

**IN THE COURT OF UMESH, CIVIL JUDGE (JUNIOR DIVISION),
Gurugram. (HR-0731).**

Date of application: 12.05.2026

Date of Order: 23.07.2026

Application under Order VII Rule 7 read with Section 151 CPC

Present: Sh. Sanjay Pahuja, counsel for plaintiff.
Sh. Pawan Kumar, counsel for defendants no.4 and 5.
Learned GP for defendants no.6 & 7.
Sh. Rajan Gupta, counsel for defendant no.9.
Sh. Devender Rawat, counsel for defendant no.10.
Sh. Vaibhav Kataria, Advocate for applicant/defendant no.3.
(defendants no.1 and 2 given up vide order dated 09.04.2026)
Defendants no.3 & 8 proceeded exparte VOD 02.07.2026.

ORDER:

This order shall dispose of an application filed by defendant Nos. 4 and 5 under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure seeking rejection of the plaint.

2. The plaintiffs have instituted the present suit for permanent and mandatory injunction alleging that defendant Nos. 1 to 5 are raising unauthorized construction over the designated green belt area bearing Rect. No. 22, Killa No. 25/2 (1-16) land measuring 1 kanal 16 Marla situated in front of plaintiffs' project in revenue estate of village Chauma, at sector 111, Gurugram, Haryana (hereinafter referred to as '**suit property**'). It is pleaded that the defendants are raising construction without any sanctioned building plan or statutory permission and in violation of the approved development plans. It is further averred that such unauthorized construction has adversely affected the plaintiffs' licensed project by obstructing access, disturbing the planned layout, diminishing the value and marketability of the project, creating impediments for prospective buyers and residents, and resulting in continuing loss of goodwill, contractual complications and financial repercussions. It is further pleaded that the nature of the injury is continuing and irreparable and cannot be adequately compensated by way of monetary damages alone. Hence, this suit.

3. Meanwhile, Defendant Nos. 4 and 5 have filed the present application seeking rejection of the plaint. Reply filed on behalf of plaintiffs. Arguments advanced.

4. Learned counsel for defendant Nos. 4 and 5 submitted that the plaint does not disclose any cause of action against the applicants. It is argued that defendant Nos. 4 and 5 are lawful owners in possession of the suit property by virtue of a registered sale deed and have been in possession since its purchase. It is further contended that the plaintiffs neither have any right, title or interest in the property nor possess locus standi to maintain the present suit. It is further argued that the plaintiffs are owners of separate land and have no concern with the property owned by defendant Nos. 4 and 5. The suit is stated to be based on imaginary apprehensions only. It is also contended that the green belt dimensions were modified by the competent authority in the year 2021 and, therefore, the property of defendant Nos. 4 and 5 does not fall within the green belt. It is further contended that the suit has not been properly valued for the purposes of court fees and jurisdiction and that the requisite ad valorem court fee has not been affixed. Learned counsel further submitted that the suit is not maintainable as the plaintiffs are two distinct legal entities having different objects, and the institution of the suit through a common authorized representative is legally impermissible. It is also argued that the sale deed in favour of defendant Nos. 4 and 5 was duly registered by the office of the Sub-Registrar, Gurugram, after compliance with the requisite formalities and upon payment of stamp duty amounting to ₹17,94,000/-. According to the defendants, the registration of the sale deed by the competent authority itself demonstrates that there existed no legal impediment or objection from the Government of Haryana with respect to the property in question. On these premises, learned counsel prayed that the plaint is liable to be rejected under Order VII Rule 11 CPC.

5. Per contra, learned counsel for the plaintiffs opposed the application and submitted that the plaint clearly discloses a complete and continuing cause of action. It is argued that while deciding an application

under Order VII Rule 11 CPC, only the averments contained in the plaint are required to be considered and the defence taken by the defendants cannot be looked into. It is further submitted that the defendants are raising unauthorized construction without obtaining any sanctioned building plan or statutory approval over the suit property, thereby adversely affecting the plaintiffs' licensed project and statutory development rights. The plaintiffs have denied all allegations regarding lack of locus standi, valuation, maintainability and suppression of facts. It is further submitted that all objections raised by the defendants involve disputed questions of fact requiring evidence and cannot be decided at the stage of Order VII Rule 11 CPC. Therefore, application is liable to be dismissed.

6. I have heard learned counsel for the parties and carefully perused the record. Both the parties have relied upon precedents of the Hon'ble High Courts and Supreme Court.

7. The scope of Order VII Rule 11 CPC is well settled. At the stage of deciding an application under Order VII Rule 11 CPC, the Court is required to examine only the averments contained in the plaint along with the documents relied upon by the plaintiff. The defence set up by the defendants in the written statement or in the application cannot be taken into consideration. The plaint can be rejected only if it falls within any of the contingencies contemplated under clauses (a) to (f) of Rule 11.

