

IN THE COURT OF SH KISHOR KUMAR, DJ-04
NORTH, ROHINI COURTS, DELHI

CS DJ 459/24

SUKHBIR SINGH RANA

.....Plaintiff

VERSUS

RAJ KUMAR SHARMA

.....Defendant

27.05.2025
ORDER

1. Vide this order application under Order 7 Rule 11 CPC dated 22.07.2024 filed on behalf of defendant no.1 shall stand disposed off. The grounds on which the present application has been filed on behalf of defendant no.1 are that the suit is bad for misjoinder and non-joinder of the parties, there is no cause of action in favour of the plaintiff, etc.

2. The court is of the opinion that without going much into the facts of the present case, the present application deserves to be dismissed for the reasons that it is settled law that while dealing with an application under Order 7 Rule 11 CPC, the court has to see only the plaint and not the written statement filed by the defendant. There are only some specific grounds in the code of civil procedure on the basis of which a plaint can be rejected. They are like where it does not disclose a cause of action, where the relief claimed is under valued, where the relief is properly valued but the plaint is written upon paper insufficiently stamped, where the suit appears from the statement in the plaint to be barred by

law, where it is not filed in duplicate and where the plaintiff fails to comply with the provisions of Rule 9.

3. The grounds taken by defendant no.1 in the present application except the ground of cause of action, does not find mention amongst the grounds as provided under Order 7 Rule 11 CPC. The primary and foremost ground of defendant no.1 is that the suit is bad for mis-joinder and non-joinder of parties. However, no suit can be defeated by reason of the mis-joinder or non-joinder of parties as provided under Order 1 Rule 9 CPC and that it should be endeavour of the court in every suit to deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

4. From the facts as disclosed in the plaint by the plaintiff, the suit of the plaintiff is not found to be barred by any provision of law.

5. The Hon'ble Supreme Court in **Keshav Sood Vs Kirti Pradeep Sood, in Civil Appeal No.5841 of 2023**, observed that *"As far as scope of Rule 11 of Order VII of CPC is concerned, the law is well settled. The Court can look into only the averments made in the plaint and at the highest, documents produced along with the plaint. The defense of a defendant and documents relied upon by him cannot be looked into while deciding such application."*

6. One another ground taken by defendant no.1 is that the suit of the plaintiff is without any cause of action.

7. In **Swamy Atmanand V. Sri Ramakrishna Tapovanam AIR 2005 Supreme Court 2392**, it was observed by Hon'ble Supreme court that *"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.”

8. A bare perusal of plaint shows that the plaintiff has made certain allegations against the defendants on which the plaintiff has based his claim. Thus, it cannot be said that the suit of the plaintiff is without any cause of action.

9. This court further fails to understand as to on whose behalf the present application has been filed though it is supported and signed by defendant no.1 but the gist of the application is to the manner if it has been filed on behalf of defendant no.2. Be that as it may otherwise also the present application is not maintainable in view of the reasons assigned and in view of the case law discussed herein above.

10. Consequently, the present application filed on behalf of defendant no.1 under Order 7 Rule 11 CPC dated 22.07.2024 is hereby dismissed.

**PRONOUNCED IN THE OPEN COURT
ON 28th May, 2025.**

**(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/28.05.2025**