

2025:PHHC:134741



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

139

CR-5031-2025 (O&M)
Date of Decision: 23.09.2025

Onkar Singh and others

...Petitioners

Versus

Surinder Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. V.K. Sandhir, Advocate, for the petitioners.

Dr. Anmol Rattan Sidhu, Senior Advocate, with
Mr. Suvir Sidhu, Advocate,
Mr. Pratham Sethi, Advocate, and
Ms. Surekha, Advocate, for respondent Nos. 1 to 3.

VIKRAM AGGARWAL, J.

Defendants (Onkar Singh and others) assail the order dated 09.07.2025 passed by the Court of Civil Judge (Junior Division), Amritsar, vide which the application under Order 7 Rule 11 of the Code of Civil Procedure (hereinafter referred to as 'the CPC') was only partly allowed.

2. The facts, as emanating from the revision petition, are that the respondent-plaintiffs (Surinder Singh and others) instituted a suit (Annexure P.1) for possession of land measuring 11 kanals 6 marlas (fully described in the plaint) situated within the revenue estate of village Walla, Tehsil and District Amritsar (hereinafter referred to as 'the suit property'). A declaration was

also sought to the effect that mutation No. 5364 as regards transfer of the suit property from the name of Kuldeep Singh (father of the plaintiffs) in the names of the defendants on the basis of some sale deed, was wrong, illegal, null and void and that the sale deed, if any, was a forged, fabricated and void document, which was liable to be set aside. Transfer of the suit property by defendants No. 1 to 3 to defendant Nos. 4 to 6, was also stated to be illegal.

3. It was averred in the suit that the suit property was originally owned by Harbans Singh, who had expired on 10.09.1990. He was the grandfather of the plaintiffs and defendant No.7 (Jagjit Singh). During his lifetime, Harbans Singh, had executed a registered Will dated 13.03.1989 in favour of the plaintiffs; defendant No. 7 and Kuldeep Singh (father of the plaintiffs) in equal shares i.e., 1/5th share each. After the death of Harbans Singh, his property was inherited by the plaintiffs; defendant No.7 and Kuldeep Singh and mutation was also sanctioned.

4. Kuldeep Singh is stated to have expired on 27.12.1991. It was averred that when on 28.05.2018, the plaintiffs obtained a copy of the jamabandi for the year 2010-11, they found their names to be missing from the revenue record. Upon inquiry, they came to know that mutation No. 5364 had been got sanctioned illegally by defendants No. 1 to 3 in their favour on the basis of some sale deed dated 30.04.1990 alleged to have been executed by Kuldeep Singh. It was averred that

Kuldeep Singh had never executed any such sale deed and that the same was a forged and fabricated document.

5 The suit was opposed by the defendants. Defendants No. 4 to 6 filed their written statement (Annexure P.2), wherein it was stated that the sale deed executed by Kuldeep Singh was dated 30.11.1990 and not 30.04.1990. It was averred that the suit was barred by limitation as the same had been filed after 28 years from the execution of the sale deed. Other preliminary objections as regards maintainability; *locus standi*; the suit having not been valued properly for the purpose of Court fee; estoppel etc., were also raised. It was also averred that defendants No. 4 to 6 were *bona fide* purchasers for consideration of land measuring 4 kanals 8 marlas and 6 kanals 18 marlas, which had been sold to them vide registered sale deed dated 08.10.2007.

6. During the pendency of the suit, an application under Order 7 Rule 11 CPC (Annexure P.3) was moved by defendants No. 4 to 6 for rejection of the plaint on the ground of advalorem Court fee having not been paid as also on the ground of limitation.

7. The application was opposed by way of a reply (Annexure P.4), wherein it was averred that earlier also two applications under Order 7 Rule 11 CPC had been dismissed on 03.08.2019 and 05.12.2019, respectively. It was averred that limitation was a mixed question of law and facts and further the plaintiffs were not bound to affix advalorem Court fee.

8. By way of the impugned order, the trial Court allowed the application in part and directed the plaintiffs to affix advalorem Court fee. However, as regards limitation, it was observed that the same was a mixed question of law and facts and, therefore, the plaint could not be rejected on the said ground.

