

**PLAINTIFF – LEGAL HEIRS OF JINIBEN KARSHANBHAI
PABABHAI VAGHELA.**

Vs.

**DEFENDANTS – LEGAL HEIRS OF SONABEN LAKHABHAI
VAGHERA**

.....
**Order below Ex – 74 for application under
O – 7, R. – 11 of C.P.C
for rejection of plaint.**
.....

Pl. Ld.Adv. Mr. D.D. Parmar
Def. Ld.Adv. Mr. J.D. Mankad

1. **Brief fact of Ex – 74:** The defendants have filed this application for rejection of plaint by stating that plaintiffs have filed this suit for cancellation of instrument of land bearing old Revenue Survey No. 204/*Paikil*/*Paikil* (new survey no. 227 having Hec – Area – Sq – mtr, 2-56-04 bearing account no. 612. Plaintiffs have prayed to cancel the said document which was registered vide no. 961 on dated 12.07.2002 as it is void, illegal and unconstitutional. Plaintiffs have brought this suit after 14 year of document being registered in the year 2016, to cancel revenue entries no. 1328, 1597. Further, the suit is barred by limitation under article 59 & 113. As per the plaint of the plaintiffs, it is apparent that plaintiffs have brought this suit after 14 years in 2015 and till then plaintiffs haven't done any proceeding for delay condonation. Plaintiffs had filed delay condonation application before Dy. Collector, which was rejected. Therefore, defendant no. 2 & 3 have prayed to reject the plaintiffs suit

under order 7 rule 11. Further, plaintiffs doesn't have any genuine cause of action; therefore, also this suit shall be rejected. Further this suit is barred by Court fee Stamp and by section 11 of Revenue Act, therefore also the suit is to be rejected under O – 7, R – 11 of CPC.

2. **Written objection filed by plaintiffs:** The plaintiff has filed objection against the present application under Order - 7 Rule – 11 of CPC vide Ex – 75. It is contended by the plaintiffs that defendants are giving the said application after nine years from the date of institution of suit, hence defendants this application is not maintainable and defendants have filed this application to misuse the process of law. Further, issues have been framed vide Ex – 45. Further, it is stated that the suit has clear cause of action and is filed within time limit hence, it is prayed 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:** Plaintiffs have filed this suit for the cancellation of instrument of land bearing old Revenue Survey No. 204/*Paiki1/Paiki1* (new survey no. 227 having Hec – Area – Sq – mtr, 2-56-04 bearing account no. 612. Plaintiffs have prayed to cancel the said document which was registered vide no. 961 on dated 12.07.2002 as it is void, illegal and unconstitutional. Plaintiffs have brought this suit after 14 year of document being registered in the year 2016, to cancel revenue entries no. 1328, 1597.
5. **Cause of action:** Upon careful reading of the plaint as per para – 05, the suit is brought for cancellation of registered document.
6. **Following issues have been arisen from the aforesaid facts of the case.**
 1. Whether the Applicant/defendants prove that the plaintiffs have no cause of action to file this suit?
 2. What order?
7. **Answer:**
 1. In Negative
 2. As per final order
8. **Arguments:** Defendants Ld. Adv. has submitted written argument vide Ex – 79 and plaintiffs' Ld. Adv has submitted written argument vide Ex – 84.

9. Upon perusal of the record of the case, the present suit has been filed by plaintiff for the cancellation of registered document. It is pleaded by the plaintiffs that defendants have fraudulently prepared registered sale deed of disputed suit property. As per the say of defendants, plaintiffs have no cause of action as they have filed a suit to cancel an instrument which has already been rejected before Dy. Collector. Further, the plaintiffs have brought the suit after 14 years of document being registered. Hence, the suit of plaintiffs is not tenable in the eye of law.
10. 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;
11. 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."

12. 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.”

13. 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.
14. Further, whether the disputed document is obtained by forged or legally is a combined questions of law and facts and which cannot be decided without taking evidences on record. Looking to the plaint, it appears that the plaintiffs have categorically and specifically mentioned in the plaint. Thus, this plaint cannot be rejected for non – disclosure of cause of action as provided under

order 7 rule 11 (a) & (d) of CPC. Thus, in view of aforesaid reasons, there is no case made out to reject the plaint under order 7 rule 11 (a) & (d) 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 – 74 is hereby stands rejected.
2. No order as to costs.

**Signed and Pronounced in an open Court on dated 22nd of
July 2025**

Date: 22.07.2025
Jodiya

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

Typed By Self