IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 504 of 2026
Date of Decision: 13.10.2026

Yudh Chand ...Petitioner.

Versus

Suraj & another ...Respondents.

Coram
Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the petitioner: Ms. Anuja Mehta, Advocate.

For the respondents: Mr. Rupinder Singh Minhas, Advocate.

Romesh Verma, Judge(oral)

The instant petition arises out of the impugned order dated 22.06.2026, as passed by the learned Civil Judge, Court No.2, Mandi, District Mandi, H.P., whereby application filed by the present petitioner/defendant under Order VII Rule 11 of the Code of Civil Procedure (CPC) for the rejection of the plaint came to be dismissed.

2. The facts as emerge in the present case are that the present respondents/plaintiffs filed a suit for declaration to declare Sale Deed bearing No. 1583, dated 13th November, 2007, executed by late Shri Chandermani in favour of the

[1] Whether reporters of Local Papers may be allowed to see the judgment?

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defendant, as illegal, wrong, null and void, and to cancel the same with consequential relief for grant of permanent prohibitory injunction.

3. It has been averred in the plaint that the suit land situated at Mohal Shadla, Tehsil Sadar, District Mandi, HP is recorded in the ownership and possession of the plaintiffs, defendant, and other co-sharers, as depicted in the Jamabandi for the year 2018–2019. The land, as described in the plaint, was joint Hindu family coparcenary property in the hands of late Shri Chandermani, predecessor-in-interest of the plaintiffs, and plaintiff No. 1 is also a coparcener qua the said land. The land in question was inherited by Shri Chandermani from his father Shri Durga, and Shri Durga inherited the same from Shri Jindu.

4. It has been contended that Shri Chandermani, predecessor-in-interest of the plaintiffs, vide registered Sale Deed No. 1583, dated 13th November, 2007, sold part of the suit land, i.e., 0-3-2 Bighas, to defendant and the said sale in favour of the defendant is illegal, wrong, null and void, and without any consideration, legal necessity, and without possession.

5. It has been stated in the plaint that the defendant, in the month of June 2021, entered the suit land and started

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causing unlawful interference in the possession of the plaintiffs and tried to dispossess them, and also tried to take forcible possession of the land along the roadside, which attempt of the defendant was foiled by the plaintiffs.

6. On inquiry, it transpired that the sale deed was executed in favour of the defendant on 5th July, 2021, and after receiving the same, the plaintiffs acquired complete knowledge of the alleged sale deed and filed the instant suit. Therefore, it was prayed that the sale deed bearing No. 1583 dated 13th November, 2007, executed by late Shri Chandermani in favour of defendant is illegal, wrong, null and void, with the consequential relief seeking decree of permanent prohibitory injunction in favour of the plaintiff and against the defendant.

7. The suit as filed by the plaintiff has been specifically refuted, and the same has been contested on all the points. Preliminary objections with respect to the maintainability, limitation, cause of action, etc., have been raised in the written statement. It has been stated that the plaintiffs were well conversant with the sale deed which was executed on 13th November, 2007, and that the suit land is being cultivated by the defendant from the date when it was sold to him.

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8. It was further stated that the predecessor-in-interest of the plaintiffs, Shri Chandermani, received full and final consideration amount of Rs. 6,000/- and also delivered the possession of the land sold to the defendant on the same day when it was duly registered on 13th November, 2007. Therefore, it was prayed that the suit as filed by the plaintiffs deserves to be dismissed.

9. The plaintiffs filed the replication, whereby all the averments as made in the plaint have been reiterated.

10. Thereafter, the defendant filed the application under the provisions of Order VII Rule 11 of the Code of Civil Procedure (CPC) for the rejection of the plaint. In the application, it was submitted by the defendant that the predecessor-in-interest of the plaintiff had sold his 62/2554 shares vide registered Sale Deed No. 1583, dated 13th November, 2007, out of the suit land, i.e 0-3-2 bighas, to the defendant, and the possession of the same was delivered to him on the same day. Since then, he is in exclusive ownership and possession of suit land and is cultivating by sowing the same. It has been stated that the plaintiffs, being the son and widow of Late Shri Chandramani, were well conversant with the said

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deed, and that the suit land is being cultivated by the defendant from the date when it was purchased from Late Shri Chandramani. It has been stated that the plaintiff has got no cause of action to file the suit in hand, and the same is vexatious, misconceived, without any merit, and hopelessly time-barred. Therefore, the suit as filed by the plaintiff deserves to be rejected.

