



2026:PATHC:33233

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.85 of 2023

Sri Uday Shankar Prasad, male, aged about-85 years, Son of Late Ramashankar Prasad Resident of Kotwali Chowk, P.S.-Town Naka no.5, P.O.-Lalbagh, District-Darbhanga.

... .. Petitioner/s

Versus

1. Ravi Kumar Agrawal Son of Late Raghubir Prasad Resident of Mohalla-Bela Garden, P.S.-L.N.M.U. Campus, District-Darbhanga.
2. Rajat Kumar Agrawal Son of Late Anand Bihari Prasad Resident of Mohalla-Bela Garden, P.S.-L.N.M.U. Campus, District-Darbhanga.
3. Shailesh Shankar Son of Sri Uday Shankar Prasad Resident of Kotwali Chowk, P.S.-Town, Naka no.5, P.O.-Lalbagh, District-Darbhanga.
4. Ritesh Shankar Son of Sri Uday Shankar Prasad Resident of Kotwali Chowk, P.S.-Town, Naka no.5, P.O.-Lalbagh, District-Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV ORDER

8 07-04-2026 Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. This Civil Revision application has been filed under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') against the order dated 06.05.2023 passed by the in Title Suit No.530 of 2017 dated 16.12.2017 whereby and where under the petition dated 22.11.2019 filed on behalf of defendant/petitioner for rejection of plaint under Order VII Rule 11 of the CPC was rejected.





3. The facts of the case, in brief, is that the suit land is located at Mohalla Kotwali Chowk, Mishratola, Naka No. 05, P.S.-Town, Tauzi No. 3331, District-Darbhanga. The detailed description of the said land has been provided in Schedule I and Schedule II of the plaint. The aforesaid Title Suit No. 530 of 2017, instituted on 16.12.2017, has been filed under Section 38 of the Specific Relief Act, inter alia, seeking a decree for permanent injunction restraining the defendants in any manner, from dispossessing the plaintiffs from the suit property, or selling the same to any person, or creating any obstruction in the running of the Mahamaya Cinema Hall/Crez Cinema (hereinafter referred to as 'Cinema Hall') situated on the suit property, otherwise than in due course of law. Moreover, during the pendency of the suit, the defendants be restrained from interfering with the possession of Plaintiff No. 1 in respect of the suit property by directing the parties to maintain status quo, if the circumstances so require.

4. The case of the opposite parties, as articulated in their rejoinder dated 14.02.2020, is that the application filed by Defendant No. 1 is misconceived, vexatious, and devoid of merit, having been instituted with an ulterior motive to delay the proceedings. The plaint clearly discloses a complete and





subsisting cause of action, comprising a bundle of material facts entitling the plaintiffs to seek protection of their possession through a decree of permanent injunction. The plaintiffs have further submitted that the issue of valuation of the suit property is not a pure question of law but a mixed question of law and fact, which cannot be adjudicated at the threshold under Order VII Rule 11 of the CPC and must necessarily be determined upon evidence during trial. Further the defendant, having already filed his written statement without raising such objections at the appropriate stage, is estopped from pleading the same at later stage. The plaintiffs have thus maintained that none of the grounds enumerated under Order VII Rule 11 of the CPC are attracted in the present case, and accordingly, the application for rejection of plaint is liable to be dismissed with costs.

5. Upon consideration of the facts and circumstances of the case, the learned Trial Court in the petition filed by the defendants dated 22.11.2019 rejected the same vide order dated 09.08.2017. Aggrieved by the impugned order the petitioner has preferred this Civil Revision application before this Court, assailing the legality, propriety and correctness of the said order on the ground that the learned Trial Court has failed to properly





appreciate the mandatory provisions of law and has exercised jurisdiction with material irregularity.

6. Learned counsel for the petitioner submitted that the impugned order suffers from patent jurisdictional error inasmuch as the learned Trial Court has failed to exercise jurisdiction vested in it by law. It is submitted that the plaint, *prima facie* is liable to be rejected under Order VII Rule 11(a) and (b) of the CPC. It is further submitted that the suit has been deliberately undervalued by showing the valuation at Rs. 1,51,000/-, whereas the suit property, being a commercial property situated in an urban area, has a market value of approximately Rs. 4,50,00,000/- as per prevailing market rates. Such undervaluation, directly affects the pecuniary jurisdiction of the court and renders the plaint liable to be rejected.

