

Reserved On : 11/12/2025
Pronounced On : 19/12/2025

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL REVISION APPLICATION NO. 22 of 2021

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

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Approved for Reporting	Yes	No
		✓
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RAVAL BHANUBEN BABUBHAI & ORS.

Versus

RASHMIKABEN DEEPAKBHAI DOSHI & ANR.

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Appearance:

MR JIGAR G GADHAVI(5613) for the Applicant(s) No. 1,2,3,4

MR DA SANKHESARA(5955) for the Opponent(s) No. 1

PRATIK K KHUBCHANDANI(8441) for the Opponent(s) No. 2

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CORAM: HONOURABLE MR. JUSTICE J. C. DOSHI

CAV JUDGMENT

1. The present Civil Revision Application, invoking the supervisory jurisdiction of this Court under Section 115 of the Code of Civil Procedure, 1908 (for the sake of brevity, “*the Code*”), is directed against the order passed below Exh.25 in Regular Civil Suit No. 3 of 2020, whereby the learned Additional Senior Civil Judge, Idar, has been pleased to reject the application preferred by the defendants under Order VII Rule 11 of the Code seeking rejection of the plaint.

A. BRIEF FACTS:-

2. Shorn of non-essential details, the relevant factual milieu of

the lis may be adumbrated thus: *The respondent No.1 – original plaintiff* instituted Regular Civil Suit No. 3 of 2020 before the learned Principal Senior Civil Judge, Idar, seeking the reliefs articulated therein. Upon issuance and service of notice, *the present applicants – original defendants Nos.1 to 4* – entered appearance and filed their written statement controverting the averments in the plaint. The applicants thereafter preferred an application under Order VII Rule 11 of the Code, *inter alia* contending that the suit was *ex facie* barred by limitation and, ergo, liable to be rejected at the threshold.

2.1. The said application was opposed by the respondent–plaintiff by filing a detailed reply. The learned Additional Senior Civil Judge, Idar, District Sabarkantha, *vide* order dated 20.11.2010, was pleased to reject the application below Exhibit 25. The applicants contend that the impugned order is wholly cryptic, perverse, and unsustainable in law, having been rendered in complete disregard of the settled principles governing the exercise of jurisdiction under Order VII Rule 11 of the Code. Aggrieved thereby, the applicants have invoked the revisional jurisdiction of this Court. Hence, the present application.

B. SUBMISSION OF THE REVISIONISTS:-

3. Learned advocate for the revisionists, while assailing the impugned order, commenced his submissions by contending that the plaint has been artfully, nay cleverly, drafted so as to project an illusory cause of action. It was urged that the entire edifice of the suit rests upon a purported irrevocable power of attorney allegedly executed by the late Babubhai Unilal Rawal, the predecessor-in-title of Defendant No.5 – Deepakbhai Shantilal Doshi.

3.1. Learned advocate further invited the attention of this Court to the pleadings in Paragraph 14 of the plaint, wherein it is averred that on 05.04.1993, the said Babubhai Unilal Rawal had executed an irrevocable power of attorney in favour of Shri Chandulal Khemraj Soni. Subsequent thereto, an unregistered sale deed is alleged to have been executed in favour of Defendant No.5 for a consideration of Rs.5,00,101/-, out of which an amount of Rs.1,11,101/- is stated to have been received, followed by a writing dated 06.04.1993.

3.2. Continuing the narration, learned advocate submitted that the plaintiff has further pleaded that Babubhai Unilal Rawal and his power of attorney, Chandulal Khemraj Soni, executed a Samjuti Karar (*settlement/writing*), pursuant to which the disputed land came to be converted into non-agricultural land. Thereafter, another power of attorney dated 24.07.1997 is alleged to have been executed by the said Babubhai Unilal Rawal in favour of Defendant No.5, on the strength of which the later is stated to have executed a registered banakhat.

3.3. Learned advocate for the revisionists then, with customary vehemence, submitted that the learned trial Judge has committed a manifest and substantial error of law in rejecting the application preferred under Order VII Rule 11 of the Code, without adhering to the governing principles of law relating to rejection of plaint. It was forcefully contended that the impugned order is vitiated by palpable non-application of mind, inasmuch as the learned Judge below has failed to consider the specific and germane grounds elaborated in the application at Exh.25, thereby rendering the impugned order ex facie unsustainable.

3.4. It was further urged that the learned trial Judge has traversed far beyond the permissible contours of scrutiny under Order VII Rule 11. The finding recorded to the effect that the alleged transaction concerning Survey No.70 emanates from a power of attorney dated 05.04.1993 executed by one Raval Babulal Chunnilal is, according to learned advocate, nothing but an impermissible appreciation of evidence. Such evaluative determination, learned advocate argued, is wholly alien to the narrow and circumscribed jurisdiction under Order VII Rule 11, wherein the Court is bound to confine itself strictly to the plaint averments and cannot, under any circumstance, undertake an evidentiary analysis.