9. I have heard learned counsel for the parties.

10. Learned counsel for the petitioners has strenuously urged that the trial Court erred in rejecting the contention that on account of the suit being barred by limitation, the plaint deserves to be rejected. As regards the issue of Court fee, learned counsel fairly submits that the said issue was rightly decided and the petitioners do not assail the same.

11. Arguing on the issue of limitation, learned counsel submits that the suit was filed in the year 2018 challenging a sale deed executed in 1990. He submits that by way of clever drafting, the plaintiffs cannot be permitted to file a suit, which is clearly barred by limitation. He submits that once a suit is clearly barred by limitation, the plaint deserves to be rejected at the threshold. In support of his contentions, he relies upon the judgments in **T. Arivandandam Vs. T.V. Satyapal**, (1977)4 SCC 467; **Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal**, (2017)13 SCC 174; **C.S.Ramaswamy Vs. V.K. Senthil & Ors.**, 2022 AIR (SC) 4724; **Ramisetty Venkatanna & Anr. Vs. Nasyam Jamal Saheb & Ors.**, 2023(3) Law Herald (SC) 1005 and **The Correspondence Rbanms Educational Institution Vs. B Gunashekhar & Anr.**, 2025(2) RCR (Civil) 708.

12. *Per contra*, learned Senior counsel representing the respondents submits that there is no error in the impugned order. He submits that once a fraud is pleaded, the limitation would start from the date of knowledge. Learned Senior counsel also submits that a fraud has been played with the plaintiffs and that the sale deed was executed at Delhi for a property situated in District Amritsar and that too on the basis of a forged and fabricated General Power of Attorney. He submits that this fact would be proved during the course of evidence and the plaint cannot be rejected at the threshold on the ground of the same being barred by limitation. In support of his contentions, he has placed reliance upon the judgments of the Hon'ble Supreme Court in **Smt. Uma Devi and Ors. Vs. Sri Anand Kumar and Ors.**, 2025 AIR (SC) 1670; **Daliben Valjibhai & Ors. Vs. Prajapati Kodarbhai Kachrabhai & Anr.**, 2024 SCC Online SC 4105 and a Coordinate Bench judgment of this Court in **Harbhajan Kaur @ Bhajan Kaur Vs. Satnam Singh and another**, 2018(4) PLR 512.

13. I have considered the submissions of learned counsel for the parties.

14. Before advertng to the merits of the case, it needs to be noticed that it is well settled that while considering an application for rejection of plaint, only the averments in the plaint are to be gone into with the documents annexed with it and the defence in the written statement or even in the reply to the application for rejection of the plaint, is not to be taken into consideration.

15. In **Dahiben Vs. Arvinbhai Kalyanji Bhanusali (Gajra) dead through legal representatives**, (2020)7 SCC 366, the Supreme Court culled out the principles as regards rejection of the plaint. The relevant extracts from the said judgment read as under:-

“23.2. The remedy under Order VII Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

23.4. In **Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315**. Followed in **Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC Online Guj 281 : (1998) 2 GLH 823** this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p.324, para 12)

"12. ...The whole purpose of conferment of such power is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the Court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose.

Even in an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action."

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order VII Rule 11 are required to be strictly adhered to.

23.6. Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint ⁽¹⁴⁾ read in conjunction with the documents relied upon, or whether the suit is barred by any law.

(14) **Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512]**

23.7. Order VII Rule 14(1) provides for production of documents, on which the plaintiff places reliance in his suit, which reads as under:

"14. Production of document on which plaintiff sues or relies.- (1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory."

(emphasis supplied)

23.8. Having regard to Order VII Rule 14 CPC, the documents filed alongwith the plaint, are required to be taken into consideration for deciding the application under Order VII Rule 11(a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

23.9. In exercise of power under this provision, the Court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration ⁽¹⁵⁾.

(15) **Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]**

23.11. The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in **Liverpool & London S.P. & I Assn. Ltd. v. M.V.Sea Success I** which reads as : (SCC p.562, para 139)

"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed."