11. The application filed by the defendant came to be resisted by the plaintiffs and all the averments as made in the application have been denied and contested. It has been stated in the reply that the plaintiffs came to know about the Sale Deed only on 5th July, 2021, therefore, from the date of the knowledge, the suit is well within the period of limitation.

12. The learned Trial Court, vide its impugned order dated 22.06.2026, dismissed the application as filed by the defendant/petitioner.

13. Feeling dissatisfied, the defendant has approached this Court assailing the said order.

14. It is contended by Ms. Anuja Mehta, learned counsel for the petitioner, that the impugned order as passed by the learned Trial Court is erroneous and liable to be quashed and

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set aside. She submits that the learned Trial Court has not taken into consideration the true import of the provisions of Order VII Rule 11(d) CPC and has wrongly rejected the application filed by the present petitioner. She further submits that the suit as filed by the plaintiff is hopelessly time-barred, vexatious, and without any merit, and as per the dictum of law as laid down by the Hon'ble Apex Court, the said suit is liable to be rejected at the threshold.

15. On the other hand, Mr. Rupinder Singh Minhas, learned counsel for the respondents, has defended the impugned order as passed by the learned Trial Court and would submit that there is no illegality or perversity in the impugned order, therefore, the present petition, being without any merit, deserves to be rejected.

16. I have heard the learned counsel for the parties and gone through the record.

17. In the present case, the plaintiffs-respondents have filed suit for declaration for the cancellation of the Sale Deed bearing No. 1583, dated 13th November, 2007. The plaintiffs have alleged that the cause of action arose to them in 2021, when the defendant started causing unlawful interference in the

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possession of the plaintiff, and on inquiry and obtaining the revenue records, it transpired that their father had executed a Sale Deed on 5th July, 2021, and immediately thereafter, the suit was filed for declaration.

18. On the other hand, it has been contended by Ms. Anuja Mehta, Advocate that the present suit is the outcome of clever drafting and the same is vexatious, and being barred by the law of limitation, the application which has been filed by the present petitioner/defendant deserves to be allowed.

19. Learned counsel for the petitioner has referred to the judgment of the Hon'ble Hon'ble Apex Court reported in case titled ***T. Arivandandam v. T.V. Satyapal & another***, **(1977) 4 SCC 467**, which reads as follows:

> *"5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. 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 by examining the party searchingly under Order X, C.P.C. An activist Judge is the answer to irresponsible law suits. The trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr.*

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> *XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi:*
>
> *"It is dangerous to be too good."*

20. The learned counsel for the petitioner would further submit that even if the averments of the plaint are taken to be correct that the sale consideration had not been paid, it could not be a ground for the cancellation of the Sale Deed. The plaintiffs may have other remedies in law for recovery of the consideration amount, but could not be granted the relief of cancellation of the registered Sale Deed. The plaintiffs have averred in the plaint that the period of limitation commenced in June 2021, when the defendant started creating interference in the suit land. The relevant extract from the plaint in this regard is set out as under:

> *"That cause of action arose in the month of June 2021 when the defendant started causing unlawful interference and also on 5-7-2021 when the plaintiffs acquire complete knowledge of the sale deed refer to above and when the defendant was requested to cancel the sale deed but refused and right to sue accrue thereafter. The suit is within time from the date of knowledge."*

21. On reading of the plaint, it is clear that as per plaintiffs, cause of action arose upon events which occurred in the year 2021. The plea taken by the plaintiffs is to create an illusory cause of action so as to overcome the period of limitation.

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22. The Hon'ble Apex Court in case titled ***Dahiben v. Arvindbhai Kalyanji Bhanusali,*** **(2020) 7 SCC 366** has reiterated the principles governing Order VII Rule 11 CPC, which read as under:

