

GJBK070006642025

**ORDER BELOW EXHIBIT-11**

- (1) The present application (Exh.11) has been preferred by the Defendant Nos. 1, 2(1), 2(3), 3, 4 and 5 praying for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908, on the ground that the suit instituted by the plaintiff is barred by the law of limitation and does not disclose any cause of action. The suit itself has been instituted by the plaintiff on 28.08.2025 under Sections 33, 34, 37 and 38 of the Specific Relief Act, 1963, seeking a declaration of ownership, cancellation of a registered sale deed, confirmation of possession and permanent injunction. It may be recorded at the outset that although sufficient opportunities were afforded to the plaintiff to file her reply to the present application, the plaintiff failed to avail of the same, and consequently the right of the plaintiff to file a reply to the application vide Exh.11 came to be closed by this Court. Nevertheless, since an application under Order VII Rule 11 CPC is required to be decided upon a meaningful reading of the plaint itself and the documents relied upon by the plaintiff, this Court has, for a complete and fair adjudication, considered the case set up by the plaintiff in her plaint and in her documentary evidence as her stand in opposition to the present application.

(2) **DESCRIPTION OF THE SUIT PROPERTY**

The suit property consists of ancestral agricultural land situated at Village Morikha, Taluka Wav, District Banaskantha, described in the plaint as under:- Old Revenue Survey No. 297, New Revenue Survey No. 141, admeasuring Hectare-Are-Sq. Metres 03-46-04, assessed to land revenue (Ju. Di.) of Rs. 02-56 paise, the field being known by the name "Fafdavalu", the four boundaries whereof are described in paragraph 2 of the plaint.

(3) **BRIEF FACTS OF THE DEFENDANTS' APPLICATION VIDE EXH.11**

The Defendant Nos. 1, 2(1), 2(3), 3, 4 and 5 have filed the present application under Order VII Rule 11 of the Code of Civil Procedure, 1908, contending that upon a reading of the plaintiff's own pleadings, the suit is not maintainable on a pure question of law and is liable to be rejected at the threshold.

It is contended that the suit of the plaintiff is barred by the Limitation Act, 1963. It is specifically pleaded that the suit land bearing New Survey No. 141 (old Survey No. 297) came to be purchased by the Defendant Nos. 3, 4 and 5 from the Defendant Nos. 1 and 2(1) to 2(5) by a registered sale deed bearing No. 683 of 2024 dated 22.07.2024, as is itself stated in the plaint. It is further pleaded that the mutation entry of succession bearing Entry No. 755 dated 22.02.1999, of which the plaintiff complains, was recorded in the record of rights as far back as in the year 1999, and that the plaintiff herself thereafter carried an appeal against the said Entry No. 755 before the Hon'ble Deputy Collector, Tharad, being R.T.S. Appeal No. 81 of 2012. It is therefore urged that the plaintiff was fully aware, at the latest when Entry No. 755 was recorded and in any event when she preferred R.T.S. Appeal No. 81 of 2012, that her name was not standing in the revenue record of the suit land.

It is further contended that the Regular Civil Suit No. 28 of 2015 was fought out in this very Court between the Defendant Nos. 1 and 2 on the one hand and the Defendant Nos. 3 to 5 on the other in respect of the very same land, in which suit the present plaintiff was not a party, and that by the judgment and order passed therein the suit land came to be held to be the ancestral property of the plaintiffs of that suit, and thereafter the Defendant Nos. 3, 4 and 5 purchased the said land by registered document. It is urged that the plaintiff was fully aware of these proceedings and of the entries recorded in the revenue record, and that these facts emerge from the plaintiff's own documents.

It is next contended that although the plaintiff came to know that her name was not standing in the revenue record when Entry No. 755 was made and when she preferred R.T.S. Appeal No. 81 of 2012, and although Regular Civil Suit No. 28 of 2015 was to her knowledge, the plaintiff did not institute any suit within the period prescribed by law for establishing her right, and hence the suit is barred by the Limitation Act.