3.5. To buttress his submissions, learned advocate for the revisionists placed reliance on the recent pronouncement of the Hon'ble Supreme Court in *M.S. Ananthamurthy v. J. Manjula & Ors., 2025 (0) AIJEL-SC 74806*, wherein the Court has reiterated the seminal principle that while adjudicating an application for rejection of plaint, the Court must not embark upon an enquiry into disputed facts or the veracity of documents.

3.6. Accordingly, learned advocate submitted that the impugned order, being fraught with observations amounting to premature adjudication on merits, stands indubitably vitiated on the touchstone of established jurisprudence relating to Order VII Rule 11. Ergo, it was fervently prayed that this Court may graciously allow the present Civil Revision Application and set aside the impugned order in the interest of justice.

C. SUBMISSIONS OF OPPONENTS:-

4. *Per contra*, learned advocate for the opponent opposed the revision with considerable vehemence, submitting that the edifice of the revisionists' challenge is fundamentally misconceived. It was contended that the plaint, when read as a whole in its proper factual milieu, indubitably discloses a substantive and triable cause of action, and the attempt of the revisionists to characterise the same as an "illusory cause of action" is an untenable oversimplification. Learned advocate submitted that the learned trial Judge has not, as alleged, indulged in any impermissible appreciation of evidence; rather, the references made to the documents were only to understand the nature of the transactions pleaded in the plaint—an exercise that is well within the circumscribed jurisdiction under Order VII Rule 11. Ergo, the impugned order does not suffer from any legal infirmity warranting interference.

4.1. Learned advocate further submitted that the revisionists seek to invoke the revisional jurisdiction of this Court by camouflaging disputed and contentious factual issues as threshold objections. It was urged that the plaint narrates a detailed chronology of events involving multiple powers of attorney, subsequent writings, and transactions pertaining to Survey No.70, all of which necessarily require adjudication at trial. The jurisdiction under Order VII Rule 11, learned advocate emphasised, cannot be stretched to stifle a suit at its inception merely because the defence perceives the claim to be weak or untenable. In absence whereof, the very foundation of civil adjudication—rooted in full-fledged adjudication of disputed facts—would stand compromised. Accordingly, it was prayed that the present Civil Revision Application be dismissed, affirming the well-reasoned order of the learned trial Judge.

D. ANALYSIS (RE LAW):-

5. At the very outset, reference may be made to the reliefs prayed for by the plaintiff in paragraph 15(a) of the plaint. The plaintiff asserts that, having paid the entire sale consideration, he is entitled to be declared the lawful owner of the various plots delineated in paragraph 6 of the plaint, forming part of Survey No. 70 of village Moje Gambhirpura, Taluka Idar. It is further urged/prayed that, should this Court conclude that execution of a sale deed is indispensable, a direction be issued to defendant Nos. 1 to 4, or in the alternative to defendant No. 5, to execute the requisite sale deed.

5.1. The deceased Babubhai Unilal Rawal, the original owner of land bearing Survey No. 70, executed an irrevocable Power of Attorney in favour of Chandulal Khemraj Soni on 05.04.1993. Pursuant thereto, a transaction of sale was undertaken without execution of a registered sale deed in favour of defendant No. 5 – Deepakbhai Shantilal Doshi. Though the total sale consideration was Rs.5,00,101/-, only an amount of Rs.1,11,101/- was received, and a contemporaneous writing evidencing the same was executed. Subsequently, as averred in the plaint, further amounts towards the sale consideration were paid by Deepakbhai Shantilal Doshi, and another writing acknowledging such payment was executed, whereafter Survey No. 70 was converted into non-agricultural land.

5.2. Upon, Chandulal Khemraj Soni declining to continue as the agent of Babubhai Unilal Rawal, a fresh irrevocable Power of Attorney was executed on 24.07.1997 in favour of Deepakbhai Shantilal Doshi. On the strength of the said irrevocable Power of Attorney, Mr. Doshi sold some plots to third party by executing registered sale deed. Based upon the authority vested in him under

the said Power of Attorney executed by late Babubhai Unilal Rawal, Deepakbhai Shantilal Doshi executed an Agreement to Sell in favour of the plaintiff on 14.12.2000 and presented it for registration. However, the Sub-Registrar found a deficiency in stamp duty, due to which the document was kept pending for registration.

