

PLAINTIFF – RAMJIBHAI DHARAMSHIBHAI RAGHVANI

Vs.

DEFENDANTS – JASUBEN MOHANBHAI DALWADI & ORS

.....
**Order below Ex – 14 for application under
O – 7, R. – 11 of C.P.C
for rejection of plaint.**
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Pl. Ld.Adv. N.C.Khokhara
Def. 3 Ld.Adv. Mr. K G Chavda

1. **Brief fact of Ex – 14:** The defendant has filed this application for rejection of plaint by stating that this suit is barred by limitation hence not tenable therefore the defendant has prayed the reject the plaint on the same basis.
2. **Written objection filed by plaintiff:** The plaintiff has filed objection against the present application under Order - 7 Rule – 11 of CPC vide Ex – 17. It is contended by the plaintiff that plaintiff had purchased the disputed suit property from defendant no. 1 vide registered sale deed no. 583 of 2009 on dated 02/05/2009 and plaintiff has challenged defendant no. 3's registered sale deed vide registration no. 354 of 27/03/2025. Hence the suit is within time limit. Hence requested to reject the said application.
3. Hon'ble Supreme Court in **Popat & Kotecha Property Vs. SBI Staff Association reported in 15 (4) CTC 489** observed that

averments in plaint alone would be looked into while considering an application for rejection of plaint under O – 7, R – 11 CPC and that the plea raised in the written statement are irrelevant at such stage. Therefore, as per observation made by Hon'ble Supreme Court, as of now, read application of O – 7, R – 11 CPC and reply filed by plaintiffs vide Ex – 17. Any other facts as of now not needed to be discussed.

4. **Brief facts of the plaint:** Plaintiff has filed this suit for cancellation of document, declaration and injunction stating that defendant no. 1 is mother of defendant no. 2 and defendant no. 1 illegally sold the disputed suit property to defendant no. 3 and defendants have committed fraud to plaintiff; therefore, defendant no. 3 doesn't get legal title. Plaintiff get to know about the said transaction on dated 16.05.2025. Therefore, plaintiff has brought this suit before the Court.

5. **Following issues have been arisen from the aforesaid facts of the case.**

1. Whether the Applicant/defendant proves that the plaintiff's has no cause of action to file this suit?
2. What order?

6. **Answer:**

1. In Negative
2. As per final order

7. **Arguments:** Both the parties have submitted their respective written arguments vide Ex – 16 & 17.

8. Defendant in support of this application has produced following citations.

1. GLR 2013 (1) Pg. No. 51

This Court had gone through this citation with utmost respect; however, defendant did not mention as to how this citation is useful to defendant in this application.

9. Plaintiff in support of this application has cited following citations.

1. 2018 (3) GLR PG NO. 2308

2. 2022 (0) AIJEL (SC) PG NO. 68608

3. 2022 (0) AIJEL (SC) PG No. 70471

4. 2020 (0) AIJEL (SC) PG No. 66299

5. 2024 (0) SUPREME APPEAL REPORTER CIVIL PG No. 79

6. 2025 (0) AIJEL (HC) PG No. 250789

7. 2025 (0) GLH PG No. 409

8. 2025 (0) AIJEL HC PG NO. 250297

9. 2025 (0) AIJEL HC PG NO. 249968

10. 2024 (0) AIJEL HC PG NO. 249043

11. 2024 (0) AIJEL HC PG NO. 247825

12. 2025 (0) AIJEL SC PG NO. 75402

13. 2025 (0) AIJEL SC PG NO. 75372

14. 2025 (0) AIJEL SC PG NO. 75184

15. 2020 (0) AIJEL SC PG NO. 66299

16. 2018 (6) SCC PG NO. 422

17. 2024 (0) AIJEL SC PG NO. 74555

18. 2025 SUPREME APPEAL REPORTER PG NO. 1027

However, defendant has not produced the aforesaid citation s in the Court.

9. Here, we need to go through Order – 7, Rule 11 of CPC code.

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 plaint is written upon paper insufficiently stamped, and the plaintiff, on 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;

10. In **CHANNAPPA HANAMANT CHIKKAREDDI Vs. KALLAPPA MALLAPA THAMBAD, 2018 AIR CC 739 (KAR)**, it is observed by Hon'ble Kerala High Court that – “45. As I have already noted that, even excluding the application filed under Section 14, of the Limitation act, there is no bar to file fresh suit on the different cause of action at any point of time. Even considering this particular aspect, as I have noted above, the relief sought for in the earlier suit and the relief sought for in the subsequent suit and cause of action pleaded are different and from 1972 onwards the

plaintiff has got a separate cause of action to file a suit for declaration of title and for other reliefs, but as the suit was already pending, unless the suit is withdrawn or amended, he could not have filed second suit. Therefore, it can be safely said that the expression "cause of action" has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction, but also the infraction coupled with the relief for the right involved. Compendiously the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right or grievance to the judgment of the Court. Therefore, every facts, which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove such fact, comprises in "cause of action". Therefore, even on the basis of the fresh cause of action the plaintiff has filed the suit and his suit is held to be maintainable and no illegality committed by both the courts."

11. In **RAM PAL SONI Vs. STATE OF U.P THRU. PRIN. SECY. FINANCE, 2022 (2) ALJ 742**, Hon'ble Allahabad High Court has observed that – "The 'cause of action' consists of bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. It is a bundle of facts which taken with the law applicable to them, gives the affected party a right to claim relief against the opponent. It must include some act done by the latter, since in the absence of such an act no cause of action would arise. In this

restricted sense, cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction coupled with the right itself. In the wider sense it has been used to denote all material facts on which the right to sue is founded. It is not dependent merely upon the character of the relief prayed for. A notice may also be an integral part of the cause of action.”

12. Now, Order – 7, Rule -11 of CPC code will be attracted when the cause of action has not been disclosed, now as per aforesaid findings of Hon’ble High Court’s, it is settled principle of law that in order to decide the application under order 7, rule 11, only averments made in the plaint and the documents along with the plaint be taken into consideration and not the defence.
13. Thus, in view of aforesaid reasons, there is no case made out to reject the plaint under order 7 rule 11 (a) of CPC and therefore, I decide ISSUE NO. 1 in NEGATIVE and following order is passed by this Court in larger interest of justice.

ORDER

1. This application of defendant for rejection of plaint under Order – 7, Rule – 11 of CPC vide Ex – 36 is hereby stands rejected.

2. No order as to costs.

**Signed and Pronounced in an open Court on dated 13th of
October, 2025.**

Date: 13.10.2025
Jodiya

[Ms. M. H. Makwana]
Principal Civil Judge
Jodiya
GJ01523

Typed By Self