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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

\+ **CS(OS) 1022/2024, I.A. 49180/2024, I.A. 11709/2025, I.A. 21555/2025**

MRS. AJIT INDER SINGH
W/O LATE COL. INDERJEET SINGH,
AGED ABOUT 79 YEARS OLD,
R/O PROPERTY BEARING NO. 6,
KASTURBA GANDHI MARG,
NEW DELHI- 110001 ....PLAINTIFF

(Through: Mr. Arjun Singh Bawa and Ms. Saumya Pandotra, Advs.)

Versus

MR. SIMRANJIT SINGH GREWAL
S/O LATE LT. GENERAL GURDIAL SINGH
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001

MS. JACQUELLINE GAREWAL
W/O LATE MR. BALBIR SINGH GREWAL
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001

MS. ZEENAT GAREWAL
D/O LATE MR. BALBIR SINGH GREWAL
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001

MS. AYESHA GAREWAL
D/O LATE MR. BALBIR SINGH GREWAL
6- KASTURBA GANDHI MARG,
NEW DELHI- 110001

MS. TEJINDER KAUR SINHA
D/O LATE MR. GURBAKSH SINGH
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001
ALSO AT:
209, JOR BAGH
NEW DELHI-110003

MS. NATASHA SINHA
D/O NIRUPAMA SINGH
ADOPTED DAUGHTER OF TEJINDER KAUR SINHA
R/O 6 KASTURBA GANDHI MARG,
NEW DELHI 110001
ALSO AT:
209, JOR BAGH
NEW DELHI-110003

MS. RUPINDER GILL
D/O LATE MR. GURUCHARAN SINGH
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001
ALSO AT:
D-1992, ANSALS PALAM VIHAR,
GURUGRAM, HARYANA 122 017

MS. KOMAL KHURANA
D/O LATE MR. GURCHARAN SINGH
Y R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001
ALSO AT:

36, SUKH CHAIN MARG, DLF CITY,
PHASE-I, GURUGRAM-122022

MR. AJIT PAL SINGH
HUSBAND OF LATE MRS. KIRAN AJITPAL SINGH
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001

MR. GURMEHAR SINGH
S/O AJIT PAL SINGH
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001

MR. KARANJIT SINGH
S/O AJIT PAL SINGH
R/O 6- KASTURBA GANDHI MARG,
NEW DELHI- 110001 ....DEFENDANTS

(Through: Mr. Abhimanyu Mahajan, Ms. Anubha Goel and Mr. Mayank Joshi, Advs. for D-1& 3 to 11.
Mr. Samrat Nigam, Mr. Preet Singh Oberoi, Ms. Ananttika Singh and Ms. Arpita Rawat, Advs. for D-2.)

% Reserved on: 08.12.2025
Pronounced on: 30.01.2026

I.A. No. 11708/2025 (By D-2 under Order VII Rule 11 of CPC)

JUDGMENT

"रक्षेत् कन्यां पित विन्नां पतिः पुत्राश् च वार्धके ।

अभावे ज्ञातयस् तेषां न स्वातन्त्र्यं क्वचित् स्त्रियाः ॥"

The aforequoted dictum from Yājñavalkya Smṛti (Verse 1.85) encapsulates an elementary principle of classical Hindu law *viz.* the duty to protect and maintain a woman. It sets out a clear order of responsibility as it ordains the duty of protection of woman upon the father during minority, upon the husband after marriage and in later years, upon the sons. Although, at first blush, it may appear to state merely that a woman should not be left independent or without dependence, its contextual import is different. What lends this principle added force is the express recognition that, in the absence of those placed in the first order of responsibility, the obligation does not lapse but devolves upon the *jñātis,* i.e., the nearest kinsmen of the family.

2. This continuity of familial obligation, deeply embedded in classical Hindu law, later found statutory expression in the post-Independence codification of Hindu personal law, including provisions dealing with maintenance and the property rights of women. It is in this doctrinal continuum that the present case falls to be examined. In particular, the instant proceedings require this Court to traverse the inter-play between classical Hindu law principles and their modern statutory codification, particularly the scheme of Section 14 of the Hindu Succession Act, 1956 (hereinafter **"the HSA"**).

