IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 686 of 2024
Date of Decision: 01.10.2026

Madhavinder Singh & another ...Petitioners.

Versus

Manavinder Singh & another ...Respondents.

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

Whether approved for reporting?[1]

For the petitioners: Mr. Ajay Kumar, Senior Advocate with Mr. Vinay Thakur, Advocate.

For the respondents: Mr. Arjun Lall and Mr. Vidur Kapoor, Advocates.

Romesh Verma, Judge (oral)

The instant petition has been preferred against the order passed by the learned Additional District Judge, CBI Court, Shimla, District Shimla, H.P., dated 16.07.2024, whereby the appeal preferred by the present petitioners came to be dismissed, and the order passed by the learned Civil Judge, Senior Division, Shimla, dated 04.09.2023, was affirmed, whereby application filed by the respondents/defendants under Order VII Rule 11 of the Code of Civil Procedure (hereinafter referred to as 'CPC') read with Section 151 CPC was allowed.

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

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2. The facts as emerge in the present case are that the plaintiffs/petitioners, namely Shri Madhavinder Singh and Smt. Rano Singh, filed a suit for permanent prohibitory injunction restraining the defendant No. 1, himself and through his agents and employees, from selling, alienating, encumbering, or creating any third-party interest over the suit land situated at Mohal Tikkar, Tehsil Shimla (Rural), District Shimla, which was the subject matter of Civil Suit No. 57-1 of 2009/2007 titled ***Shri Madhavinder Singh & Others v. Manavinder Singh & Others***, which property devolved on defendant No. 1 by way of compromise deed dated 15.07.2010 in ***Civil Suit No. 59 of 2006,*** titled ***Shri Madhavinder Singh & Others v. Manavinder Singh & Others***, and the consequent compromise decree passed by this Court in Civil Suit No. 59 of 2006. The plaintiffs have sought for the following relief:

> *"a) Decree of Permanent Perpetual Prohibitory Injunction may very kindly be passed in favour of the Plaintiffs and against Defendant No.1, thereby restraining the Defendant No.1 himself or through his agents, employees etc from selling, alienating, encumbering or creating any third party interest and further changing the nature and possession of the suit property comprised in Khata/Khatauni No.3/3, Khasra No.180, 181, 182, 192, measuring 01-64-26 situated at Mohal Tikkar, Tehsil Shimla, Rural, District Shimla till the final decision of the Civil Suit No. 6/2022 titled as Ms. Amayra Singh vs. Sh. Manavinder Singh & Others pending adjudication before the Hon'ble High Court of Himachal Pradesh."*

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3. The said suit came to be resisted by defendant No. 1 by filing a comprehensive written statement, and all the averments made in the plaint were specifically refuted and controverted.

4. During the pendency of the suit, the defendants filed an application under Order VII Rule 11 read with Section 151 CPC for rejection of the plaint.

5. The said application was opposed by the present petitioners/plaintiffs by taking various grounds. However, the learned Senior Civil Judge, Court No. 2, Shimla, vide order dated 04.09.2023, accepted the contention of the defendants/respondents, whereby the application under Order VII Rule 11 CPC was allowed and the plaint filed by the plaintiffs-petitioners was ordered to be rejected.

6. Feeling aggrieved, the present petitioners-plaintiffs instituted an appeal before the learned Additional District Judge, CBI Court, Shimla, District Shimla, H.P. The learned First Appellate Court affirmed the findings regarding rejection of the plaint, whereas the cross-objections preferred by the defendants was also ordered to be dismissed.

7. Still feeling dissatisfied by the concurrent findings, the plaintiffs/ petitioners have approached this Court by filing the present petition under Article 227 of the Constitution of India.

8. It is contended by Mr. Ajay Kumar, learned Senior Advocate assisted by Mr. Vinay Thakur, Advocate, for the petitioners

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that the impugned orders passed by the learned Courts below are erroneous and liable to be quashed and set aside. He submits that upon setting aside the impugned orders passed by the learned Courts below, the application filed by the defendants/respondents for rejection of the plaint deserves to be dismissed.

9. On the other hand, Mr. Arjun Lall, Advocate, has raised preliminary objection with respect to the maintainability of the present petition. He submits that since the rejection of the plaint amounts to decision of the suit on merits, therefore, order of rejection amounts to a decree. After the passing of the decree, the said finding was affirmed by the learned First Appellate Court. He further submits that the outcome of the decisions as rendered by the learned Courts below has the force of decree, therefore, the petition under Article 227 of the Constitution of India is not maintainable, whereas, the remedy of the present petitioners lies somewhere else.