23.12. In **Hardesh Ores (P.) Ltd. v. Hede & Co., (2007) 5 SCC 614** the Court further held that it is

not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. **D.Ramachandran v. R.V.Janakiraman, (1999) 3 SCC 267.**

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order VII Rule 11 CPC.

23.14. The power under Order VII Rule 11 CPC may be exercised by the Court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of **Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557.** The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain (supra).

23.15. The provision of Order VII Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clause (a) to (e) are made out. If the Court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the Court has no option, but to reject the plaint.

24. "Cause of action" means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. It consists of a bundle of material facts, which are necessary for the plaintiff to prove in order to entitle him to the reliefs claimed in the suit.

24.1. In **Swamy Atmanand v. Sri Ramakrishna Tapovanam, (2005) 10 SCC 51** this Court held:

"24. A cause of action, thus, means every fact, which if traversed, it would be necessary for the plaintiff to prove an order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded"

(emphasis supplied)

24.2. In **T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467** this Court held that while considering an application under Order VII Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something purely illusory, in the following words: (SCC p. 470, para 5)

"5. ...The learned Munsif must remember that if on a meaningful - not formal - reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11 C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing ..."

(emphasis supplied)

24.3. Subsequently, in **I.T.C. Ltd. v. Debt Recovery Appellate Tribunal, (1998) 2 SCC 170** this Court held that law cannot permit clever drafting which creates illusions of a cause of action. What is required is that a clear right must be made out in the plaint.

24.4. If, however, by clever drafting of the plaint, it has created the illusion of a cause of action, this Court in **Madanuri Sri Ramachandra Murthy v. Syed Jalal, (2017) 13 SCC 174** held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage. The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court.

.....

28. A three-Judge Bench of this Court in **State of Punjab v. Gurdev Singh, (1991) 4 SCC 1 : 1991 SCC (L&S) 1082** held that the Court must examine the plaint and determine when the right to sue first accrued to the plaintiff, and whether on the assumed facts, the plaint is within time. The words "right to sue" means the right to seek relief by means of legal proceedings. The right to sue accrues only when the cause of action arises. The suit must be instituted when the right asserted in the suit is infringed, or when there is a clear and unequivocal threat to infringe such right by the defendant against whom the suit is instituted. Order VII Rule 11(d) provides that where a suit appears from the averments in the plaint to be barred by any law, the plaint shall be rejected."

16. Keeping in view the aforesaid principles in mind, this Court now proceeds to examine the matter. The suit was filed in the year 2018 laying challenge to a sale deed dated 30.11.1990 (mentioned as 30.04.1990 in the plaint). No doubt, the suit was filed 28 years after the execution of the sale deed by Kuldeep Singh (father of the plaintiffs). However, it was alleged in the plaint that the sale deed was the result of a fraud and that it was a forged and fabricated document.

17. Still further, in para 13 of the plaint, it was averred that the cause of action had arisen on 28.05.2025, when the plaintiff came to know about the aforesaid fraud having been committed and further a week prior to the institution of the suit, when the defendants had refused to admit the claim of the plaintiffs.

18. In a three-Judge Bench judgment in **Daliben Valjibhai's** case (supra), the Supreme Court reiterated the principles that the rejection of the plaint under Order 7 Rule 11 is a drastic power and it must be exercised only when the plaint, on its face, discloses no cause of action or is barred by law. It was held that where cancellation of a sale deed is sought on account of fraud, the limitation period would commence from the date of knowledge of fraud and not necessarily from the registration. The relevant part of the said judgment reads as under:-

“11. This Court had to deal with a similar situation in ***P.V. Guru Raj Reddy v. P. Neeradha Reddy, (2015) 8 SCC 331.*** A suit instituted by the plaintiff in the year 2002 for cancellation of sale deed of year 1979 on the ground that the knowledge of fraud was acquired only in 1999, was objected to by the defendant in an application under Order 7, Rule 11 on the ground that it is barred by limitation. This Court held:

"5. Rejection of the plaint under Order 7, Rule 11 of CPC is a drastic power conferred in the Court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order 7, Rule 11 therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that have to be read as a

whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order 7, Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint ex facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.