3. The instant application has been filed by defendant no. 2 under Order VII Rule 11 of the Code of Civil Procedure (hereinafter **"the CPC"**), seeking rejection of the plaint broadly on two grounds i.e., *firstly*, the plaint does not disclose any cause of action and *secondly*, the suit is barred by law.

4. The facts of the case exhibit that the captioned suit has been filed seeking partition of property bearing no. 6, Kasturba Gandhi Marg, New Delhi 110001, ad-measuring, 0.773 acres/3741 sq. yds./ 3128.20 sq. m. (hereinafter **"the suit property"**). The suit property was originally owned by one late Mr. R.B. Sardar Bishan Singh and the parties to the present *lis* are his descendants. Late Mr. R.B. Sardar Bishan Singh had three sons, namely Mr. S. Gurbax Singh, Mr. S. Gurbachan Singh, and Mr. S. Gurcharan Singh. Mr. S. Gurbachan Singh pre-deceased his father, leaving behind his wife and Ms. Ajit Inder Singh, the plaintiff herein. The defendants are the descendants of Mr. S. Gurbax Singh and Mr. S. Gurcharan Singh.

5. During his lifetime, Mr. R.B. Sardar Bishan Singh executed Gift Deed dated 01.02.1956 (hereinafter **"the Gift Deed"**), *vide* which, he gifted the suit property to his surviving sons, Mr. S. Gurbax Singh, Mr. S. Gurcharan Singh, as well as to the plaintiff, being the daughter of his predeceased son. While the gifts in favour of the sons were unqualified, the plaintiff's interest was limited to a life estate i.e., she was entitled to enjoy her share during her lifetime, and upon her demise, the same was to devolve upon her children, if any. In the event the plaintiff left no children, her share was to revert to the other co-sharers. The plaintiff has now sought partition of the suit property.

Submissions

6. Mr. Samrat Nigam, learned senior counsel for defendant no. 2, submitted that the plaint does not disclose any cause of action. He took the

Court through the Gift Deed to indicate that the plaintiff was granted only a life-estate in the suit property, and as such, she does not have any title over it so as to be entitled to a share therein. He averred that the interest of the plaintiff in the suit property was created by way of the Gift Deed and that the gift to the plaintiff by Mr. R.B. Sardar Bishan Singh was not in lieu of any maintenance. According to him, as per Section 14(2) of the HSA, the plaintiff's interest in the suit property is limited only to the life-estate created in terms of the Gift Deed. He further averred that the plaintiff is now seeking partition of the suit property, without any title, and as such, the suit fails to disclose any cause of action.

7. He submitted that the plaintiff has sought partition of the suit property, without seeking any declaration of her purported title over the same. Therefore, according to him, the suit is not maintainable, and as such, is barred by law.

8. He further contended that any relief seeking a declaration of the plaintiff's title to the suit property is barred by limitation, since Article 58 of the Schedule to the Limitation Act, 1963 prescribes a period of three years from the date when the right to sue first accrues. He submitted that, on the plaintiff's own case as pleaded, the right to sue first accrued upon the coming into force of the HSA. Consequently, any suit seeking a declaration of her alleged title ought to have been instituted by the year 1959. On this basis, he contended that the plaint is liable to be rejected under Order VII Rule 11 of the CPC.

9. Mr. Arjun Singh Bawa, learned counsel for the plaintiff,

controverted the aforesaid submissions, and asserted that the life-estate in the suit property envisaged in the Gift Deed enlarged into an absolute interest upon the enactment of the HSA, precisely as per Section 14(2) thereof. He submitted that the plaintiff had a pre-existing right of maintenance arising out of Mr. R.B. Sardar Bishan Singh's moral obligation to maintain the plaintiff, being the daughter of his predeceased son. Further, he submitted that the said moral obligation fructified into a legal obligation in the hands of the other persons who were gifted the suit property by Mr. R.B. Sardar Bishan Singh. Therefore, according to him, the plaintiff has a clear title over the suit property and as such, the suit for partition cannot be said to be without cause of action.