> *"29.9 In view of the law laid down by this Court, even if the averments of the Plaintiffs are taken to be true, that the entire sale consideration had not in fact been paid, it could not be a ground for cancellation of the Sale Deed. The Plaintiffs may have other remedies in law for recovery of the balance consideration, but could not be granted the relief of cancellation of the registered Sale Deed. We find that the suit filed by the Plaintiffs is vexatious, meritless, and does not disclose a right to sue. The plaint is liable to be rejected under Order VII Rule 11(a).*
>
> *29.18 The delay of over 5 and ½ years after the alleged cause of action arose in 2009, shows that the suit was clearly barred by limitation as per Article 59 of the Limitation Act, 1963. The suit was instituted on 15.12.2014, even though the alleged cause of action arose in 2009, when the last cheque was delivered to the Plaintiffs. The Plaintiffs have failed to discharge the onus of proof that the suit was filed within the period of limitation. The plaint is therefore, liable to be rejected under Order VII Rule 11 (d) of CPC.*
>
> *30. The present suit filed by the Plaintiffs is clearly an abuse of the process of the court, and bereft of any merit.The Trial Court has rightly exercised the power under Order VII Rule 11 CPC, by allowing the application filed by Respondent Nos. 2 & 3, which was affirmed by the High Court."*

23. To the similar extent, the Hon'ble Apex Court in case titled ***Raghwendra Sharan Singh vs. Ram Prasanna Singh (dead) by legal representatives***, **(2020) 16 SCC 601** has reiterated the principles governing the rejection of the plaint, which reads as follows:

> *"6.1 At the outset, it is required to be noted that the plaintiff has instituted the suit against the defendant for a declaration that the defendant has acquired no title and possession on the basis of the deed of gift dated 06.03.1981 and that the plaintiff has got title and*

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possession in the said property. In the suit, the plaintiff has prayed for the following reliefs:

> *"A. That on adjudication of the facts stated above, it be declared that the defendant acquired no title and possession on the basis of the said showy deed of gift dated 06.03.1981 and the plaintiff has got title and possession in the said property.*
>
> *B. That it be declared that the said showy Deed of Gift dated 06.03.1981 is not binding upon the plaintiff.*
>
> *C. That the possession of the plaintiff be continued over the suit-property and in case if he is found out of possession, a decree for recovery of possession be passed in favour of the plaintiff.*
>
> *D. That the defendant be restrained by an order of adinterim injunction from transferring or encumbering or interfering with the possession of the plaintiff over the suit land, during the pendency of the suit.*
>
> *E. That the cost of the suit be awarded to the plaintiff and against the defendant.*
>
> *F. Any other relief or reliefs which deems fit and proper, be awarded to the plaintiff and against the defendant."*

6.4 In the case of T. Arivandandam (supra), while considering the very same provision i.e. Order 7 Rule 11 of the CPC and the decree of the trial Court in considering such application, this Court in para 5 has observed and held as under:

> *"5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. 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 7, Rule 11 CPC 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 by examining the party searchingly under Order 10, CPC. An activist Judge is the answer to irresponsible law suits....."*

6.9 In the case of Ram Singh (supra), this Court has observed and held that when the suit is barred by any law, the plaintiff

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cannot be allowed to circumvent that provision by means of clever drafting so as to avoid mention of those circumstances, by which the suit is barred by law of limitation.

9. Now, so far as the application on behalf of the original plaintiff and even the observations made by the learned trial Court as well as the High Court that the question with respect to the limitation is a mixed question of law and facts, which can be decided only after the parties lead the evidence is concerned, as observed and held by this Court in the cases of Sham Lal alias Kuldip (supra); N.V. Srinivas Murthy (supra) as well as in the case of Ram Prakash Gupta (supra), considering the averments in the plaint if it is found that the suit is clearly barred by law of limitation, the same can be rejected in exercise of powers under Order 7 Rule 11(d) of the CPC.

10. In view of he above and for the reasons stated above, we are of the opinion that both the High Court as well as the learned trial Court have erred in not exercising the powers under Order 7 Rule 11 of the CPC and in not rejecting the plaint in exercise of powers under Order 7 Rule 11 of the CPC. For the reasons stated above, the impugned judgment and order passed by the High Court as well as the trial Court cannot be sustained and the same deserve to be quashed and set aside. Consequently, the impugned judgment and order passed by the High Court dated 12.03.2013 as well as the order passed by the Munsif, Danapur rejecting the Order 7 Rule 11 application filed by the original defendant are hereby set aside. Consequently, the application submitted by the appellant hereinoriginal defendant to reject the plaint under Order 7 Rule 11 of the CPC is hereby allowed and the plaint, being Title Suit No. 19 of 2003 is hereby rejected. The present appeal is allowed accordingly in terms of the above. No costs.