6.i. He further submitted that the plaint does not disclose any subsisting cause of action, inasmuch as the very basis of the plaintiff's claim, namely, the functioning of the cinema hall, stood extinguished upon suspension of its license by the Collector, Darbhanga vide order dated 30.12.2017. In such circumstances, the averments in the plaint are asserted to be illusory and devoid of legal substance and therefore, the learned Trial Court has acted with material irregularity in





refusing to reject the plaint and the impugned order is liable to be set aside.

6.ii. In order to support of the aforesaid submissions, learned counsel for the petitioners has placed reliance upon the judgment of the Hon'ble Apex Court in the case of ***Sopan Sukhdeo Sable and ors. V. Assistant Charity Commissioner and ors.*** reported in ***(2004) 3 SCC 137*** and the relevant para read as:

20. "Rule 11 of Order VII lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word 'shall' is used clearly implying thereby that it casts a duty on the Court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant."

6.iii. In order to support his argument Learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Apex Court in ***Hardesh Ores Pvt. Ltd. Versus Hede and Co.*** reported in ***(2007) 5 SCC 614*** in which it has been held





that:

“the provision of Order VII Rule11 of the CPC is mandatory in nature. It states that the plaint shall be rejected if any of the grounds specified in Clause(a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action or that the suit is barred by any law the court has no option but to reject the plaint.”

Furthermore he relied on the judgment of the Hon’ble Apex Court in ***Azhar Hussain Vs. Rajiv Gandhi reported in 1986 Supp. SCC 315*** in which it has been held that:

“the whole purpose of confinement of such power is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. The “Sword of Damocles” need not be kept hanging over his head unnecessarily without point or purpose. Even in ordinary civil litigation the court readily exercises the power to reject a plaint if dos not disclose any cause of action.”

6.iv. He further placed reliance upon the judgement of the Hon’ble Apex Court in ***R.B.A.N.M.S. Educational Institution Versus B. Guna Shekar reported on 2025 INSC 490*** in which it has been held that:

“We are conscious of principle that only averments in the plaint are to be considered under Order VII Rule11 CPC. while it is





true that defendant's defense is not to be considered at this stage, this does not mean that the court must accept patently untenable claims or shut its eyes to settle principles of law and put the parties to trial, even in cases which are barred and cause of action is fictitious." He lastly submitted that the relief sought for by the petitioner is absolutely bonafide and in accordance with law. The impugned order if allowed to stand would occasion failure of justice and cause irreparable injury to the petitioner. Therefore, the impugned order is bad in the eye of law and is liable to be set aside."

7. *Per contra*, learned counsel for the plaintiff/opposite parties has substantiated the impugned order and submitted that the application under Order VII Rule 11 of the CPC is wholly misconceived and not maintainable in the facts of the case. He further submitted that the question of valuation of the suit is not a pure question of law but a mixed question of law and fact, which cannot be adjudicated at the threshold stage without proper evaluation of evidences. It is further submitted that even assuming any defect in valuation, the same would not *ipso facto* warrant the rejection of the plaint.

7.i. He further submitted that the existence of a cause of action is to be discerned upon a holistic and meaningful reading of the plaint as a whole, and not by isolating or





dissecting individual averments. In the present case, the plaint unequivocally discloses a complete bundle of material facts which, if taken at their face value, constitute a valid and subsisting cause of action for the relief of injunction as sought. It is a settled proposition of law that, at the stage of consideration under Order VII Rule 11 of the CPC, the Court is neither required nor permitted to adjudicate upon the veracity, sufficiency, or otherwise of the pleaded facts, as such an exercise falls strictly within the domain of trial.