10. Addressing the objection in respect of lack of a prayer for declaration, he submitted that by operation of Section 14(1) of the HSA, the plaintiff's title over the suit property stands perfected, and therefore no separate prayer for declaration is required. He also stressed that a prayer for declaration of title is implicit in a suit for partition, and therefore, the suit is maintainable.

11. He further submitted that the cause of action arose only in the year 2024, when the defendants first denied the plaintiff's absolute rights in the suit property. Accordingly, the right to sue for a declaration of title accrued then, and not upon the enactment of the HSA in 1956. On this footing, he contended that the plea of limitation is devoid of merit.

12. In his rejoinder submissions, Mr. Samrat Nigam, asserted that the aforesaid gift was not in recognition of any pre-existing right of the

plaintiff over the suit property, or in-lieu of maintenance. He pointed out that there is no averment in the plaint asserting any such pre-existing right to maintenance or that the plaintiff was destitute at the relevant time. He placed reliance on the decision of the Supreme Court in ***Gulabrao Balwantrao Shinde v. Chhabubhai,***[1] to contend that in the absence of pleadings or evidence showing that the property was granted in lieu of maintenance, no such assumption can be made. He also placed reliance on the decision in ***Shivdev Kaur v. R.S. Garewal***[2], in support of his submission that does not exist any presumption that the plaintiff was destitute at the time of the aforesaid gift. He further submitted that the Gift Deed does not contain any indication that the gift to the plaintiff was in lieu of maintenance and therefore, no such presumption can be drawn. Reliance in this regard was placed on the decision in ***Sharad Subramanyan v. Soumi Mazumdar***[3].

13. In addition to the aforesaid, he submitted that Late Mr. R.B. Sardar Bishan Singh had no legal obligation to maintain the plaintiff. He placed reliance on the decisions of the Bombay High Court in ***Kalu v. Kashibai***[4] and of the Calcutta High Court in ***Provash v. Prokash***[5] and ***Manmohini v. Balak Chandra***[6] to buttress his submissions in this regard.

14. Lastly, without prejudice to his contentions, he submitted that moral obligations are not enforceable in courts of law, and therefore, the same

[1] (2003) 1 SCC 212
[2] (2103) 4 SCC 636
[3] AIR 2006 SC 1993
[4] (1883) ILR Bom 127
[5] MANU/WB/0236/1946
[6] (1871) 8 Beng LR 22

cannot confer any legal right on the plaintiff in recognition of which, the aforesaid gift could be deemed to have been made. He placed reliance on the decisions of the Supreme Court in ***Abhiraj Kuer v. Debendra Singh***[7] and ***Shri Krishna Singh v. Mathura Ahir***[8] to submit that moral and legal doctrines from religious texts must not be conflated.

Analysis

15. The controversy, at its core, stands on a dichotomy i.e., whether, in the facts of the present case, the law enlarges a woman's estate, or an instrument confines it. The dispute between the parties on the plaintiff's title over the suit property is, therefore, essentially on the application of Section 14 of the HSA to the facts at hand. For the ease of reference, the said provision is extracted below:

> *"14. Property of a female Hindu to be her absolute property.—(1) Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.*
>
> *Explanation.—In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.*
>
> *(2) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such*

[7] (1961 SCC OnLine SC 348
[8] (1981) 3 SCC 689

property."

16. The plaintiff's case is that, by virtue of Section 14(1) of the HSA, the life-estate contemplated in the Gift Deed dated 01.02.1956 enlarged into an absolute interest. The defendants, on the other hand, submit that the restriction in the Gift Deed governs the field, and hence Section 14(2) applies. The distinction between these two provisions has been authoritatively explained by the Supreme Court in its decision in ***Tulasamma and Ors. v. Shesha Reddy (dead) by LRs***,[9] whereby it was held that in case of limited interest given to a woman by way of any instrument, if the said interest was given in recognition of her pre-existing right, the same would become enlarged into an absolute interest under Section 14(1) of the HSA. However, if the limited interest of any woman was created for the first time through the instrument, the terms of the instrument would prevail. The relevant portion of the said judgment reads as under:

