

**Order below Exhibit-42  
in Commercial Suit No. 1 of 2022.**

**APPEARANCE :**

On behalf of the plaintiff : Ld. Adv. Shree H. R. Dhoriyani.

On behalf of the defendant No. 2/1 & 2/2 : Ld. Adv. Dr. B. K. Joshipura.

Defendant Nos. 1 & 3 struck out. (As per order below Exhs.-16 & 17)

[1] The defendant Nos. 2/1 and 2/2 (***hereinafter referred to as defendants***) have filed this application under Order-VII, Rule-11 read with Sec.-151 of Civil Procedure Code, 1908.

[2.1] The defendants have come with the contention that the plaintiff has not filed the suit with duplicate copy; therefore, the plaint should be rejected; and the facts of application at Exh.-34 have been adopted.

[2.2] The Ld. Adv. for both the sides have requested to pass necessary order in light of the provisions of law and considering the record and proceedings. Perused the record and proceedings.

[3] The Nazir, Principal Senior Civil Court, Halvad had been ordered to report whether duplicate copy of the plaint has been filed. As per the report dtd. : 27/10/2023, the additional, i.e. Court copy has been filed by the plaintiff.

[4] The plaintiff has filed duplicate copy of the plaint. In case, if the duplicate copy is not filed, the same is curable defect which does not include under the provisions of Order-VII, Rule-11 of the Code. As per the ratio laid down in the case of **A. Manju**<sup>1</sup>, the Hon'ble Apex Court has held that the technical defect which is curable does not fall within the provisions of Order-VII, Rule-11 of CPC.

[5] In view of the above, the present application deserves to be rejected. Hence, the following final order is passed in the interest of justice.

**-:: ORDER ::-**

- (a) The application at Exh.-42 filed by the defendant under Order-VII, Rule-11(d) of CPC is hereby rejected.
- (b) The cost shall follow the final disposal of the present suit.

Pronounced in the open Court today, on this 11<sup>th</sup> day of January, 2024.

Halvad.

Date : 11/01/2024.

**(Anil Nanalal Gajjar)**  
Principal Senior Civil Judge,  
Halvad, Dist. Morbi. (GJ-01166)

1 A Manju Versus Prajwal Revanna @ Prajwal R reported in 2021(0) AIJEL-SC 68118