5.3. In view of the aforesaid factual backdrop pleaded in the plaint, if one examines the contention canvassed by the learned advocate for the revisionists, it is urged that late Babubhai Unilal Rawal having expired in the year 2003, the agency stood terminated upon the death of the principal in terms of Section 201 of the Indian Contract Act, 1872. Ergo, the registration of the Banakhat in favour of the plaintiff in the year 2005 is asserted to be non est in the eye of law and incapable of conferring any enforceable right upon the plaintiff.

5.4. It merits particular notice that the Banakhat was executed on 14.12.2000 by Deepakbhai Shantilal Doshi, the registration whereof could not be effectuated at the relevant time owing to deficiency in stamp duty. Babubhai Unilal Rawal, who subsequently expired in 2003, never questioned nor impugned the execution of the said Banakhat dated 14.12.2000 in favour of the plaintiff. The registration ultimately came to be completed in the year 2005 upon removal of the stamp deficiency. Thus, the contention that the Banakhat was executed at a time when the agency had already stood terminated is, on the face of the record, wholly unsustainable.

5.5. In ***Kamla v. K.T. Eshwara, (2008) 12 SCC 661***, the Hon'ble Supreme Court has authoritatively held that Order VII Rule 11 CPC operates within a circumscribed and limited domain. For its

invocation, it must be demonstrably evident that the suit is barred by any law, and such conclusion must inexorably flow from the averments contained in the plaint alone. What is germane for the purpose of Rule 11(d) is strictly the plaint averments; there can be no addition to, or subtraction from, what is pleaded therein.

5.6. At this juncture, profitable reference may be made to the decision of the Hon'ble Supreme Court in *Liverpool & London S.P. & I Association Ltd. v. M.V. SEA SUCCESS, (2004) 9 SCC 512*, wherein the Apex Court expounded that a cause of action constitutes a bundle of essential facts which must be pleaded and ultimately proved for the purpose of securing the relief sought in the suit. What is required to be pleaded are material facts—not the evidence by which such facts are to be established.

5.7. It has been further held that an application under Order VII Rule 11 of the Code is, in essence, a plea in the nature of demurrer. Consequently, the defendant, who seeks rejection of the plaint, is obligated to accept the averments in the plaint as they stand and demonstrate to the Court either that such averments disclose a suit palpably barred by law, or that the purported cause of action is illusory, having been ingeniously structured under the veneer of clever drafting.

6. Recently, the Hon'ble Supreme Court, *in Karam Singh v. Amarjit Singh & Ors., 2025 SCC OnLine SC 2240*, in paragraph 15, has been pleased to enunciate the following authoritative dictum:-

“15. Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles

governing rejection of a plaint under Order 7 Rule 11 of CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear 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.”

6.1. The plaintiff has pleaded that he be declared the lawful owner of the remaining plots forming part of Survey No. 70. Thus, the plaintiff’s principal relief pertains to a declaration of ownership and consequential possession over certain plots. The plaintiff has further submitted, leaving it to the discretion of the Court, that should this Court deem execution of a formal sale deed to be indispensable, defendant Nos. 1 to 4 be mandatorily directed to execute the same in his favour.

7. The entire edifice of the plaintiff’s case, as emerges from a bare and unembellished reading of the plaint, is predicated on the assertion that late Babubhai Unilal Rawal had executed an irrevocable power of attorney in favour of Deepakbhai Shantilal Doshi. Acting pursuant to the authority conferred under the said instrument, Deepakbhai Shantilal Doshi is stated to have converted the agricultural land into non-agricultural land, alienated 22 plots, and thereafter executed a registered Banakhat in favour of the plaintiff on 14.12.2000, having been registered in the year 2005. The lis, therefore, pivots around a transaction effectuated on the strength of a power of attorney.

8. The pleadings sought to be assailed by the defendants through an application under Order VII Rule 11 of the Code manifestly raise issues which are quintessentially mixed questions of law and fact. A multitude of disputed factual aspects arise from the rival pleadings which cannot be adjudicated at the threshold without the parties leading cogent evidence. In light of the averments contained in the plaint, this Court is persuaded to hold that the learned Trial Court has committed no error, much less any jurisdictional infirmity, in declining to entertain the defendants' application under Order VII Rule 11 of the Code.

9. At this juncture, reference may fruitfully be made to the decision of the Hon'ble Supreme Court in *Babasaheb Ramdas Shirole & Ors. v. Rohit Enterprises & Ors., SLP (C) No. 16809 of 2025.*

10. In the aforesaid conspectus of circumstances, the issues raised by the defendants indubitably warrant adjudication upon appreciation of evidence.

E. ORDER:-

11. For the foregoing reasons, the present Civil Revision Application stands **dismissed**.

11.1. R & P of case shall be remitted to the concerned Trial Court forthwith. Interim relief, if any, stands vacated.

MANISH MISHRA

(J. C. DOSHI,J)