



ORDER BELOW EXH. 17 IN RCS NO.07/2025

- 1) By virtue of this application, defendants prayed to reject the plaint of plaintiff under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 (hereinafter referred as '**CPC**' for the sake of brevity) on the ground that, plaint is barred by the Muslim Law.
- 2) By way of present application, defendants contented that, defendant no.1 is the absolute owner of the suit properties under Muslim Law and the plaintiff who is the son of defendant no.1 has no right, title or interest in the suit properties. Therefore, according to defendants, the suit is barred by Muslim Law and plaint is liable to be rejected.
- 3) Plaintiff has filed present suit seeking permanent injunction restraining the defendant from dispossessing him from suit properties without due process of law and from creating 3rd party interest in the suit properties. The plaintiff has pleaded that, he is in possession of the suit properties.
- 4) It is settled principle of law that, while exercising of power under Order VII Rule 11 of the Code of Civil Procedure, 1908, only averments of the plaint have to be read as a whole and at that time stand of defendant in written statement or in application for rejection of plaint is wholly immaterial at that stage as plaint can be rejected only if averments made therein prima-facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law.

5) On perusal of plaint, the plaintiff has specifically asserted that, he is in possession of the suit properties and that the defendants are obstructing his possession and attempting to create 3rd party interest. Plaintiff has also pleaded the cause to institute present suit in para no.10 of the plaint. Whether the plaintiff has any legal right in the suit properties or whether defendant no.1 is the absolute owner are matters to be decided after evidence.

6) At this stage, it cannot be said that, the suit is barred by any law merely on the basis of the defendants contention regarding Muslim Personal Law. Therefore, the plaint does appears to be barred by law within the meaning of Order 7 Rule 11(d). Hence, application is devoid of merits. Therefore, I proceed to pass following order:

-: ORDER :-

- 1] Application is rejected.
- 2] Cost in Cause.
- 3] Application is disposed off accordingly.

Place : Shrivardhan.
Date : 10/03/2026.

(S. K. Shaikh)
Civil Judge Junior Division,
Shrivardhan.