

**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE,  
DWARKA**

**RCS/12/2025**

**Order below Exh.17**

(1) The present application has been filed by the defendant No.2 under O.7, R.11(a) and R.11(d) of the CPC for rejection of plaint.

(2) Heard. I have considered the arguments by Ld.Advocates for the parties and perused **the plaint** and the documents annexed with the plaint.

(3) I give the following reasons for deciding this application.

(3.1) The plaintiff has approached this Court obviously for enforcement of Joint Development Agreement (JDA) executed between himself and the predecessor-in-title of the defendants. However, the plaint has been evasively drafted to seek declarations and perpetual injunctions in regard to the suit property upon which he claims to have crated interest by virtue of the JDA dated 30/10/2013, Mark.3/3. The recitals in the Development Agreement, Mark.3/3 clearly denote creation of interest on the suit land as under:

“સદર ઉપરના વર્ણનવાળી જમીન પૈકીવાળી જમીન કે જેનું વિગતે વર્ણન નીચે પરિશિષ્ટમાં કરવામાં આવેલ છે તે અમો લખી આપનારના વ્યક્તિગત નામે વેચાણ રાખેલ ચોખ્ખા ક્લીયર માર્કેટબલ વાળી ખુદ્દી જમીન તમો લખી લેનારને અમારી રાજીખુશીથી વેચાણ આપેલ છે કે જેમની વેચાણ કિંમત રૂ.૪૦/- (અંકે રૂપિયા ચાલીસ પુરા) પ્રતિ મીટરના નક્કી થયેલ છે અને તે વેચાણ કિંમતના અવેજ પેટે રૂ.૪,૮૦,૦૦૦/- (અંકે રૂપિયા ચાર લાખ અેસી હજાર પુરા) સ્ટેટ બેંક ઓફ ઇન્ડિયા, સમા રોડ, વડોદરા શાખાના ચેક નં.૦૫૬૧૫૮થી તમો લખી લેનાર તરફથી અમો લખી આપનારને મળી ગયેલ છે આથી ઉપરોક્ત જમીન તમોને વેચાણ સાથે વિકાસ કરી વેચાણ કરી-કરાવી આપવાનું નક્કી કરી અમો લખી આપનાર નીચેની શરતોને આધીન રહી તે શરતો સદરહુ વેચાણસહ ડેવલપમેન્ટ કરાર અમો લખી આપનારે અમારી રાજીખુશીથી લખી આપેલ છે.”

(3.2) The possession receipt, Mark.3/4 indicates possession of the suit land having been handed over to the plaintiff and the same is reflected in his pleadings that, “...વાદીનો ડેવલપમેન્ટ કરાર અસ્તિત્વમાં હોય અને કબજા પાવતી મુજબ વાદીનો કાયદેસરનો કબજો હોય તેથી વાદીની સમ્મતિ વગર વાદગ્રસ્ત મિલકતમાં ગેરપ્રવેશ કરવા કે કોઈપણ પ્રકારનું બાંધકામ કરવા કે કોઈપણ પ્રકારના એગ્રીમેન્ટ કરવા પ્રતિવાદીઓને હક્ક સત્તા કે અધિકાર નથી.”

(3.3) The Development Agreement, Mark.3/3, though purporting to create interest in favour of the plaintiff, is neither sufficiently stamped nor registered. It is also clear that the present suit is not for specific performance of an Agreement. The plaintiff has filed the present suit for **‘Cancellation of Sale Deed,**

**Declaration and Perpetual Injunction'**. The **unregistered** Development Agreement, Mark.3/3 has been executed on stamp paper of Rs.100/- is neither admissible as evidence of sale nor entitling him any protection u/s.53A of the TP Act. Because of this, the plaintiff fails to derive any rights of either ownership or vendee in respect of the suit land under the Development Agreement, Mark.3/3.

(3.4) The cause of action pleaded by the plaintiff is merely creation of an illusion. The plaintiff has not got any valid cause of action to file the present suit. The pleadings are vexatious and meritless and **not disclose a clear right or material to sue.**

(3.5) It is held by the Hon'ble Gujarat High Court in the case of ***Bhimabhai Manishbhai Kariya vs. General Manager RSPL Ltd.*** in First Appeal No.417 of 2021, as under:

“The trial Court must remember that if on a meaningful and not formal reading of the plaint, it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order VII, Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion

of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order X of the Code.”

(3.6) The assertions in the plaint made by the plaintiff are manifestly contrary to the statutory law barring the suit under O.R.11(d). Further, O.7, R.11(a) of the CPC is mandatory and if it is found that the plaint does not disclose a cause of action, the Court has no option but to reject the plaint. To find out whether a plaint discloses a cause of action or not, the Court has to look only to the averments made in the plaint. **When a plaint is based on a document filed along with the plaint, it can, however, be considered to ascertain if plaint discloses any cause of action.** Cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. The words "cause of action" mean the whole bundle of material facts which are necessary for the plaintiff to prove **in order to entitle him to the reliefs claimed in the suit.** What is to be done by the Court at the stage of deciding as to whether the plaint discloses any cause of action or not is **to find out from the allegation of the plaint itself as to whether a bogus, wholly vexatious or frivolous litigation** is sought to be initiated under the garb of ingenuous drafting of the plaint or not because it is the duty of the Court to

guard against the mischief of a litigant misusing the process of court by entering into **a false litigation merely for the purpose of harassing the other party and to nip in the bud the litigation which is sham and shabby in character.** In order to find out whether the plaint discloses a cause of action or not, the averments made in the plaint and documents annexed thereto should be scrutinized meaningfully and **if on such scrutiny it is found that the plaint does not disclose cause of action, it has got to be rejected.**

(4) In view of the facts, circumstances and the legal position discussed as above, the suit being **not disclosing a cause of action and barred by law,** the following order is passed:

ORDER

The present application is allowed and the plaint is ordered to be rejected. No orders as to costs. Decree be drawn accordingly.

Order pronounced in the open Court today.

Date: 02/04/2026  
(Jagdish.S.Prajapati)

Additional Senior Civil  
Judge,  
Dwarka  
GJ 01227



**RCS/12/2025****Order below Exh.1**

In view of the order passed below Exh.17, the plaint has been ordered to be rejected and as such present the suit stands disposed as dismissed. The order of decree and costs shall be as per the aforesaid order.

Order pronounced in the open Court today.

Date: 02/04/2026  
(Jagdish.S.Prajapati)

Additional Senior Civil  
Judge,  
Dwarka  
GJ 01227

*Self*