Also, in *Saleem Bhai v. State of Maharashtra, AIR 2003 SC 759*, the Hon'ble Supreme Court held that for deciding an application under Order VII Rule 11 CPC, only the averments made in the plaint are required to be considered, and the defence raised by the defendant in the written statement is wholly irrelevant at this stage. Further, in *Dahiben v. Arvinbhai Kalyanji Bhanusali, AIR 2020 SC 3310*, the Hon'ble Supreme Court reiterated that the purpose of conferring power under Order VII Rule 11 CPC is to ensure that a litigation which is meaningless or bound to prove abortive should not be permitted to consume the time of the Court.

8. A reading of the plaint, as a whole, shows that the plaintiffs have specifically pleaded that the suit property forms part of the notified

green belt area adjoining their licensed project and that defendant Nos. 3 to 5 have commenced unauthorized construction thereon without obtaining requisite statutory approvals. It has further been pleaded that such construction prejudicially affects the plaintiffs' statutory rights and, therefore, the plaintiffs seek preventive and mandatory injunctions.

9. Whether the suit property actually forms part of the notified green belt, whether the dimensions of the green belt were subsequently modified by the competent authority, whether the defendants possess valid permissions for construction, and whether the plaintiffs have locus standi are all disputed questions of fact. These issues require appreciation of evidence and cannot be adjudicated while exercising jurisdiction under Order VII Rule 11 CPC.

10. The contention regarding absence of cause of action is also without merit. Although it was contended that the plaintiffs are owners of separate land and have no concern with the property owned by defendant Nos. 4 and 5, the Hon'ble Supreme Court of India in ***Rikhabdas Nathusao Jain v Corpn. Of the City of Nagpur & Ors., 2009 1 SCC 240*** held that:

“20. We will proceed on the basis that a deemed sanction would amount to an order granting sanction of a building plan. However, the jurisdiction of the District Judge can be invoked if a building is erected or re-erected in contravention of any town planning scheme or building bye-laws. Indisputably, right of a neighbourer is also a valuable right. He, in the event a building plan has wrongly been sanctioned, is entitled to file an appropriate application before the District Court for an injunction for removal or alteration of any building plan on the premise that the same was in contravention of any provisions of the Act or bye-laws made thereunder.”,

according to which the plaintiffs had clear cause of action. Moreover, the plaint, if read meaningfully and as a whole, contains clear assertions regarding the alleged unauthorized construction, the nature of the plaintiffs' grievance and the relief claimed. At this stage, the correctness or truthfulness of those allegations is not to be examined. It cannot, therefore,

be held that the plaint does not disclose a cause of action. Similarly, the objections regarding valuation, court fees, joinder of parties and care also involve mixed questions of law and fact, which cannot be conclusively determined on the basis of the plaint alone.

11. The reliance placed by the defendants upon their registered sale deed and other factual pleas is also of no assistance at this stage, as such defence cannot be looked into while deciding an application under Order VII Rule 11 CPC.

12. Accordingly, this Court finds that none of the grounds contemplated under Order VII Rule 11 CPC are attracted. The plaint cannot be rejected merely because the defendants dispute the allegations made therein or raise a defence requiring adjudication on evidence. In view of the foregoing discussion, the application filed by defendant Nos. 4 and 5 under Order VII Rule 11 read with Section 151 CPC is **dismissed**, being devoid of merit.

13. Nothing observed herein shall be construed as an expression on the merits of the case and the observations made in this order shall not prejudice the rights of either party during the trial.

Application stands disposed of accordingly.

Announced in open Court.
Dated: 23.07.2026

(Umesh)
Civil Judge(Junior Division)
Gurugram/UID No.HR0731

Note: This Order contains Five (5) pages in all and all the pages have been checked and signed by me.

(Umesh)
Civil Judge(Junior Division)
Gurugram/UID No.HR0731

Present: Sh. Sanjay Pahuja, counsel for plaintiff.
Sh. Pawan Kumar, counsel for defendants no.4 and 5.
Learned GP for defendants no.6 & 7.
Sh. Rajan Gupta, counsel for defendant no.9.
Sh. Devender Rawat, counsel for defendant no.10.
Sh. Vaibhav Kataria, Advocate for applicant/defendant no.3.
(defendants no.1 and 2 given up vide order dated 09.04.2026)
Defendants no.3 & 8 proceeded exparte VOD 02.07.2026.

Vide my separate detailed order of even date, application under Order VII Rule 11 read with Section 151 CPC seeking rejection of the plaint is **Dismissed. Application stands disposed of accordingly.**

Written statement on behalf of defendant no.10 is filed.
Copy is given.

An application for setting aside the order dated 02.07.2026 whereby the defendant no.3 was proceeded exparte is filed through his counsel. Copy is given.

Further arguments on application under Order XXXIX Rules 1 and 2 CPC not advanced. Adjournment is requested. Heard. Allowed.

Now to come up on **12.08.2026** for further arguments application under Order XXXIX Rules 1 and 2 CPC and for filing reply to application for setting aside the order dated 02.07.2026 and for filing written statement on behalf of defendants no.6, 7 & 9.

Announced in open Court.

Dated: 23.07.2026

Payal

(Umesh)
Civil Judge(Junior Division)
Gurugram/UID No.HR0731