24. Similarly, the Hon'ble Apex Court in case titled ***Frost International Limited vs. Milan Developers and builders Private Limited and another***, **(2022) 8 SCC 633** has laid down the parameters, especially with respect to the rejection of the plaint where the cause of action and the averments as made in the plaint are illusory:

> *34.1 In T. Arivandandam vs. T.V. Satyapal & Anr. – [(1977) 4 SCC 467], this Court observed, in the following words, 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:*

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> *"5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. 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 7, Rule 11 CPC 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 by examining the party searchingly under Order 10, CPC. An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi: "It is dangerous to be too good."*

34.5 We could allude to the exposition of this Court in Madanuri Sri Rama Chandra Murthy vs. Syed Jalal – [(2017) 13 SCC 174], wherein it was held as under:

> *"7. .....The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when, the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order VII Rule 11 of CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage."*

34.6 In Dahiben vs. Arvindbhai Kalyanji Bhanusali (Gajra) Dead through Legal Representatives and Others – [(2020) 7 SCC 366], Indu Malhotra, J., while dealing with an appeal against an order allowing rejection of a suit at the threshold, had an occasion to consider various precedents discussing the intent and purpose of Order VII Rule 11 CPC while setting out principles in relation to the same. It was held that the provision of Order VII Rule 11 is mandatory

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in nature and that the plaint "shall" be rejected if any of the grounds specified in clause (a) to (e) is 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. The relevant portion of the judgment is extracted as below:

> *"23.1 X X X X X*
>
> *23.2 The remedy under Order 7 Rule 11 CPC is an independent and special remedy wherein the court is empowered to summarily dismiss a suit at the threshold, without proceedings 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, 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.*
>
> *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, read in conjunction with the documents relied upon, or whether the suit is barred by any law.*
>
> *23.7 X X X X X*
>
> *23.8 Having regard to Order 7 Rule 14, the documents filed with the plaint, are required to be taken into consideration for deciding the application under Order 7 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.*

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> *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."*
>
> *37. It was further held that 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. Placing reliance on Saleem Bhai vs. State of Maharashtra – [(2003) 1 SCC 557], it was held that 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.*
>
> *55. In the circumstances, we hold that while the plaintiff has certain grievances arising from the MoU, against the defendants which may give rise to seek appropriate remedies in law, the aforesaid three declaratory reliefs sought in the plaint are barred by law. Hence, the plaint is liable to be rejected in exercise of jurisdiction under Order VII Rule 11 CPC. In our view, the revisional court was justified in rejecting the plaint but the High Court has erroneously set aside the order of the revisional court without appreciating the facts and circumstances of the case and has simply remanded the matter to the revisional court to reconsider the revision afresh on the premise that the revisional court did not have the jurisdiction to reject the plaint under Section 115 of the CPC."*

25. It has been vehemently contended by the learned counsel for the petitioner that in view of the well-settled principles of law and in view of the pleadings which have been placed on record, the impugned order which has been passed by the learned Trial Court does not stand the judicial scrutiny of this Court.

26. Similarly, Mr. Rupinder Singh Minhas, Advocate has also placed on record a copy of the judgment passed by the Hon'ble Apex Court reported in ***Ramdas v. Sitabai and others*** **2009 (2) SLJ 1138**, which reads that an undivided share of a co-sharer may be a subject-matter of sale, but possession cannot be

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handed over to the vendee unless the property is partitioned by metes and bounds, amicably through mutual settlement or by a decree of the Court.

27. This Court is of the considered opinion that the learned Trial Court has not passed a speaking order, and all the contentions and averments made by the learned counsel for the parties have not been taken into consideration while deciding the application.

28. Be that as it may, this Court is of the considered opinion that the contentions and the rival contentions raised by the learned counsel for the parties are very material for the adjudication of the application in hand. Therefore, without commenting anything on the merits of the case, this Court deems fit that after setting aside the impugned order, the parties are relegated to the Court of learned Civil Judge, Court No. 2, Mandi, HP. by directing the learned Trial Court to decide the application afresh in view of the mandate of the law as laid down by the Hon'ble Apex Court and the case law cited by both the learned counsel for the parties.

29. Consequently, the present petition is allowed. The impugned order dated 22.06.2026, passed by the learned Trial Court is quashed and set aside. The parties are directed to appear before the learned Trial Court on **27th October, 2026**.

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

(Romesh Verma)
Judge

October 13, 2026
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