

Title Suit 609 of 2023
CNR No.WBCC01-002628-2023
Present: Sri Sanjoy Kumar Das, Judge, Bench-V (WB00627)
Order No. 21/ Dated 17.07.2026

Today is fixed for order.

Both parties filed hazira.

The record is taken up passing necessary order.

Perused the application under Order VII Rule 11(d) of C.P.C. dated 07.05.2025 filed by the proforma defendant and the relevant written objection as well as materials on record.

Proforma defendant by filing the above application under Order VII Rule 11(d) of C.P.C. dated 07.05.2025 mainly contended that the instant suit is barred under Order II Rules 2 and 3 of C.P.C. The plaint also does not disclose any cause of action.

Plaintiff contested this application by filing written objection and thereby denied all the material allegations. Plaintiff further alleged that he has not made any claim against the proforma defendant. No rights of proforma defendant have been affected by this suit. So the proforma defendant has no *locus standi* to file this application.

From the materials on record, it appears that plaintiff filed this suit for declaration and permanent injunction and thereby prayed for declaration that he is the owner of specific number of shares of ITC Ltd. as mentioned in the prayer of the plaint and also prayed for mandatory injunction directing the defendant no.2 to transfer those shares in the demat account of the plaintiff.

Fact remains that proforma defendant is the brother of the plaintiff. Plaintiff and proforma defendant jointly held 1294 shares of ITC Ltd. at the face value of Rs.10/- per share which they inherited from their father (since deceased). It was agreed and mutually settled between the two brothers that proforma defendant will get 650 shares of ITC Ltd. and plaintiff will get 644 shares of ITC Ltd.

The principle defendants transferred 650 shares in favour of the proforma defendant but till today principle defendants did not transfer 644 shares in favour of the plaintiff on different pretext. Hence this suit.

It is pertinent to mention here that previously a partition suit was filed bearing Title Suit no.89 of 2002 before the Ld. Civil Judge, Senior Division, Berhampur (Ganjam, Orissa). In that suit 644 shares were included. Subsequently, those shares were excluded from the subject matter of the above partition suit by the order of the court.

Considering the above facts and circumstances of the case and also having regard to the provision of law this court is of the opinion that the application under Order VII Rule 11(d) of C.P.C. filed by the proforma defendant has got no merit at all and same is liable to be rejected.

According the application under Order VII Rule 11 of C.P.C. dated 07.05.2025 is rejected on contest.

Fix 10.09.2026 for framing of issues.

D/c by me,

Judge, Bench-V
City Civil Court, Calcutta

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