

Special Civil Suit No. 69 of 2019**Order below Exhibit 11 :**

[01]... The defendant no.1 to 6 have filed this application under Order VII Rule 11 of Civil Procedure Code, seeking threshold rejection of plaint. The grounds for rejection of plaint, as set out by the defendants are that the plaintiff has no *locus* to file this present suit and not valid cause of action have arise to the plaintiff for filing of this present suit. It is stated that whole amount with interest have been paid to the plaintiff, therefore, the plaintiff has no any right to file this present suit for cancellation of sale-deed. It is stated that at the time to relieve from the partnership firm, the plaintiff was paid Rs.86,83,500/- and no any interest or rights have been remained into partnership firm. Therefore, the plaintiff has no *locus* to file this present suit and therefore, the suit is required to be rejected under Order VII Rule 11(a) of CPC.

[02]... The plaintiff has filed written reply at Exhibit 16 and accordingly submitted that the application filed by the defendants is not maintainable. The plaintiff has filed this present suit on the true cause of action. That the defendants have not paid Rs.44,50,000/- to the plaintiff and thereby committed forgery with the plaintiff. That the suit is clearly within a time. The application filed the defendants is required to be rejected.

[03]... Heard. It is well-settled principle of law that at the time to decide an application under Order VII Rule 11 of CPC, the only contentions

of the plaint are required to be taken into consideration. The defence set-up by the defendant cannot be taken into consideration. Further, the Court has to read the plaint meaningfully. Now, in the case on hand, on perusal of the plaint contentions, it appears that the suit is filed for the cancellation of sale-deed dated 12.10.2018 and also filed for the declaration to the effect that the plaintiff is co-owner of suit property. Having perusal of the plaint, it also appears that there is dispute between the partners of partnership firm. The plea raised by the present defendant in this application requires full-fledged inquiry by way of evidence. Thus, the Court is of the opinion that the grounds taken by the defendants are nothing but, it is the defence, which requires to be decided on the basis of Evidence. Thus, the Court is of the opinion that the plaint cannot be rejected threshold. Hence, following order.

// ORDER //

- ➔ The application stand dismissed.
- ➔ No order as to cost.

Order **Signed & Pronounced** in the open Court on **01.01.2025**.

Date : 01/01/2025
Place : Kalol.

(**Ashishkumar N. Patel**)
Principal Senior Civil Judge,
At. Kalol @ Gandhinagar.
UIC No. GJ 00935