

ORDER BELOW EXHIBIT 25 IN R.C.S.NO. 34/2015

The defendant no. 1 has filed the present application under Order 7 rule 11 of the Code of Civil Procedure.

2. According to the defendant, the plaint does not disclose the particular date or reason when the cause of action to file the suit arose. In paragraph no. 7 of the plaint or in the entire plaint such essential facts are not disclosed, hence has filed this application to reject the plaint.

3. The plaintiff has objected the application on the ground that the essential facts are mentioned in the plaint. The defendant has not filed any written statement. The application is illegal. He has given the cause of action. His right was refused and so notice was issued to the defendant which they did not comply, hence the application is devoid of merits.

4. Heard advocate for both sides. Perused the plaint. The present suit is filed for declaration of joint ownership in the suit property and for perpetual injunction.

5. According to plaintiff, the suit property was owned by his father Late Kashiram Tatya Pathare. The plaintiff is the uncle of the defendants. He has equal share in the suit property however, the defendants are denying his share. Paragraph no. 4 of the plaint clearly shows that the plaintiff had demanded separation of his share from the defendants however they refused and hence he had issued a notice dated 24/08/2015 to the defendants to get the suit property partitioned. In spite of receiving the notice the defendants did not comply. The pleadings in

paragraph no. 7 of the plaint shows that when the defendants refused the plaintiffs right the cause of action to file the suit has arosed. The said paragraph needs to be read in consonance with paragraph no. 4 of the plaint.

6. Needless to say that the term cause of action means a bundle of facts giving rise to the litigant to file a suit seeking reliefs against the other. In the given facts of the case and considering the entire pleadings of the plaint, coupled with paragraphs no. 4 and 7 in relation to each other, I find that the plaint clearly discloses a cause of action. The terms cause of action cannot be restricted to a particular date when it consists of bundle of facts and events giving right for a person to seek redressal.

7. Hyper technical view cannot be taken and for the reasons cited by the defendant it cannot be said that the plaint does not disclose any cause of action to file the suit. Hence the application of the defendant is not maintainable. The plaint cannot be rejected under Order 7 rule 11(a) of the Code of Civil Procedure, in result following order passed :

ORDER

The application is hereby rejected.

Pali

Date : 30/03/2017

Civil Judge Junior Division, Pali.