It is further contended that the cause of action pleaded in paragraph 11 of the plaint is false, that no cause of action whatsoever accrued to the plaintiff, and that a false cause of action has been artificially set up. It is pleaded that the revenue record in the State of Gujarat has been computerised since the year 2005 and is available at every Gram Panchayat office as well as online, and that the plaintiff, though fully aware of this position, has suppressed this fact from the Court.

It is finally contended that by a clever and artful drafting the plaintiff has set up an illusory cause of action, whereas in truth no cause of action has arisen at all, and that the plaint is therefore liable to be rejected under Order VII Rule 11 CPC as being without a cause of action and as being barred by law. On these grounds, the applicants have prayed that the plaint be rejected.

(4) THE BRIEF FACTS OF THE PLAINTIFF'S CASE AND HER REPLY

At the outset, it is recorded that although sufficient and repeated opportunities were granted to the plaintiff to file a written reply to the present application (Exh.11), the plaintiff failed to avail of the same, and the right of the plaintiff to file such a reply came to be closed by this Court. It is, however, well settled that an application under Order VII Rule 11 CPC is to be adjudicated solely upon a meaningful reading of the plaint and the documents relied upon by the plaintiff, and that the defence is not to be looked into. The closure of the plaintiff's right to file a reply, therefore, neither dispenses with nor dilutes the burden upon the applicants to satisfy this Court that, on the plaint as it stands, the statutory conditions for rejection are attracted. Accordingly, this Court has, for a complete and fair

adjudication, considered the entire case set up by the plaintiff in the plaint and in the documentary evidence produced by her as constituting her stand in opposition to the present application.

As borne out from the plaint, the case of the plaintiff is that she is the daughter and lineal legal heir of the deceased Kalabhai Kesarabhai Thakor, and that the suit land bearing old Revenue Survey No. 297 / new Revenue Survey No. 141 was the ancestral property of her father. It is pleaded that by promulgation Entry No. 7 her father came to be recorded as permanent holder with effect from 13.03.1964, that her father thereafter gave the suit land on possessory mortgage (kabja-giro) to Kanbi Bhikhabhai Adabhai (Patel), the father of the Defendant Nos. 3 to 5, in respect whereof Entry No. 18 came to be recorded and certified, and that in the year 1971, on the day of Akhatrij, her father redeemed the said mortgage by paying the mortgage money and took back actual possession, but being illiterate, a thumb-impression holder and ignorant of law, he did not get the entry of redemption recorded in the revenue record.

It is further pleaded that the plaintiff and her family have been residing in a dwelling (chhapru) constructed in the suit land for the last about thirty years, that they cultivate the suit land themselves, and that the actual and physical possession of the suit land has all along remained with the father of the plaintiff since 1971 and with the plaintiff since his death in the year 1999.

The plaintiff has further pleaded that upon the death of her father Kalabhai Kesarabhai Thakor in the year 1999, his lineal heirs were his three daughters, namely (i) Jamkuben, (ii) Menaben and (iii) the plaintiff Ambaben, that the Defendant Nos. 1 and 2, being the sons of her father's brother Hamirbhai Dolabhai and therefore collateral heirs, taking undue advantage of the illiteracy and ignorance of the plaintiff and without obtaining any succession certificate from a competent Court, got a wholly false and illegal mutation entry of succession recorded in the record of rights, being Entry No. 755, whereby their own names came to be entered in the ancestral agricultural land and the rights of the three daughters, including the plaintiff, came to be deleted.

It is expressly pleaded by the plaintiff that upon coming to know of the said Entry No. 755, she preferred R.T.S. Appeal No. 81 of 2012 before the Hon'ble Deputy Collector, Tharad, against the said entry of succession and deletion of her right, and that in those appellate proceedings the Defendant Nos. 1 and 2 induced her, by representing that the field was hers and that they would get their own names deleted and her name entered, to withdraw the said appeal, and that she accordingly withdrew the same.

It is further pleaded that thereafter the Defendant Nos. 1 and 2 instituted Regular Civil Suit No. 28 of 2015 in this very Court in respect of the suit land, seeking cancellation of Entry No. 18 relating to the mortgage and deletion of the names of the Defendant Nos. 3 to 5, and that a panchnama came to be effected through a Court Commissioner in those proceedings.