> *"32. After considering various aspects of the matter we are inclined to agree with the contentions raised by Mr Krishna Murty Iyer appearing for the appellants. In the first place, the appellant's contention appears to be more in consonance with the spirit and object of the statute itself. Secondly, we have already pointed out that the claim of a Hindu female for maintenance is undoubtedly a pre-existing right and this has been so held not only by various Courts in India but also by the Judicial Committee of the Privy Council and by this Court. It seems to us, and it has been held and discussed above, that the claim or the right to maintenance possessed by a Hindu female is legally a substitute for a share which she would have got in the property of her husband. This being the position, where a Hindu female who gets a share in her husband's property acquires an absolute interest by virtue of Section 14(1) of the Act, could it be intended by the legislature that in the same circumstances a Hindu female*

[9] 1977 3 SCC 99

who could not get a share but has a right of maintenance would not get an absolute interest? In other words, the position would be that the appellant would suffer because her husband had died prior to the Act of 1937. If the husband of the appellant had died after 1937, there could be no dispute that the appellant would have got an absolute interest, because she was entitled to her share under the provisions of the Hindu Women's Right to Property Act, 1937. Furthermore, it may be necessary to study the language in which the Explanation to Section 14(1) and sub-section (2) of Section 14 are couched. It would be seen that while the Explanation to Section 14(1) clearly and expressly mentions "property acquired by a female Hindu" at a partition or in lieu of maintenance or arrears of maintenance, there is no reference in sub-section (2) at all to this particular mode of acquisition by a Hindu female which clearly indicates that the intention of Parliament was to exclude the application of sub-section (2) to cases where the property has been acquired by a Hindu female either at a partition or in lieu of maintenance etc. The Explanation is an inclusive definition and if Parliament intended that everything that is mentioned in the Explanation should be covered by sub-section (2) it should have expressly so stated in sub-section (2). Again the language of sub-section (2) clearly shows that it would apply only to such transactions which are absolutely independent in nature and which are not in recognition of or in lieu of pre-existing rights. It appears from the Parliamentary Debates that when the Hindu Succession Bill, 1954, was referred to a Joint Committee by the Rajya Sabha, in Section 14(2) which was clause 16(2) of the Draft Bill of the Joint Committee, the words mentioned were only gift or will. Thus the intention of the Parliament was to confine sub-section (2) only to two transactions, namely, a gift or a will, which clearly would not include property received by a Hindu female in lieu of maintenance or at a partition. Subsequently, however, an amendment was proposed by one of the members for adding other categories, namely, an instrument, decree, order or award which was accepted by the Government. This would show that the various terms viz. gift, will, instrument, decree, order or award mentioned in Section 14(2) would have to be read ejusdem generis so as refer to transactions where right is created for the first time in favour of the Hindu female. The intention of Parliament in adding the other categories to sub-section (2) was merely to ensure that any transaction under which a Hindu female gets a new or independent title under any of the modes mentioned in Section 14(2), namely, gift, will, decree, order, award or an instrument which prescribes a restricted estate

> *would not be disturbed and would continue to occupy the field covered by Section 14(2). This would be the position even if a Hindu male was to get the property by any of the modes mentioned in Section 14(2): he would also get only a restricted interest and, therefore, the Parliament thought that there was no warrant for making any distinction between a male or a female in this regard and both were, therefore, sought to be equated."*

17. An even-handed assessment of facts on the touchstone of aforesaid discussion would evince that if the plaintiff had any pre-existing right in recognition of which she was given a life-interest in the suit property, her share in the suit property would be her absolute property under Section 14(1) of the HSA. The plaintiff essentially seeks to trace the aforesaid gift to a pre-existing right of maintenance traceable to a moral obligation of late Mr. R.B. Sardar Bishan Singh, her grandfather, to maintain her as the unmarried minor daughter of a predeceased son.

