



COMMON ORDER BELOW EXH.1 & 17 IN Spl.C.S. NO.111/2025

The present application has been filed by defendant No.3 for rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908.

2. Perused the application and say of the plaintiff. Heard learned advocate for defendant No.3 and learned advocate for the plaintiff.

3. After going through the record, following preliminary issues on the point of maintainability arise for my consideration and I record my finding thereon for the reasons mentioned thereunder:-

Sr. No.	ISSUES	FINDINGS
1)	Whether the plaint is liable to be rejected under Order VII Rule 11(a) of the Code of Civil Procedure, 1908 ?	Yes.
2)	Whether the plaint is liable to be rejected under Order VII Rule 11(b) of the Code of Civil Procedure, 1908 ?	Redundant.
3)	Whether the plaint is liable to be rejected under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 ?	Yes.
4)	What order ?	The application is allowed.

REASONS

4. It is the contention of defendant No.3 that the present suit is filed by the plaintiff for cancellation of sale-deed. On 29.10.2020, the plaintiff himself executed registered sale-deed in favour of defendant No.1 bearing document No.2189/2020. Defendant No.1 sold the suit property to defendant No.3 on 28.12.2020 by executing registered sale-deed bearing document No.3099/2020. The plaintiff has not challenged the sale-deed within limitation. Therefore, the present suit is barred by law of limitation. Further, there is no cause of action to file the present suit. The suit is not properly valued and appropriate court fee is not paid. Hence, he prayed that the application be allowed and the plaint be rejected.

5. It is the contention of the plaintiff that the present application is false and frivolous. It is filed in order to prolong the matter. The present suit is filed for cancellation of sale-deeds bearing document Nos.2189/2020 and 3099/2020. The present suit is filed well within limitation and it is not barred by any law. The plaintiff has not received the full consideration of the sale-deed executed in favour of defendant No.1. After execution of sale-deed, the plaintiff had trust on defendant Nos.1 & 2 that they will pay the remaining consideration amount. They have taken undue advantage of the trust of plaintiff and tried to avoid the payment of consideration. In the meanwhile, the plaintiff went to Dubai and defendant No.1 sold the suit property to defendant No.3 with an intention to cheat the plaintiff. After coming back from Dubai, the plaintiff asked for unpaid consideration and defendant Nos.1 and 2 said that they have sold the suit property to defendant No.3 and they have no relation with the plaintiff. It was

agreed between the plaintiff and defendant No.1 that the possession of the suit property will be kept with the plaintiff till full payment of consideration. The suit property is in possession of the plaintiff. Thereafter, the plaintiff sent a legal notice to the defendants and filed Criminal Case No.123/2025 against them. The said complaint is dismissed on the ground that the plaintiff should approach the Civil Court. Therefore, they have filed the present suit and it is within limitation. The suit is properly valued and appropriate court fee is paid. The plaintiff has a cause of action to file the present suit. Hence, he prayed that the application be rejected.

AS TO ISSUE NOs.1 & 3:-

6. It is settled position of law that while deciding an application under order VII Rule 11 of the Code of Civil Procedure, the averments in the plaint are only required to be considered and not the averments in the written statement. It is irrelevant what is defence of the defendants and the documents produced by them. The learned advocate for defendant No.3 placed his reliance on the authority of the Hon'ble Supreme Court in the case of **Ramisetty Venkatanna & Anr. Vs. Nasyam Jamal Saheb & Ors., reported in (2024) 18 SCC 426**. In the said authority, the Hon'ble Apex Court has held that, "Only the averments in the plaint has to be seen and not the averments in the written statement. The plaint ought to have been rejected in exercise of powers under Order VII Rule 11 (a) & (d) of the C.P.C. being vexatious and illusory cause of action and barred by limitation." It is the settled law and therefore, with respect to the authority cited supra, I am not discussing it in detail.

7. Perused the plaint. It is the contention of the plaintiff that

the suit property is an ancestral property of the plaintiff. The predecessor-in-title of the plaintiff and other 8 persons executed power of attorney bearing document No.2136/2020 in favour of the plaintiff on 26.10.2020 for sale of the suit property. The plaintiff had conversation with defendant No.2, being a friend, regarding sale of the suit property. Defendant No.2 agreed to purchase the suit property for consideration of Rs.2,41,00,000/-. On 29.10.2020, the sale-deed is executed by the plaintiff in favour of defendant No.1 who is the wife of defendant No.2. On the date of execution of sale-deed, the consideration amount of Rs.20,00,000/- was received by the plaintiff in cash. Defendant Nos.1 and 2 have taken undue advantage of the trust of the plaintiff on them and prepared a draft of sale-deed in hurried manner. The said draft was not given for reading to the plaintiff. The plaintiff, without reading the draft of sale-deed, signed over it.

8. He further alleged that defendant Nos.1 and 2 mentioned in the sale-deed that, amount of Rs.50,00,000/- was paid in cash instead of Rs.20,00,000/-. The cheques were issued of Rs.25,00,000/- and Rs.1,56,88,500/-. The consideration paid and promise to be paid by the defendant is incorrectly mentioned in the sale-deed and the plaintiff brought it to the notice of defendant Nos.1 and 2. However, they assured the plaintiff that they will not cheat him. Defendant Nos.1 and 2 told the plaintiff that he shall not deposit the cheques in the bank as there are no funds in their account to honour those cheques. They tried to avoid payment of remaining consideration by giving various reasons. Thereafter, the plaintiff went abroad. Before going abroad, the plaintiff told defendant Nos.1 and 2 to deposit the remaining consideration amount in his account. However, they failed to deposit the same.