The plaintiff has finally pleaded that about a month prior to the institution of the suit, the Defendant Nos. 3 to 5 came to the suit field and threatened her, stating that they had purchased the field from Defendant No. 1 and the widow of Masabhai, that upon obtaining the 7/12 and 8-A extracts and making enquiry at the Mamlatdar office, she came to know of sale Entry No. 3504 and of the registered sale deed bearing serial No. 683 of 2024 dated 22.07.2024 executed for a consideration of Rs. 15,00,000/-, and that the said sale deed, being without possession and being a mere paper transaction, is not binding upon her. In the alternative, she claims to have become the absolute owner of the suit land by adverse possession by reason of continuous possession for over thirty years. Upon these pleadings the plaintiff has prayed, inter alia, for (a) a declaration that she is the lineal heir of the deceased Kalabhai Kesarabhai Thakor and that the suit land is her ancestral and exclusive property in her actual possession, (b) a declaration that the registered sale deed No. 683 of 2024 dated 22.07.2024 is void and not binding upon her and for cancellation thereof, (c) a declaration that revenue Entry No. 18 and sale Entry No. 3504 dated 22.07.2024 are not binding upon her and for a mandatory injunction deleting the names of the defendants, and

(d) a permanent injunction restraining the defendants from disturbing her possession and from alienating the suit land.

(5) ISSUES FOR DETERMINATION AND MY REPLIES

From the aforesaid facts, the following issues arise for the determination of this application:

1. **Whether, on a meaningful reading of the plaint and the documents relied upon by the plaintiff, the suit appears to be barred by limitation under the provisions of the Limitation Act, 1963 ?**

Yes, In the Affirmative.

2. **Whether the relief sought by the plaintiff, in substance, for avoidance of the mutation Entry No. 755 dated 22.02.1999 and for a declaration of her title founded thereon, is ex facie barred by Article 58 read with Article 59 of the Limitation Act, 1963 ?**

Yes, In the Affirmative.

3. **Whether the challenge laid by the plaintiff to the registered sale deed No. 683 of 2024 dated 22.07.2024, and the plea of adverse possession set up by her, can independently sustain the plaint once the foundational challenge to Entry No. 755 of 1999 is found to be time-barred ?**

No, In the Negative.

4. **Whether the plaint discloses a valid and legally sustainable cause of action against the Defendant Nos. 1, 2(1), 2(3), 3, 4 and 5 ?**

No, In the Negative.

5. **Whether the plaint is liable to be rejected as a whole under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908, as being barred by law ?**

Yes, In the Affirmative.

6. **What order ?**

As per Final Order.

(6) REASONS FOR MY REPLY TO THE ABOVE POINTS FOR DETERMINATION

DISCUSSION OF LAW

(6.1) Scope and ambit of Order VII Rule 11 of the Code of Civil Procedure, 1908

Order VII Rule 11 CPC, insofar as is relevant to the present controversy, provides that the plaint shall be rejected-(a) where it does not disclose a cause of action, and (d) where the suit appears from the statement in the plaint to be barred by any law. The provision is mandatory in its terms, the word used is "shall", and where the statutory conditions are attracted, the Court has no discretion in the matter.

It is by now well settled that, for the purpose of deciding an application under this Rule, the Court is to look only at the averments made in the plaint and the documents relied upon and produced by the plaintiff, and is not to look at the written statement or the defence of the defendant. The averments in the plaint are to be taken to be correct in their entirety. At the same time, the reading of the plaint must be a meaningful reading and not a merely formal or perfunctory one, and the Court must be astute to see whether, by a clever and artful drafting, an illusion of a cause of action has been created where none in truth exists.

The Hon'ble Supreme Court in *T. Arivandandam v. T.V. Satyapal*, (1977) 4 SCC 467, cautioned that where, on a meaningful and not a formal reading of the plaint, the suit is found to be manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, the Court should exercise its power under Order VII Rule 11 CPC and nip the litigation in the bud at the earliest stage, so that the process of the Court may not be abused.