18. At this juncture, it is beneficial to refer to the decision of the Calcutta High Court in the case of ***Provash***, whereby it has been held that the unmarried daughter of a pre-deceased son is a 'poor dependant', and a Hindu is morally bound to maintain such person. Such position also finds support in leading scholarly expositions. For instance, in ***Hindu Law Principles and Precedents by N.R. Raghavanachariar,***[10] also, the author acknowledges such moral obligation explaining that an estate is ordinarily inherited subject to the burden of maintaining those whom the late proprietor was morally or legally bound to maintain, and that such moral obligation extends, *inter alia*, to an indigent daughter and the daughter of a predeceased son. The relevant extract from the said text is reproduced as under:

> *"An heir is legally bound to maintain out of the estate inherited all the persons whom the late proprietor was morally or legally bound to maintain, the reason being that the estate is inherited only subject to the obligation to provide for such maintenance. Such a moral obligation exists towards an indigent daughter, daughter of a predeceased son, grandparents, daughter-in-law, sister and other persons who can be reasonably considered to have a claim by virtue of close relationship to a person's affection and kindness, and when he dies and his estate is under the law, taken by another, that person is legally bound to maintain all those whom the late proprietor was morally bound to maintain."*

19. A similar articulation is found in ***The Principles of Hindu Law (Vol. I) by Jagadish Chunder Ghose***,[11] wherein it is noted that, so long as a woman is unmarried, the liability to maintain her rests first on the father and, failing him, on the nearest agnatic relation; after marriage, the responsibility lies upon the husband and sons, and failing them, upon the nearest agnatic member of the family. The text further explains that the duty to maintain women and incapable members is a family obligation that may operate even where there is no ancestral property. For the sake of clarity, the relevant excerpt thereof is reproduced as under:

> *"As long as a woman is unmarried, the liability to maintain her, to defray her marriage expenses and to provide her with a marriage portion, according to means, is cast first on the father, and failing him on the nearest agnatic relation.*
>
> *After marriage the guardianship of women and the liability to maintain them rest with the husband and sons, and failing them, on the nearest agnatic member of their family. When the husband, the father or the brother is a disqualified heir, the liability to maintain the wife of such person and also to maintain his unmarried sister and daughter, as well as to provide for their marriage expenses and marriage portion, devolves on the person, who takes his share of the property. Even when there is no ancestral property, the family have to maintain its women and*

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[10] N.R. Raghavanachariar, *Hindu Law: Principles and Precedents* 2d ed. (Indian Law House 1939).
[11] Jagadish Chunder Ghose, *The Principles of Hindu Law*, vol. 1, at 246 (1st ed., S.C. Auddy & Co. 1917)

incapable members."

20. The aforesaid principles must apply to the facts of the present case and take a concrete form. In the year 1956, when the Gift Deed was executed, the plaintiff was an unmarried minor, and her father had predeceased her grandfather. In that situation, late Mr. R.B. Sardar Bishan Singh was, the nearest agnatic relation. At least at the stage of consideration of an application under Order VII Rule 11 of CPC, it cannot be conclusively held that there could be no moral obligation at all to maintain such a dependant.

21. The next, and more pointed, question is whether this moral obligation can be treated as giving rise to a pre-existing right to maintenance capable of attracting Section 14(1) of the HSA.

22. The doctrine that a moral obligation may, in certain contexts, ripen into a legal obligation in the hands of those who take the estate has been recognised in several decisions. In ***Lakshmi Narasamba v. T. Sundramma***,[12] the sole question for the consideration of a Division Bench of the Andhra Pradesh High Court was, whether the moral obligation would fructify into a legal obligation, even against those to whom the person owing such obligation had gifted or bequeathed his property. The Court, having taken note of the decisions of various High Courts, answered the question in the affirmative. The relevant portion of the decision is extracted below, for reference:

> *"64. All the above texts of Hindu Law point out that there is a moral obligation on the father-in-law to maintain the daughter-*

[12] 1980 SCC OnLine AP 107

in-law and that the heirs who inherit the property are liable to maintain the dependants. It is the duty of the Hindu heirs to provide for the bodily and mental or spiritual needs of their immediate and nearer ancestors to relieve them from bodily and mental discomfort and to protect their souls from the consequences of sin. They should maintain the dependants of the persons of property they succeeded. Merely because the property is transferred by gift or by will in favour of the heirs the obligation is not extinct. When there is property in the hands of the heirs belonging to the deceased who had a moral duty to provide maintenance, it becomes a legal duty on the heirs. In our view it makes no difference whether the property is received either by way of succession or by way of gift or will, the principle being common in either case. The reasoning adopted by Ameer Ali, J. in Foolcomari Dashi v. Debendra Nath (AIR 1942 Cal 474) as to how the moral obligation ripens into legal obligation is very logical. We are in agreement with the process of reasoning of Ameer Ali, J. in arriving at the conclusion that the legal liability upon a Hindu heir to provide maintenance to the daughter-in-law exists whether he takes upon the property by intestacy or by will or gift."