7.ii. In support of the aforesaid submissions, learned counsel for the opposite party has placed reliance upon the judgment of the Hon'ble Apex Court in ***Civil Appeal no. 12703-12704 of 2025 titled as Karam Singh Vs Amarjit Singh*** in which it has been held that “while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be considered to find out whether the suit is barred by law. At this stage, the defense is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint.” He lastly submitted that learned Trial Court has exercised its jurisdiction in accordance with settled legal principles and has rightly rejected the application filed by the defendant/petitioner.





The impugned order, being well-reasoned and legally sustainable, does not warrant any interference in exercise of the limited revisional jurisdiction of this Hon'ble Court.

8. Having considered the rival submissions advanced on behalf of the parties and have perused the materials available on record, including the impugned order and the order sheets of the learned Trial Court, the point that arises for determination in the present revision is *“whether the learned Trial Court erred in law in rejecting the application under Order VII Rule 11 of the CPC seeking rejection of the plaint?”*

9. Before advertng to the rival contentions on merits, it would be apposite to notice the scope of interference in exercise of revisional jurisdiction under Section 115 of the CPC. This Court does not sit as a court of appeal over the order of the subordinate Court; interference is warranted only where the learned Trial Court has exercised a jurisdiction not vested in it by law, or has failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Thus, unless the finding recorded by the learned Trial Court is shown to suffer from a patent error of law or jurisdictional infirmity, this Court would be slow to substitute its own view merely because another view is possible.





10. The contours of revisional jurisdiction under Section 115 of the CPC have been authoritatively delineated by the Hon'ble Apex Court in ***Shiv Shakti Coop. Housing Society v. Swaraj Developers and Ors.***, reported in **(2003) 6 SCC 659**, wherein, it has been held that the revisional power is supervisory in nature and cannot be equated with appellate jurisdiction; interference is permissible only where the subordinate Court has acted without jurisdiction or with material irregularity in the exercise of such jurisdiction. Similarly, in ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***, reported in **(2014) 9 SCC 78**, the Hon'ble Apex Court reiterated that re-appreciation of facts or substitution of a possible view is impermissible in revision unless the impugned order suffers from patent illegality or perversity.

11. At this stage, it is apposite to reproduce the principles governing rejection of a plaint under Order VII Rule 11 of the CPC which have been explained in the case of ***Dahiben v. Arvinbhai Kalyanji Bhanusali (Gajra) and Ors.***, reported in **(2020) 7 SCC 366** wherein the Hon'ble Apex Court has settled the principles and made the following observations:

“12.6. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be





*adverted to, or taken into consideration.
“12.7. The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken entirety, in conjunction with the documents relied upon, would the same result in a decree being passed”.*

“23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

*23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration.
[Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]*

23.12. In Hardesh Ores (P) Ltd. v. Hede & Co. [Hardesh Ores (P) Ltd. v. Hede & Co., (2007) 5 SCC 614] the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie





show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. D. Ramachandran v. R.V. Janakiraman [D. Ramachandran v. R.V. Janakiraman, (1999) 3 SCC 267; See also Vijay Pratap Singh v. Dukh Haran Nath Singh, AIR 1962 SC 941].

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.

23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.”

12. Upon overall consideration of the pleadings of the parties and the grounds urged in the application under Order VII Rule 11 of the CPC, this Court finds that the issue raised by the petitioner involves disputed questions regarding suspension of the license of cinema hall and valuation of the suit in Title Suit No. 530 of 2017, alleged absence of cause of action. In view thereof, determination of these issues would necessarily require examination of pleadings of both suits, scrutiny of documents, and appreciation of evidence with respect to interference in possession, valuation of suit and suspension of the license of





cinema hall. Such matters cannot be conclusively adjudicated merely on a reading of the plaint and undoubtedly constitute mixed questions of law and fact. The scope of Order VII Rule 11 of the CPC being limited and summary in nature, the learned Trial Court has rightly refrained from embarking upon a detailed inquiry at the threshold stage.

