the position of law settled by this Court.

25. Even if, the Single Bench had found that the suit was filed misusing the process of law or that an illusion was created with regard to the cause of action by clever drafting, in that case also Order VII Rule 11 could not have been resorted to. As held by Supreme Court in a well-known case of T. Arivandandam Vs. T.V. Satyapal & Anr.17, the powers under Order VII Rule 11 of CPC have to be exercised taking care to see that the ground mentioned therein is fulfilled. It is further held therein that if clever drafting has created an illusion of a cause of action, the Court should nip it in the bud at the first hearing by examining the party searchingly under Order X, CPC.

26) It is also a trite law that the inherent jurisdiction under Section 151 CPC cannot be exercised to nullify the provisions of the CPC. The inherent powers of the court are in addition to the powers specifically conferred on the court by the Code, and cannot be exercised in a manner which will be contrary or different from the procedure expressly provided in the Code. The scope of Section 151 was considered by this Court as back as in 1964 in case of Arjun Singh Vs. Mohindra Kumar & Ors18, in which it was aptly held as under:-

> “It is common ground that the inherent power of the Court cannot override the express provisions of the law. In other words, if there are (1977) 4 SCC 467 AIR 1964 SC 993 specific provisions of the Code dealing with a Particular topic and they expressly or by necessary implication exhaust the scope of the powers of the Court or the jurisdiction that may be exercised in relation to a matter the inherent power of the Court cannot be invoked in order to cut across the powers conferred by the Code.”

> 27. In that view of the matter, the scope, ambit and parameters for deciding an application for rejection of the plaint under Order VII Rule 11(d), for deciding the preliminary issue on pure question of law under Order XIV Rule 2(2) and for pronouncing a judgment on admission under Order XII Rule 6 being absolutely different and independent of each other, Single Bench and Division Bench were required to strictly adhere to the procedures laid down in the said provisions, and could not have exercised inherent powers or suo moto powers dehors the specific provisions contained in the Code. The impugned orders passed by the High Court being in utter disregard of the said provisions and of the settled legal position, deserve to be quashed and set aside and are accordingly set aside. The suit is restored on the file of the Single Bench. The Single Bench is directed to proceed with the suit

in accordance with law. It is made clear that the Court has not expressed any opinion either on the issue of limitation or on the merits of the suit.

28. The appeal stands allowed.

.....J. [BELA M. TRIVEDI] NEW DELHI;

MARCH 28, 2022.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022
(SLP C) No. 27794/2016)

SARANPAL KAUR ANAND — APPELLANT

VERSUS

PRADUMAN SINGH CHANDHOK & ORS. — RESPONDENTS

O R D E R

In view of the difference of opinion expressed by two separate judgments, the Registry is directed to place the matter before Hon'ble the Chief Justice of India for appropriate orders/directions.

..... .J. [SANJIV KHANNA] ..... .J. [BELA M. TRIVEDI] NEW DELHI;

MARCH 28, 2022