23. The said doctrine is common, both to the Mitakshara and Dayabhaga schools. In the decision in ***Foolkumari v. Debendra Nath Seal***,[13] the Calcutta High Court, in the context of the liability of the heirs of the father-in-law to maintain his widowed daughter-in-law, held as follows:

> *"9. My ruling is to the effect that the legal liability upon a Hindu heir for the maintenance of the daughter-in-law in a family governed by the Daya-bhaga School exists whether the heir takes upon intestacy or by will or by gift. I decide the issue in favour of the plaintiff with costs. I suggest that the matter of the quantum of maintenance should stand over with liberty to bring it on two days notice by letter. I certify that the case is fit for the employment of two counsel."*

24. The leading judgment on this question is the decision of the Madras High Court in ***Rangammal v. Echammal***,[14] wherein it was held that the

[13] AIR 1942 Cal 474
[14] (1899) 22 Mad 305

aforesaid legal obligation would not be affected by testamentary dispositions. This decision has been followed by various High Courts in ***Jeot Ram Chauduri v. Mt. Lauji***,[15] ***Gopal Chandra Das v. Kadambini Dasi***,[16] as well as in ***Laxmi Narasamba***. The relevant portion of the said decision is extracted below, for reference:

> *"The better conclusion is, perhaps, that the party whose moral claim becomes a legal right would not be affected by testamentary dispositions in favour of volunteers made by the person morally bound to provide the maintenance. No doubt, if the title of the female claiming the maintenance were dependant on the volition of such a testator he could, by his will have directed that she should get no maintenance out of his estate. But in cases like this, her claim to maintenance, originating from the status acquired by her marriage, becomes a legal right independently of his volition and comes into existence at the same moment as the dispositions in favour of the volunteer becomes operative. It is consequently difficult to see how the latter could affect the former."*

25. In the present case, late Mr. R.B. Sardar Bishan Singh, who was morally obligated to maintain the plaintiff, gifted the suit property jointly to the plaintiff and his surviving sons. Therefore, the aforesaid surviving sons, as per the decision in ***Lakshmi Narasamba,*** had a legal obligation to maintain the plaintiff. Therefore, the plaintiff had a pre-existing right to maintenance traceable to the legal obligation of her paternal uncles to maintain her.

26. As far as the contention of Mr. Nigam, that in the absence of express pleadings to the effect that the suit property was gifted to the plaintiff in lieu of maintenance is concerned, the same may not be acceptable at this stage. The obligation of the plaintiff's grandfather to maintain her is

[15] AIR 1929 All 751
[16] AIR 1924 Cal 364

founded on the relationship between them. The said relationship, in turn, would be sufficiently established if the plaint averments are taken to be true. Therefore, the reliance placed on ***Gulabrao*** does not apply to the present case.

27. The decision in ***Shivdev Kaur*** too, will not be of much assistance to the defendants since the plaintiff's right of maintenance is independent of whether she is destitute or not. It is not disputed that at the time when the gift was made, she had yet to attain majority. Therefore, the said decision is not of relevance to the present case.

28. The objection that in the absence of express recitals in the Gift Deed that the same was in lieu of maintenance, the gift cannot be deemed to have been so, and the plaintiff herein, cannot claim any right arising therefrom, cannot be accepted for the reason that the suit is yet to proceed to trial, and the same is a matter of evidence. Furthermore, the assertion of the pre-existing right of maintenance is not completely without basis and the same is based on *prima facie*-acceptable legal foundations. As observed above, a moral obligation may very well assume the character of a legal obligation in certain cases and therefore, the plaint cannot be rejected for not disclosing a cause of action on this count. No doubt, the defendants could try to persuade the Court otherwise by leading evidence, an aspect which is best left for a conclusive determination after trial. It would be premature to adjudicate the said question at this stage. Therefore, the reliance placed by the defendants on ***Sharad*** is misplaced.

