

Present: Sh. Baljeet Singh Advocate Proxy counsel for the plaintiff.
Sh. Ketan Sood Advocate counsel for the defendants.

The order of this court shall dispose of an application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (CPC) filed by the defendants seeking summary rejection of the plaint.

2. The defendants/applicants have moved the present application praying for the rejection of the plaint on the following specific grounds:

(a) The suit for recovery of ₹3,30,000/- based on an alleged cash loan and two cheques bearing No. 000010 and No. 000005 (both dated 19.04.2024) does not disclose any real, complete, or legally enforceable cause of action. The allegations regarding loan advancement, payment, and cheque delivery are vague and unsupported.

(b) The plaintiff failed to plead essential facts, including the exact date, time, place, mode of payment, source of the cash loan, currency note denominations, presence of witnesses, or any written receipt, agreement, or bank entry evidencing the transaction.

(c) The suit relies on cheques dishonoured with bank remarks "Cheque Stale". The plaintiff failed to clarify when, where, and through whom these instruments came into his possession.

(d) Defendant No. 1 has been residing continuously in Australia since 18.08.2019 and has not visited India thereafter. He was not present in India in January 2023 (when the loan was allegedly given) or on 19.04.2024 (the date on the cheques).

(e) Defendant No. 2 was physically present in the United States of America (USA) on 19.04.2024 and was not in India when the cheques were allegedly issued or delivered.

(f). The suit was instituted through an alleged attorney holder, Jasmail Singh. The plaint is completely silent regarding the execution, date, place, authentication, and validity of the SPA, as well as the attorney's personal knowledge of the transaction. Thus, the suit was not validly instituted or verified by a competent person.

3. In response, the plaintiff submitted that, the suit is based on cheque No. 000005 (dated 19.04.2024) for ₹2,50,000/- and cheque No. 000010 for

₹80,000/-, drawn on HDFC Bank. In January 2023, due to good relations, Defendant No. 1 borrowed ₹3,30,000/-, which was delivered to Defendant No. 2 (his mother) at VPO Ajitwal Patti Bhai Ke, District Moga, under a promise to repay within one year.

The signatures on the cheques belong to Defendant No. 1 and are uncontroverted. The questions of overseas residence and cheque validity are matters of defense and evidence to be evaluated during trial.

4. **RELEVANT LAW**

"Order VII Rule 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 the 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;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of rule 9: Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, and that refusal to extend such time would cause grave injustice to the plaintiff." In evaluating an application under Order VII Rule 11 CPC, the court must apply well-settled legal principles to determine whether the plaint ought to be rejected at the threshold:

5. It is a settled proposition of law that for determining whether a plaint discloses a cause of action under Rule 11(a), the court must look solely at the averments made in the plaint and documents annexed therewith. The statements made by the defendant in their written statement or in an application under Order VII Rule 11 are wholly irrelevant at this stage. **Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557**: The Hon'ble Supreme Court explicitly ruled that for the purposes

of deciding an application under Order VII Rule 11(a) and (d) CPC, the averments in the plaint are alone germane. The trial court cannot look into the defense or documents submitted by the defendants. **Kamala v. K.T. Eshwara Sa, (2008) 12 SCC 661**: The Apex Court held that no amount of evidence or defense pleas can be evaluated while deciding an application under Order VII Rule 11 CPC. Disputed factual assertions cannot form the basis for summary rejection.

6. "cause of action" consists of every fact which, if traversed, would be necessary for the plaintiff to prove in order to support his right to a judgment.

In the present case, a perusal of Paragraphs 1 to 8 of the plaint demonstrates that the plaintiff has specifically set out:

1. The advancing of a cash loan of ₹3,30,000/- in January 2023.
2. The delivery of funds to Defendant No. 2 on behalf of Defendant No. 1.
3. The issuance of cheques (No. 000010 and No. 000005) dated 19.04.2024 in discharge of the alleged liability.
4. The presentation and dishonour of the said cheques.

Accepting these averments as true for the purpose of this preliminary stage, the plaint prima facie discloses a clear, triable cause of action for money recovery.

7. The core grounds urged by the applicants—namely that Defendant No. 1 was in Australia, Defendant No. 2 was in the USA, and that the cheques were returned as "stale"—are evidentiary defenses. **Liverpool & London S.P. & I Association Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512**: The Hon'ble Supreme Court held that whether a plaint discloses a cause of action must be ascertained by treating the allegations in the plaint as correct. Whether the plaintiff will ultimately succeed in proving these facts during trial is entirely distinct from whether a cause of action is disclosed in the pleadings. The physical location/absence of the defendants on the dates in question is a triable issue of fact that can only be adjudicated after framing issues and recording evidence, not at the preliminary threshold stage.

8. The objection regarding the authority, authentication, or personal knowledge of the Special Power of Attorney holder (Jasmal Singh) is a matter concerning mode of proof and competence of witness during trial. Procedural challenges regarding power of attorney verification do not render a civil suit ex-facie barred by law under Order VII Rule 11(d) CPC. In light of the statutory provisions

under Order VII Rule 11 CPC and the authoritative decisions of the Hon'ble Supreme Court, this Court finds that the plaint discloses a valid cause of action and is not barred by any law on the face of the record. Consequently, the application filed by the defendants under Order VII Rule 11 read with Section 151 CPC is devoid of merit and is hereby **dismissed**. Nothing stated in this order shall be construed as an expression of opinion on the final merits of the case.

Dated: 20.08.2026
Shikha

(Parika Chauhan)
CJ(JD)/Special NRI Court,
Moga/ UID NO.PB0834