It is equally well settled that the power under Order VII Rule 11 CPC has to be exercised in respect of the plaint as a whole, and that there cannot ordinarily be a partial rejection of the plaint. The Hon'ble Supreme Court in *Madhav Prasad Aggarwal v. Axis Bank Ltd.*, (2019) 7 SCC 158, has held that a plaint can either be rejected as a whole or not at all, and that the Court is not empowered to reject a part

of the plaint while retaining the rest. This principle has been kept in view while deciding the present application.

(6.2) Limitation as a "law" within the meaning of Order VII Rule 11(d) CPC and the principle of deemed knowledge upon registration and upon certified mutation

The Limitation Act, 1963, is a "law" within the meaning of Order VII Rule 11(d) CPC, and where, upon a meaningful reading of the plaint and the plaintiff's own documents, the suit appears to be barred by limitation, the plaint must be rejected at the threshold. The Court is not required to hold a trial to ascertain a bar which is demonstrable on the face of the plaint itself, to relegate the parties to a full-fledged trial in such a case would be to defeat the very object of the Rule.

A suit which, in substance and effect, seeks to avoid or set at naught an instrument, or to have it declared not binding, is governed by Article 59 of the Limitation Act, 1963, which prescribes a period of three years commencing from the date when the facts entitling the plaintiff to have the instrument set aside first become known to him. Correspondingly, a suit for a declaration simpliciter-including a declaration of title or of heirship-is governed by Article 58 of the Limitation Act, 1963, which prescribes a period of three years from the date when the right to sue first accrues. It is settled that under Article 58 the right to sue accrues when the cause of action first arises, and not upon every fresh assertion of denial, the limitation runs from the first infringement of the right, and a plaintiff cannot, by pleading successive or recurring refusals, revive a right which has already been extinguished by the lapse of time.

The Hon'ble Supreme Court in *Dilboo (Smt) (Dead) by LRs v. Dhanraji (Dead)*, (2000) 7 SCC 702, has laid down in unambiguous terms that whenever a document is registered, the date of registration becomes the date of deemed knowledge, and that in other cases, where a fact could be discovered by the exercise of due diligence, deemed knowledge must be attributed to the plaintiff, for a party cannot be permitted to extend the period of limitation by merely asserting that he had no knowledge of the fact. The rationale of the said decision applies with equal force to a certified mutation entry in the public record of rights, which is a public document open to inspection and

the making whereof is preceded by the statutory notice contemplated by Section 135-D of the Gujarat Land Revenue Code, 1879.

The said principle has been directly applied by the Hon'ble Gujarat High Court, on facts closely similar to the present matter, in *Becharbhai Zaverbhai Patel v. Jashbhai Shivabhai Patel*, 2013 (1) GLR 398. In that case the plaintiffs had challenged a registered sale deed after a lapse of about thirty-five years, contending recent knowledge, while the mutation entries had been made on the basis of the registered sale deed. The Hon'ble High Court held that once the sale deed was registered and the mutation entry effected thereon, the plaintiff was deemed to have knowledge of the transaction, that the plea of recent knowledge raised by vague averments was merely a clever device, and that the suit being *ex facie* barred by limitation on a plain reading of the plaint was liable to be rejected under Order VII Rule 11(d) CPC.

The Hon'ble Supreme Court in *Dahiben v. Arvindbhai Kalyanji Bhanusali (Gajra) (Dead) by LRs*, (2020) 7 SCC 366, has held that a suit for cancellation of, or for a declaration against, a registered sale deed, instituted long after the period prescribed under Article 59 of the Limitation Act, 1963, is liable to be rejected under Order VII Rule 11(d) CPC, and that a clever device of drafting employed to get over the bar of limitation cannot be countenanced. The Hon'ble Supreme Court in *Raghwendra Sharan Singh v. Ram Prasanna Singh (Dead) by LRs*, 2019 (0) AIR (SC) 1430, similarly held that where a suit is instituted after an inordinate and unexplained delay and the bar of limitation is apparent from the averments of the plaint itself, the plaint is liable to be rejected under Order VII Rule 11(d) CPC, and that such a bar cannot be circumvented by clever drafting.

ISSUE NO. 1

- (7) On a careful and meaningful reading of the plaint and of the documents produced by the plaintiff herself, it is at once evident that the pivot and the foundation of the entire suit is the mutation entry of succession bearing Entry No. 755 dated 22.02.1999 recorded in the record of rights of Village Morikha placed before court with M-4. It is that entry, and that entry alone, which excluded the plaintiff and her two sisters from the ancestral holding and brought the Defendant Nos.