6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie disclose that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order 7, Rule 11 the stand of the defendants in the written statement would be altogether irrelevant."

12. Further, in ***Chhotanben v. Kirtibhai Jalkrushnabhai Thakkar, (2018) 6 SCC 422.*** where again a suit for cancellation of sale deed was opposed through an application under Order 7, Rule 11, on ground of limitation, this Court specifically held that limitation in all such cases will arise from date of knowledge. The relevant portion is as follows:

"15. What is relevant for answering the matter in issue in the context of the application under Order 7, Rule 11 (d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order 7, Rule 11 (d). Only the

averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10- 1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1 and 2) calling upon them to stop interfering with their possession and to partition the property and provide exclusive possession of half (½) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7, Rule 11 (d). That view commends to us.

...

19. In the present case, we find that the appellant-plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original Defendants 1 and 2 by keeping them in the dark about such execution and within two days from the refusal by the original Defendants

1 and 2 to refrain from obstructing the peaceful enjoyment of use and possession of the ancestral property of the appellants. We affirm the view taken by the trial court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold in exercise of the power under Order 7, Rule 11 (d) CPC."

13. In view of the above, there was no justification for the High Court in allowing the application under Order 7, Rule 11 , on issues that were not evident from the plaint averments itself. The High Court was also not justified in holding that the limitation period commences from the date of registration itself. In this view of the matter the judgment of the High Court is unsustainable."

19. That being so, the impugned order cannot be said to be illegal.

20. There is another aspect of the matter. An application for rejection of the plaint was initially filed by defendants No. 4 to 6 only on the ground of advalorem Court fee not having been affixed. The said application was dismissed vide order dated 03.08.2019 observing that the sale deed had not been annexed with the plaint and no such decision could be taken. Liberty was, however, given to defendant Nos. 4 to 6 to raise the said objection at the appropriate stage. Thereafter, another application under Order 7 Rule 11 was moved by defendant Nos. 2 to 6 on the grounds of advalorem Court fee having not been affixed; the suit having been filed against a dead person and limitation. Once again, it was stated that the particulars of the sale deed had not been mentioned and only its date had been

mentioned, but copy had not been annexed. As regards the ground of limitation, it was stated that only date of sale deed had been mentioned, but a copy thereof had not been attached in the absence of which, it could not be determined whether the suit was within the period of limitation or not. Liberty was again given to the applicants therein to raise objection at the appropriate stage. This application was also dismissed vide order dated 03.08.2019. Yet another application was moved by defendants No. 2 to 6 for rejection of the plaint on the ground of limitation. This application was also dismissed, while relying upon the order dated 03.08.2019 holding that the subsequent application was not maintainable. Notably, no liberty was granted in this order. Under the circumstances, legally speaking, the third application for rejection of the plaint was not maintainable. Be that as it may, the same was filed and entertained and also decided. Further, the previous applications were not rejected after discussing the merits. Therefore, this Court does not deem it appropriate to non-suit the petitioner on this ground.

21. Keeping in view the averments made in the application as also law laid down by the Supreme Court **Dahiben's** case (supra) and the three-Judge Bench judgment in **Daliben's** case (supra), as regards challenge to a sale deed on the ground of fraud etc., this Court is of the considered opinion that the impugned order suffers from no illegality.

22. I have gone through the judgments relied upon by learned counsel for the petitioner. No doubt, in **Ramisetty**

Venkatanna's case (supra), the Supreme Court had upheld an order rejecting the plaint. However, the said decision had been taken on the facts of that very case and would not, therefore, come to the aid of the petitioner. The other judgments relied upon by learned counsel for the petitioners would also not come to the aid of the petitioners, in view of the categorical decision of the three-Judge Bench judgment of the Supreme Court in **Daliben's case** (supra), which in the considered opinion of this Court, squarely applies to the facts of the present case.

23. In view of the above, the instant revision petition is found to be devoid of merit and is, accordingly, dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

23.09.2025
ds

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No