

// Order Below Exh.162 //

1. The present application at Exh.162 is filed by the defendant under **Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908**, praying for rejection of the plaint on the grounds that the plaint does not disclose any cause of action and that the suit is barred by law.
2. It is the case of the defendant that the plaintiff has instituted the present suit on the basis of an alleged agreement to sell dated 26/10/1993 in respect of agricultural land. According to the defendant, the suit land falls within the Saurashtra region and therefore the provisions of **Section 54 of the Saurashtra Gharkhed Tenancy and Agricultural Lands Ordinance, 1949** are applicable. It is contended that only an agriculturist can lawfully enter into a transaction for purchase of agricultural land and that the plaintiff was not an agriculturist at the time of the alleged agreement. It is further contended that the plaint does not contain necessary pleadings

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regarding the status of the plaintiff as an agriculturist and therefore the agreement itself is illegal and unenforceable in law.

3. The defendant has further contended that as per the case of the plaintiff, the agreement to sell was executed on 26/10/1993 and the sale deed was to be executed on or before 01/05/1994. However, the present suit has been filed on 19/05/2008. It is also submitted that despite the order passed below Exh.92 directing the plaintiff to produce documents showing that he was an agriculturist at the relevant time, the plaintiff has not produced any such document. Therefore, according to the defendant, the plaint deserves to be rejected under Order VII Rule 11 of the Code of Civil Procedure.
4. The learned advocate for the plaintiff has opposed the application. It is submitted that the plaintiff has paid the entire sale consideration to the defendants and that the possession of the suit land has been handed over to the plaintiff

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pursuant to the agreement. It is further submitted that the plaint contains necessary averments disclosing the cause of action and that the issues raised by the defendant involve disputed questions of fact which can only be adjudicated upon after recording evidence during the trial.

5. I have heard the learned advocates for the respective parties and have carefully gone through the record of the case.
6. It is a settled principle of law that while deciding an application under **Order VII Rule 11 of the Code of Civil Procedure**, the Court is required to examine only the averments made in the plaint and the documents relied upon by the plaintiff. The defence taken by the defendant or the merits of the rival claims cannot be examined at this stage. The plaint must be read as a whole and the Court has to determine whether the averments made therein disclose a cause of action or whether the suit is barred by any law.

7. Upon perusal of the plaint, it appears that the case of the plaintiff is that the defendants had agreed to sell the suit agricultural land bearing Revenue Survey No.615 for a consideration of **Rs.1,90,000/-** and that on 26/10/1993 the defendants received the sale consideration and handed over possession of the suit land to the plaintiff pursuant to the said agreement.
8. From the averments made in the plaint, the plaintiff has asserted that despite the agreement and payment of consideration, the defendants have failed to execute the sale deed in favour of the plaintiff, which has given rise to the cause of action for filing the present suit. Therefore, prima facie the plaint cannot be said to be completely devoid of cause of action.
9. The principal contention of the defendant is that the plaintiff was not an agriculturist at the time of the agreement and therefore the agreement is illegal under the provisions of the tenancy law. However, whether the plaintiff was an agriculturist

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at the relevant time or not is essentially a **question of fact**, which requires evidence and adjudication during the course of trial. Such disputed questions cannot be conclusively determined at the stage of deciding an application under Order VII Rule 11 CPC.

10. Similarly, the contention regarding limitation cannot be conclusively determined at this stage. On a plain reading of the plaint, it cannot be said that the suit is clearly barred by limitation. At this stage, on a plain reading of the plaint, it cannot be said that the suit is clearly barred by any law.
11. Ld. Advocate for the defendant has relied upon the **Shaikh Ismailbhai Hushainbhai (Dead) through L.Rs. v. Vankar Ambalal Dhanabhai reported in AIR 2024 GUJARAT 61** wherein it is held (in Para-151 & 152) that "if the documents, i.e. the agreement is an illegal or invalid document in the eye of law, the Civil Court from the statement in the plaint itself will ascertain the suit being barred by law. In any case, a suit basis of

which is an invalid document in the eye of law or where there exists no cause of action to institute the suit on the date of the presentation of the plaint, the Civil Court will have no option but to reject the plaint, at the threshold, under Order VII Rule 11 of the Code of Civil Procedure.” and further “the trial Court shall be right in rejecting the plaint under Order VII Rule 11 of the Code of Civil Procedure on the ground that the suit for specific performance based on illegal and invalid agreement for sale is not maintainable.” However, the said principle would apply only where the bar of law is apparent on a plain reading of the plaint itself. In the present case, such bar is not evident from the plaint on its plain reading and therefore the said contention cannot be accepted at this stage.

12. In view of the above discussion, this Court is of the considered opinion that the grounds raised by the defendant involve issues which require adjudication after full trial and therefore the plaint

cannot be rejected under Order VII Rule 11 of the Code of Civil Procedure at this stage. In view of the forgoing discussion, I pass the following order.

//ORDER//

1. The application filed by the defendant below **Exh.162 under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908** is hereby **rejected**.
 2. No order as to costs.
 3. The suit shall proceed further in accordance with law.
- Pronounced in open Court on this 01st day of April, 2026.

Date : 01/04/2026

Place : Jetpur

[Pranav Dilipkumar Modi]

Principal Sr. Civil Judge &

A.C.J.M., Jetpur.

Code: GJ01202.

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