1 and 2 the collateral heirs upon the record as the recorded holders. Every subsequent event of which the plaintiff complains the vesting of the record in the Defendant Nos. 1 and 2, the institution of Regular Civil Suit No. 28 of 2015 placed as M-23 by them, the registered sale deed No. 683 of 2024 M-18 executed by them in favour of the Defendant Nos. 3 to 5, and the sale Entry No. 3504 M-16 recorded thereupon is a lineal and inevitable consequence of Entry No. 755 placed before court by Plaintiff with M-4. If M-4, Entry No. 755 stands, the Defendant Nos. 1 and 2 were the recorded holders and their conveyance in the year 2024 was made in that capacity, the plaintiff's whole case necessarily begins by displacing M-4 Entry No. 755, and cannot stand a moment without doing so.

Now, Entry No. 755 M-4 is of dated 22.02.1999. The plaintiff has herself produced the certified copy of the said entry as part of her documentary evidence. The suit has been instituted on 28.08.2025—that is, more than twenty-six years after the revenue entry certified. But the matter does not rest upon deemed knowledge alone. This is not a case where the Court is called upon to impute knowledge to a plaintiff who professes ignorance. On the contrary, the plaintiff has herself pleaded, in the plaint, in terms which admit of no ambiguity, that upon coming to know of Entry No. 755 she preferred R.T.S. Appeal No. 81 of 2012 before the Hon'ble Deputy Collector, Tharad, challenging that very entry, and that she thereafter withdrew the said appeal upon the alleged inducement held out to her by the Defendant Nos. 1 and 2. The order dated 18.02.2015 passed by the Hon'ble Deputy Collector, Tharad, in the said R.T.S. Appeal No. 81 of 2012, whereby the appeal came to be disposed of upon the withdrawal by the present plaintiff and Entry No. 755 came to be confirmed, stands produced by the plaintiff herself.

The consequence in law is decisive. Whatever be the doctrine of deemed knowledge, there can be no controversy whatsoever as to actual knowledge where the plaintiff, upon her own showing, actually litigated against the impugned entry in the year 2012 and abandoned that litigation in the year 2015. The cause of action for the plaintiff to seek a declaration of her heirship and of her title to the suit land, and for her to seek avoidance of Entry No. 755, therefore accrued—upon the

plaintiff's own pleading and upon her own document not later than the year 2012, and in any event not later than 18.02.2015 when the appeal was disposed of and the impugned entry was confirmed against her. Under Article 58 of the Limitation Act, 1963, the plaintiff was bound to institute her suit for declaration within three years of that date. She did not do so. The present suit, filed on 28.08.2025, is thus late by more than a decade upon her own showing.

The plaintiff's pleading that she was illiterate, ignorant of law and induced to withdraw her appeal cannot arrest the running of time. Assuming the plea of inducement to be true-as, for the purpose of the present suit, it must be-the alleged inducement, and her discovery that the defendants did not honour it, were themselves facts which came to her knowledge in or about the year 2015, and it was for the plaintiff to have sued within three years thereafter. She stood by, in her own words, from 2015 to 2025 without instituting any proceeding of any kind. The law does not come to the aid of the indolent, and limitation, once it begins to run, is not suspended by the plaintiff's inaction, however sympathetic her personal circumstances may appear. The principle in *Dilboo* (supra)-that a party cannot extend limitation by merely asserting want of knowledge-applies a fortiori where, as here actual knowledge stands admitted on the face of the plaint.

Accordingly, applying the law of limitation to the plaint averments and to the plaintiff's own documents, and without recourse to any material extraneous to the plaint, this Court finds that the suit, insofar as it rests upon the displacement of the mutation Entry No. 755 dated 22.02.1999, appears ex facie barred by limitation, and that the bar is apparent on a meaningful reading of the plaint itself. Hence, the finding on Issue No. 1 is answered in the Affirmative.