29. Cause of action, understandably, refers to the bundle of facts which

are necessary for seeking a relief from the Court. In the present case, such bundle of facts would include the relationship between the parties, demise of the plaintiff's father before her grandfather/original proprietor, minority of the plaintiff at the time of such demise, execution of gift deed in her favour by the original proprietor, conferment of life-estate upon the plaintiff etc. At the very least, these facts could be considered as foundational facts on the basis of which the plaintiff could claim further relief from the Court, by invoking the statutory provisions and moral force of the law, to the extent applicable. Therefore, the plaint does disclose the existence of the foundational facts, or cause of action, in favour of the plaintiff to proceed with the suit.

30. The second ground on which the plaint is sought to be rejected is that the suit is not maintainable in the absence of a prayer for declaration of the plaintiff's title to the suit property. The aforesaid objection too, is meritless. Under Order VII Rule 11(d) of the CPC, a plaint shall be rejected if, on a reading of the plaint, the suit appears to be barred. Defects in the plaint, such as lack of appropriate prayers, render the suit as not maintainable however, they would not *per se* invite a legal bar. There is a sound distinction between 'non-maintainability' of a suit and the suit being 'barred by law'. While a suit which is barred may be dismissed *in limine*, however, in case of suits that are not maintainable, the Court dismisses the suit upon its final adjudication. It is always open to the plaintiff to amend the plaint, as permissible under law, to rectify defects therein, so as to render the suit, maintainable. Therefore, lack of a prayer for declaration cannot be a ground for rejection of the plaint. No doubt, if the defects

rendering the suit as not maintainable continue to survive till the time of final adjudication, the Court would be well within is powers to dismiss the same. The summary remedy of rejection of plaint is meant to weed out frivolous suits, that too when they certainly appear to be so on the face of the plaint, and not to penalise the seekers of justice for procedural infirmities, which could be corrected in accordance with the law.

31. The final ground, on which rejection of the plaint is sought, is that the suit is barred by limitation. The aforesaid contention as well, lacks merit. The plaintiff's case is that her enjoyment of the suit property was interfered with, and her demand for partition was refused by the defendants only in the year 2024. Article 58 of the Limitation Act, 1963 provides that the limitation period to obtain declarations is three years from the date on which the right to sue first accrues. Merely because the plaintiff traces her purported title over the suit property to Section 14 of the HSA, her right to seek declaration of her title cannot be deemed to have first accrued on the date on which the HSA came into force. Such a right would first accrue when the plaintiff's title is disputed for the first time, which, as per the plaint was only in the year 2024. Therefore, *prima facie,* the suit cannot be deemed to be barred under the Limitation Act, 1963. Needless to observe, if there is any dispute *qua* the time when the plaintiff gained knowledge of the denial of her rights and correspondingly, *qua* the time of commencement of the limitation period, the same can only be resolved after evidence, being a mixed question of law and fact.

32. However, it is pertinent to note that, during the course of arguments, Mr. Arjun Singh Bawa, learned counsel for the plaintiff, has asserted that

the present suit, *inter alia,* is for the relief of declaration of the plaintiff's title as well as the partition of the suit property. A perusal of the plaint indicates that the prayers for declaration and partition have, cumulatively, been valued for the purposes of Court fee at Rs. 500/- (Rupees Five Hundred only). While a prayer for declaration of title is implicit in a prayer for partition, separate Court fee has to be paid on both the prayers. Therefore, the plaintiff is directed to pay Court fees on her prayer for declaration of her title, separately.

33. In view of the foregoing discussion, the instant application stands dismissed. It is made clear that the observations and findings herein are strictly confined to the disposal of the present application and grounds taken therein, and shall not affect the outcome of the trial in any manner.

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List the suit along with the pending applications before the concerned Joint Registrar on 18.02.2026 for proceeding with the matter in accordance with the extant rules.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

JANUARY 30, 2026/aks.