13. It is well settled law that the scope of interference under Order VII Rule 11 of the CPC is limited. At the stage of considering an application under Order VII Rule 11 of the CPC, the Court is required to confine its consideration to the averments made in the plaint and the documents relied upon therein. The defence taken by the defendant or disputed questions of fact cannot be gone into at this stage. In so far as the objection regarding absence of cause of action is concerned, the test to be applied is whether the plaint, on a meaningful reading, discloses a bundle of facts which, if proved, would entitle the plaintiff to the relief claimed. In the present case, the plaint contains averments relating to possession and alleged interference by the defendants. Such averments, *prima facie* constitute a cause of action for a suit seeking injunction.

14. Upon Consideration it further appears, the submission advanced on behalf of the petitioner that the





suspension of the license of cinema hall pursuant to the order dated 30.12.2017 extinguishes the cause of action cannot be accepted at this stage. The said plea essentially introduces a defence based on disputed facts, which does not emanate from the averments made in the plaint and, therefore, cannot be considered while deciding an application under Order VII Rule 11 of the CPC. It is well settled that, for the purposes of Order VII Rule 11 of the CPC, the Court is required to confine itself strictly to the pleadings in the plaint and assume the same to be correct, without embarking upon an enquiry into their truthfulness or otherwise. The alleged suspension of licence and its legal effect on the plaintiff's rights are matters which would require evidence and adjudication at the stage of trial, and cannot be conclusively determined at the threshold. Furthermore, the plaint contains specific assertions regarding possession and alleged interference by the defendants, which *prima facie*, constitute a cause of action for seeking injunction. The defence sought to be raised by the petitioner cannot be used to displace such averments at this preliminary stage. Accordingly, the said contention falls outside the limited scope of inquiry under Order VII Rule 11 of the CPC and does not warrant rejection of the plaint.





15. In the considered view of this Court, The objection relating to undervaluation of the suit does not justify rejection of the plaint under Order VII Rule 11 of the CPC at the threshold. The determination of proper valuation, particularly in a suit for injunction, is not a purely legal domain but involves consideration of relevant factual aspects and applicable principles governing valuation of such reliefs. Order VII Rule 11(b) of the CPC clearly postulates that where a plaint is found to be undervalued, the Court is required, in the first instance, to afford an opportunity to the plaintiff to correct the valuation within a time to be fixed. Rejection of the plaint is contemplated only upon failure to comply with such direction. Thus, the statutory provision itself indicates that rejection is not an immediate consequence of an objection to valuation. In the absence of any finding that the valuation is *ex facie* arbitrary or contrary to any statutory provision, or that the plaintiff has failed to rectify the same despite a specific direction of the Court, the power of rejection of plaint cannot be invoked. The issue raised, therefore, does not fall within the limited scope of inquiry under Order VII Rule 11 of the CPC and has rightly not been accepted as a ground for rejection at this stage.

16. In view of the aforesaid analysis, this Court is of





the considered opinion that the learned Trial Court has not committed any jurisdictional error, illegality, or material irregularity in rejecting the application under Order VII Rule 11 of the CPC.

17. In view of the settled legal position that rejection of plaint under Order VII Rule 11 of the CPC is a drastic power to be exercised sparingly and only when the plaint, on the face of it, is barred by any law, this Court finds that the learned Trial Court has rightly refused to reject the plaint. The impugned order does not suffer from any jurisdictional error or material irregularity warranting interference in revisional jurisdiction. Accordingly, this Court is not inclined to interfere with the order under challenge, and the present civil revision application is liable to be dismissed.

18. As settled above that in revisional jurisdiction, interference is warranted only when the Subordinate Court has exercised the jurisdiction not vested in it, failed to exercise jurisdiction so vested, or acted with material irregularity. The impugned order, though concise, reflects consideration of the relevant aspects and does not suffer from jurisdictional error or perversity so as to warrant interference under Section 115 of the CPC. Since the plaint, on its face, discloses triable issues





requiring adjudication after full-fledged trial and evaluation of evidences, this Court is of the considered view that no such ground is made out to invoke the revisional power of this Court.

19. Accordingly, the present Civil Revision No. 85 of 2023 stands dismissed.

20. There shall be no order as to costs.

(Ramesh Chand Malviya, J)

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