ISSUE NO. 2

- (8) While considering Issue No. 2, it is necessary to ascertain the true nature, pith and substance of the relief claimed by the plaintiff, and not to be misled by the verbal garb in which it is clothed. Though the plaint is cast in the form of a suit for declaration, cancellation of a sale deed, confirmation of possession and permanent injunction, and though the plaint studiously trains its fire upon the registered sale

deed of the year 2024, its true foundation, upon the plaintiff's own showing, is the challenge to the mutation entry of succession No. 755 dated 22.02.1999 which is produced by plaintiff himself placed as M-4. The relief at clause (A) of the prayer clause, that the plaintiff be declared to be the lineal heir of the deceased Kalabhai Kesarabhai Thakor and that the suit land be declared to be her ancestral and exclusive property-is nothing other than a prayer to set at naught the operation of Entry No. 755, which alone stands in the way of that declaration. Similarly, the relief at clause (G)-that Entry No. 18 be declared not binding and that the names of the defendants be deleted from the record of rights-is again a relief directed at the revenue record founded upon Entry No. 755.

Such a relief, whatever be its verbal formulation, squarely attracts Article 58 of the Limitation Act, 1963-which prescribes three years from the date when the right to sue first accrues-and, insofar as it seeks avoidance of the instrument and the entry, Article 59 of the said Act, which prescribes three years from the date when the facts entitling the plaintiff to have the instrument set aside first become known to her. On either Article, the plaintiff is hopelessly out of time. Her right to sue first accrued when her name came to be deleted and the names of the Defendant Nos. 1 and 2 came to be entered by Entry No. 755 in 1999, the facts entitling her to avoid that entry became known to her, upon her own pleading, at the latest when she preferred R.T.S. Appeal No. 81 of 2012, and the entry was confirmed against her by the appellate authority on 18.02.2015. From no reckoning of the three-year period, on any construction of the plaint most favourable to the plaintiff, can a suit filed on 28.08.2025 be brought within limitation.

Nor can the plaintiff escape the rigour of Articles 58 and 59 by pleading fraud, collusion or that the entry was made behind her back and by taking advantage of her illiteracy. It is settled that even a challenge founded upon alleged fraud must be brought within three years of the date on which the fraud, or the facts entitling the plaintiff to relief, first became known, and where, as here, the plaint and the plaintiff's own documents demonstrate that such knowledge existed more than a decade before the suit, a mere assertion of fraud does not

extend limitation by so much as a day. The submission of illiteracy and ignorance of law is equally unavailing, ignorance of law is no answer to a plea of limitation, and, in any event, the plaintiff was sufficiently informed to prosecute an appeal before the Deputy Collector in the year 2012.

This is precisely the situation which the Hon'ble Gujarat High Court had in contemplation in *Becharbhai Zaverbhai Patel (supra)*, where a challenge to a registered instrument and the mutation entries founded thereon, brought after decades upon a plea of recent knowledge, was held to be a clever device and the plaint was held liable to be rejected under Order VII Rule 11(d) CPC. It is the situation which the Hon'ble Supreme Court in *Dahiben (supra)* and in *Raghwendra Sharan Singh (supra)* held to warrant rejection of the plaint at the threshold. This Court is bound by those pronouncements and is unable to take any other view. Hence, the finding on Issue No. 2 is answered in the Affirmative.

ISSUE NO. 3

- (9) It was necessary for this Court to consider, with anxious care, whether the plaint can be saved by two features of the plaintiff's case which, at first blush, appear to lie outside the shadow of limitation, first, the challenge to the registered sale deed bearing No. 683 of 2024 dated 22.07.2024 and to sale Entry No. 3504 recorded thereupon, both being of a date well within three years of the suit, and second, the alternative plea of adverse possession founded upon alleged continuous possession for over thirty years. This Court has examined both, and finds that neither can independently sustain the plaint.