10. I have heard the learned counsel for the parties and gone through the case file.

11. The provisions of Order 7 Rule 11 of CPC read as follows:

> "***11. Rejection of plaint.***
>
> *The plaint shall be rejected in the following cases:*
> ***(a)*** *where it does not disclose a cause of action;*
> ***(b)*** *where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
> ***(c)*** *where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on*

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> *being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
> ***(d)*** *where the suit appears from the statement in the plaint to be barred by any law;*
> ***(e)*** *where it is not filed in duplicate;*
> ***(f)*** *where the plaintiff fails to comply with the provisions of rule."*

12. Admittedly, the rejection of a plaint is a decree within the meaning of Section 2, sub-section (2) of the CPC, and an appeal lies from every decree passed by any Court exercising original jurisdiction to the court authorized to hear appeals from the decisions of such Court.

13. 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 held as under:

> *" 31. No doubt rejection of a plaint is a decree within the meaning of Section 2(2) of CPC and an appeal lies from every decree passed by any court exercising original jurisdiction to the Court authorised to hear appeals from a decision of such court. However, it must be borne in mind that when a revisional court rejects a plaint, in substance, an application filed under Order VII Rule 11 is being allowed. Under such circumstances, the remedy by way of a writ petition underArticle 227 of the Constitution could be availed and respondent no.1/plaintiff has resorted to the said remedy in the instant case; although if the plaint had been rejected by the trial court i.e. court of original jurisdiction, it would have resulted in a right of appeal under Section 96 of CPC."*

14. The Hon'ble Apex Court in case titled ***K. Valarmathi and others vs. Kumaresan***, **2025 SCC Online SC 985** has held as under:

> *"12. We are conscious appellate remedy against rejection of plaint is not available if the High Court had in its revisional jurisdiction 5 In short, 'the Code' 6 Virudhunagar Hindu Nadargal Dharma Paribalana Sabai v. Tuticorin Educational Society, (2019) 9 SCC 538 reversed the order of trial*

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court and rejected the plaint. In Frost (International) Ltd. v. Milan Developers7, this Court observed as follows:-

> *"31. No doubt rejection of a plaint is a decree within the meaning of Section 2(2)CPC and an appeal lies from every decree passed by any court exercising original jurisdiction to the court authorised to hear appeals from a decision of such court. However, it must be borne in mind that when a Revisional Court rejects a plaint, in substance, an application filed under Order 7 Rule 11 is being allowed. Under such circumstances, the remedy by way of a writ petition under Article 227 of the Constitution could be availed and Respondent 1/the plaintiff has resorted to the said remedy in the instant case; although if the plaint had been rejected by the trial court i.e. court of original jurisdiction, it would have resulted in a right of appeal under Section 96 CPC."*

> *13. These observations in Frost (supra) are not relevant for the matter in issue as the High Court in the present case had not exercised its supervisory power to correct a jurisdictional error of the trial court but usurped its original jurisdiction to reject the plaint."*

15. Therefore, under such circumstances, the remedy by way of petition under Article 227 of the Constitution of India could not be availed, and the plaintiffs have resorted to the said remedy in the instant case, although if the plaint had been rejected by the Trial Court, the Court of original jurisdiction it would have resulted in a right of appeal under Section 96 of the Code of Civil Procedure, as in the case at hand.

16. Since the plaint, as instituted by the plaintiffs, came to be rejected by the learned Trial Court and it has the force of a decree, therefore, while invoking the provisions of Section 96 of the Code of Civil Procedure, the learned First Appellate Court has affirmed those findings. Meaning thereby, the provisions of Article 227 of the Constitution of India would not be attracted in the attending facts and circumstances of the case, and the remedy of the present petitioners

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is to file an independent appeal against the judgment of learned First Appellate Court.

17. Therefore, on this sole ground, the present petition is ordered to be dismissed on the ground of maintainability. However, the petitioners are at liberty to seek appropriate remedy strictly in accordance with law before the competent Court.

18. It is vehemently contended by Sh. Arjun Lall, Advocate, that the respondents shall be granted liberty to raise the plea of limitation in case any proceedings are initiated by the present petitioners. The said question is kept open, and the competent Court of law shall be at liberty to decide the question of limitation in accordance with law. The petition stands disposed of accordingly, along with any pending application(s).

The petition stands disposed of, along with any pending application(s).

(Romesh Verma)
Judge

October 1, 2026
(Nisha)

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