9. He further alleged that on 18.05.2025, the plaintiff contacted defendant No.2 and met him in Hotel 'Chaturthi' for cancellation of the sale-deed after getting knowledge of the fraud played with him. At that time, defendant Nos.1 and 2 told the plaintiff that they have no relation with the transaction of the suit property and they sold it to defendant No.3. On 21.05.2025, the plaintiff sent a legal notice to defendant Nos.1 and 3 for cancellation of sale-deed. However, they did not send any reply to it. On 30.06.2025, the plaintiff made complaint to Wai Police Station. However, they have not taken any action against them. Therefore, the plaintiff filed complaint before the Judicial Magistrate First Class, Wai bearing Misc. Criminal Application No.123/2025. On 14.10.2025, the said complaint is dismissed. Defendant No.2 issued cheque of Rs.30,00,000/- in favour of the plaintiff on 24.11.2025 and assured him to complete the transaction of the sale-deed. However, the said cheque was dishonoured. The consideration of sale-deed bearing document No.2189/2020 is not paid to the plaintiff and therefore, the said sale-deed is illegal. The subsequent sale-deed is also illegal. The plaintiff prayed for declaration that the sale-deed dated 29.10.2020 and the sale-deed dated 28.12.2020 are illegal and void. He further sought relief of reconveyance and the compensation alongwith consequential relief of injunction.

10. To summarize, the plaintiff has filed the present suit for cancellation of sale-deed on the ground that he has not received the sale consideration. The learned advocate for defendant No.3 argued that the present suit for cancellation of sale-deed is not maintainable. He placed his reliance on the authority of the Hon'ble Supreme Court in the case of **Dahiben Vs. Arvinbhai Kalyanji Bhanusali (Gajra)(D) Thr.**

Lrs. & Ors., reported in AIR 2020 SC 3310. In the said authority, the Hon'ble Supreme Court has held that, "the suit for cancellation of sale-deed has to be filed within three years from the date of execution as per Article 58 and 59 of the Limitation Act. The entire sale consideration has not been paid, it could not be a ground for cancellation of the sale-deed. The plaintiff may have other remedies in law for recovery of the balance consideration, but could not be granted the relief of cancellation of the registered sale-deed." The facts in the said authority are identical to the case in hand. In the instant case, the plaintiff filed the suit for cancellation of sale-deeds on the ground of non payment of entire sale consideration. In view of ratio laid down by the Hon'ble Supreme Court in the authority cited supra, I hold that the plaintiff has no right to seek cancellation of the registered sale-deeds and the plaintiff has other remedy for recovery of balance consideration. Therefore, the suit filed by the plaintiff is vexatious, meritless and it does not disclose a right to sue.

11. The plaintiff sought relief of cancellation of sale-deed dated 29.10.2020 by filing the present suit on 22.12.2025. The present suit is filed after 5 years. As per Article 58 and 59 of the Limitation Act, the suit for cancellation of registered sale-deed has to be filed within three years from 29.10.2020, as the right to sue first accrues to the plaintiff on the date of execution of registered sale-deed in favour of defendant No.1. The Hon'ble Apex Court in the above cited authority of ***Dahiben*** has held that, "If the case made out in the plaint is to be believed, it would mean that almost 99% of the sale consideration i.e. Rs.1,73,62,000 allegedly remained unpaid throughout. It is, however inconceivable that if the payments had remained unpaid, the plaintiffs would have remained completely silent for a period of over 5 and ½

years, without even issuing a legal notice for payment of the unpaid sale consideration, or instituting any proceeding for recovery of the amount, till the filing of the present suit in December 2014.” In the present case, the plaintiff remained completely silent for almost five years even after there is unpaid consideration of Rs.2,21,00,000/-. Therefore, I hold that the suit is barred by law of limitation.

12. Admittedly, the issue of limitation is a mix question of facts and law. However, in the instant case, a sale-deed is a registered document and the limitation started from the date of execution of sale-deed. The plaintiff has knowledge about the unpaid sale consideration since its execution and therefore, the issue of limitation is not a mix question of facts and law in the instant case. It is purely based on law. Therefore, I hold that the plaint, being vexatious and barred by law is liable to be rejected under Order VII Rule 11(a) & Order VII Rule 11(d) of the C.P.C. Hence, I answer the issue Nos.1 & 3 in the affirmative.

AS TO ISSUE NO.2:-

13. I have already held that the plaint is liable to be rejected in absence of cause of action and barred by limitation. Therefore, the issue of insufficient stamp and proper valuation of the suit becomes redundant. Hence, I answer issue No.2 accordingly.

AS TO ISSUE NO.4:-

14. It is settled position of law that once the suit is barred by law of limitation, then the court shall not permit the plaintiff to unnecessarily protract the proceeding in the suit and keep the sword of Damocles hanging over the head of the defendants. Admittedly, power under Order VII Rule 11 of CPC is drastic. However, it is necessary to

put an end to the sham litigation so that further judicial time is not wasted. The Hon'ble Supreme Court has time and again directed that an illusion created by clever drafting of the plaint shall be nipped in the bud, so that bogus litigation will end at the earliest. In view of above discussion, it is crystal clear that the present suit is barred by limitation and does not disclose the cause of action. Therefore, I hold that the plaint is liable to be rejected. The plaint is rejected at preliminary stage and therefore, I am not inclined to impose costs on the plaintiff. Hence, in answer to issue No.4, I pass the following order :-

ORDER

- (1) The application (Exh.17) is allowed.
- (2) The plaint in Spl.C.S. No.111/2025 is rejected under Order VII Rule 11(a) & Order VII Rule 11(d) of the Code of Civil Procedure.
- (3) The parties shall bear their own costs.
- (4) Decree be drawn up accordingly.

Date: 06.03.2026

(A. A. Pacharne)
Jt. Civil Judge Senior Division,
Wai.