As to the first—the challenge to the sale deed of 2024—the answer lies in appreciating that a plaintiff who seeks to avoid a conveyance executed by another must first establish that she, and not the vendor, was the person entitled to the property. The plaintiff does not, and cannot, claim through the Defendant Nos. 1 and 2, she claims adversely to them. Her case that the sale deed of 2024 is void is entirely parasitic upon her anterior case that the Defendant Nos. 1 and 2 had no title to convey—which is, in turn, entirely parasitic upon her case that Entry No. 755 of 1999, by which they came upon the record, was false and illegal. Once the challenge to Entry No. 755 is

found to be barred by limitation,as this Court has held under Issues Nos. 1 and 2, the plaintiff's foundational title is extinguished for the purposes of this suit,and with it collapses her locus to impeach the conveyance made by the recorded holders.A plaintiff cannot achieve,by an indirect attack upon a later deed,that which the law forbids her to achieve by a direct attack upon the earlier entry which alone gives her a cause.To hold otherwise would permit a time-barred claim to be resurrected at the will of the plaintiff by the simple expedient of waiting for the recorded holder to make a fresh transfer and then suing upon the fresh transfer.That is precisely the "clever device of drafting" which the Hon'ble Supreme Court in Dahiben (supra) has condemned, and which the Hon'ble Supreme Court in T. Arivandandam (supra) has directed the trial Court to nip in the bud.

As to the second-the plea of adverse possession-it is,in the manner in which it is pleaded,no plea at all.Adverse possession,to be pleaded at all,requires the plaintiff to assert,with particulars of date,that she entered into and continued in possession openly,continuously and hostilely to the true owner,with the animus to possess against him,and to identify the true owner against whom the possession was adverse and the date from which the hostility commenced.The plaint in the present case contains no such particulars whatsoever.Worse,the plea is wholly self-destructive and irreconcilable with the plaintiff's own case.In the same breath the plaintiff pleads that she is the owner of the suit land as the lineal heir of her father and that she is the owner of the suit land by adverse possession.These two pleas cannot stand together,a person cannot prescribe against herself,and one who claims to be the true owner cannot simultaneously claim to have perfected title by adverse possession against that very ownership.Further,the plaintiff nowhere identifies the person against whom her possession was adverse,if it was adverse to the Defendant Nos. 1 and 2,she was bound to say so and to plead the date of ouster,and if the possession was,as she herself pleads,that of a lawful owner in her own right,then it was not adverse to anyone at all. The plea,as pleaded, is a bare and formulaic assertion introduced to lend an air of alternative respectability to a time-barred claim,and upon a meaningful reading

of the plaint in the manner directed by T. Arivandandam (supra), it must be recognised for what it is.

Finally, the plea in paragraph 11 of the plaint that the cause of action arose "about a month prior to the suit" when the Defendant Nos. 3 to 5 came to the field and threatened her, and when she thereafter obtained the 7/12 extract and learnt of Entry No. 3504, cannot be accepted at face value. It is settled under Article 58 that limitation runs from the first accrual of the right to sue and not from every subsequent assertion or denial of that right, a plaintiff cannot, by pleading a fresh threat or a fresh demand and refusal, revive a right to sue which has long since been extinguished. Nor can the plaintiff be heard to say that she learnt of the state of the revenue record only a month before the suit, when she herself pleads that she had litigated over that very record in R.T.S. Appeal No. 81 of 2012, and when the revenue record has admittedly been computerised and open to inspection at the Gram Panchayat and online since the year 2005. Applying *Dilboo* (supra), deemed knowledge must be attributed to her, and upon her own pleading actual knowledge stands admitted. Accordingly, this Court holds that neither the challenge to the registered sale deed of 2024, nor the plea of adverse possession, nor the fresh cause of action pleaded in paragraph 11, can independently sustain the plaint once the foundational challenge to Entry No. 755 of 1999 is found to be time-barred. Hence, the finding on Issue No. 3 is answered in the Negative.

ISSUE NO. 4

- (10) A cause of action, it is well settled, is a bundle of essential facts which it is necessary for the plaintiff to prove in order to succeed and which entitles her to a decree against the defendant. Where the plaint, on a meaningful reading, shows the claim to be barred by law and to rest upon illusory or clever drafting, the Court must hold that no cause of action is disclosed.

Tested on this touchstone, the plaint in the present suit discloses no cause of action against any of the applicants. Against the Defendant Nos. 1, 2(1) and 2(3)-the collateral heirs who came upon the record by Entry No. 755 and who executed the impugned sale deed-the only grievance is the recording of Entry No. 755 in 1999 and the deletion

of the plaintiff's name,a grievance which the plaintiff carried in appeal in 2012,abandoned in 2015,and which is now dead by limitation. Against the Defendant Nos. 3, 4 and 5-the purchasers under the registered sale deed of 2024-the grievance is derivative and parasitic,having no existence independent of the challenge to Entry No. 755,and it collapses with it,as held under Issue No. 3.

The averments in paragraph 11 of the plaint,purporting to found a cause of action upon threats administered a month before the suit and upon the discovery of the record of rights,are,in the light of the plaintiff's own admitted litigation history,an artificial and illusory construct designed to sidestep the bar of limitation.Upon a meaningful and not a formal reading,the plaint is manifestly vexatious and meritless in the sense contemplated by T. Arivandandam (supra),in that it does not disclose a clear right to sue.In these circumstances, the plaint does not disclose a valid or legally sustainable cause of action against the applicants.Hence,the finding on Issue No. 4 is answered in the Negative.

ISSUE NO. 5

- (11) While deciding this issue,it is necessary to consider the findings already recorded on Issues Nos. 1 to 4, as the decision on the present issue flows as a natural and legal consequence thereof. This Court has held, on Issue No. 1,that on a meaningful reading of the plaint and the documents relied upon by the plaintiff the suit appears ex facie barred by limitation insofar as it rests upon the displacement of mutation Entry No. 755 dated 22.02.1999,on Issue No. 2,that the relief avoiding the said entry and the declaration of title founded thereon is squarely barred by Article 58 read with Article 59 of the Limitation Act, 1963,on Issue No. 3,that neither the challenge to the registered sale deed of 2024 nor the plea of adverse possession can independently sustain the plaint,and on Issue No. 4,that the plaint discloses no valid or legally sustainable cause of action against the applicants.

Order VII Rule 11(d) CPC mandates that the plaint shall be rejected where the suit appears from the statements in the plaint to be barred by any law, and Rule 11(a) mandates rejection where the plaint does

not disclose a cause of action. Both limbs are attracted in the present case, and the mandate of the Rule leaves this Court with no discretion.

On the principle laid down in *Madhav Prasad Aggarwal (supra)*, a plaint cannot be rejected in part; it must be rejected as a whole or not at all. In the present case, the entire edifice of the suit, against every one of the defendants, rests upon a single foundation, the displacement of Entry No. 755 of 1999 which foundation is barred by limitation. No relief claimed in the plaint is severable from that foundation or capable of surviving independently of it. It is not a case where a distinct and independent relief, maintainable against a distinct defendant, is found embedded in an otherwise time-barred plaint. The plaint must accordingly be rejected as a whole. In view of the cumulative findings recorded on Issues Nos. 1 to 4, this Court holds that the present suit is clearly barred by law and is liable to be rejected as a whole at the threshold under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908. Hence, the finding on Issue No. 5 is answered in the Affirmative.

ISSUE NO. 6

- (12) In view of the findings recorded on Issues Nos. 1, 2 and 5 in the Affirmative, and on Issues Nos. 3 and 4 in the Negative, this Court is of the considered opinion that the present suit is *ex facie* barred by law, particularly by limitation under Articles 58 and 59 of the Limitation Act, 1963, and that the plaint does not disclose any valid or legally sustainable cause of action against the applicants. Consequently, in exercise of the powers under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908, the application deserves to be allowed and the plaint is liable to be rejected at the threshold. Hence, for Issue No. 6, the following order is passed in the interest of justice.

FINAL ORDER

- (1) The application vide Exh.11 filed by the Defendant Nos. 1, 2(1), 2(3), 3, 4 and 5 under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908, is hereby allowed.
- (2) The plaint in Regular Civil Suit No. 31 of 2025 stands rejected as being barred by law and as not disclosing a cause of action.

- (3) Any Application if any pending stands to be disposed accordingly.
- (4) No order as to costs.
- (5) Draw up the order accordingly.

Pronounced in open Court on this 14th day of July, 2026.

Date : 14/07/2026

Place : Wav

(Principal Civil Judge & J.M.F.C.)

Wav, District : Banaskantha

GJ 01700