

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Revision No. 42 of 2022.

Reserved on: 14th November, 2025.

Decided on : 25th November, 2025.

Nek Mohammad & Ors.

.... Petitioners.

Versus

The Mather Cooperative Agriculture Service Society,
Bhalair

....Respondent.

Coram:

The Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?¹ Yes.

For the Petitioners: Mr. Atharv Sharma, Advocate.

For the Respondent: Mr. Surinder Saklani, Advocate.

Satyen Vaidya, Judge.

By way of instant revision petition, the petitioners/defendants have taken an exception to order dated 11.11.2019 passed by the learned Senior Civil Judge, Court No.1, Amb, District Una, H.P., whereby their

¹ Whether reporters of the local papers may be allowed to see the judgment?

application for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure has been dismissed.

2. It is relevant to notice here that the order impugned herein was assailed by the petitioners/defendants at the first instance by filing an appeal under Order 43 of the Code. The appeal was dismissed and thereafter the present petition was filed, however, during the pendency of this petition, the petitioners/defendants preferred an application bearing CMP(M) No. 340 of 2025 seeking condonation of delay in filing the instant revision petition against the order dated 11.11.2019 passed by the learned trial Court on the ground that the appeal had been preferred in the first instance under a bonafide mistaken belief, whereas the remedy by way of appeal was not available. The said application of the petitioners/defendants has been allowed by this Court on 14.11.2025.

3. The respondents/plaintiff has filed a suit against the petitioners/defendants for recovery of Rs.10,00,000/- as damages on account of defamation.

4. It is averred in the plaint that respondent/plaintiff is a Cooperative Society registered under the Himachal Pradesh Cooperative Societies Act. The respondent/plaintiff has been disbursing loans for agricultural purpose as part of its objectives. It is alleged that the petitioners/defendants No.1 and 2 had also availed loan facility on more than one occasion and in respect of the loan obtained by the said persons second time, there were defaults in payments. As per the respondent/plaintiff in order to avoid legal action for non-payment of loan amount, the defendants had indulged in making false complaints to the authorities and had thereby lowered the estimation of respondent/plaintiff in the eyes of its members and general public at large.

5. Respondent/plaintiff has taken a specific plea that petitioner/defendant had submitted false and baseless complaints to the Director General of Police, State Vigilance and Anti-Corruption Bureau, Himachal Pradesh on 16.06.2011 against the Secretary and Managing Committee of plaintiff. The said complaint was sent by the

Director General of Police, State Vigilance and Anti-Corruption Bureau, Himachal Pradesh to Directorate of Cooperative Societies, which further had sent the complaint to Assistant Registrar, Cooperative Societies, Una for inquiry and investigation. The said official had got the inquiry made through the Block Inspector, Cooperative Societies, Amb, District Una, who *vide* report dated 02.12.2012 submitted to the Assistant Registrar, Cooperative Societies, Una had exonerated the Secretary and office bearers of respondent/plaintiff from all charges.

6. It has further been alleged that the defendants No.1 and 2 had issued a notice to the Assistant Registrar, Cooperative Societies, Una through their counsel on 22.10.2011 in which again the same allegations were repeated. The allegations were again got verified through the District Inspector, Cooperative Societies, Una, who *vide* detailed report dated 08.06.2012 had given clean chit to the plaintiff/society.

7. As per the plaintiff, another complaint on the same allegations was made by defendant No.1 to Assistant

Registrar Cooperative Societies in the year 2016 which was sent to Block Inspector Cooperative Societies, Amb on 16.11.2016 and again *vide* report dated 01.12.2016, the plaintiff/society was exonerated of all charges.

8. Plaintiff has also averred that on the basis of complaint dated 16.03.2012 filed by the defendants under Section 156 of the Cr.P.C., FIR No.43/2012 was registered on 24.03.2012 at Police Station Amb, District Una, H.P. under Sections 420, 468, 471, 474 and 34 of the IPC. After investigation, the FIR was submitted for cancellation.

9. Another allegation in the plaint is that the defendants had got published in the newspaper “Una Kesari” dated 26.03.2012 and “Divya Himachal” on the same day, the contents of FIR No.43 of 2012 and thereafter had again caused loss of good will and reputation to plaintiff and besides loss of business etc.

10. The plaintiff has further averred that the inquiry reports dated 02.12.2012, 08.06.2012 and 01.12.2016 were not supplied to plaintiff and for such reason the plaintiff society did not come to know about the result of

said inquiries/investigations. As per the plaintiff, a resolution was passed by it on 10.02.2018 requesting the Assistant Registrar, Cooperative Societies, Una to supply the certified copies of the inquiry reports, which were collected by the Secretary of the plaintiff society on 03.04.2018 and thereafter, the Managing Committee of the plaintiff society in its meeting dated 10.04.2018 had decided to file the suit.

11. The plaintiff was instituted on 01.05.2018.

12. The defendants filed an application under Order 7 Rule 11 of the Code seeking rejection of the plaintiff on the ground that the suit was time barred. It was alleged that the complaints, on the basis of which the plaintiff allegedly had the cause of action, were dated 16.06.2011, 20.10.2011 and 02.11.2016, whereas the suit was filed on 03.05.2018 and thus the suit was barred by law of limitation as the period of limitation for filing the suit on the basis of publication of libel was one year from the date of publication.

13. The plaintiff-society had filed the reply to the application and submitted that the defendants had intentionally omitted to make reference to Section 12 of the Limitation Act whereunder the time spent in legal proceedings was required to be excluded. The plaintiff has reiterated that the inquiry reports were not made available to it and thus cause of action had arisen only after receipt of inquiry reports by it.

14. Learned trial Court has dismissed the application of the defendants on the ground that the cause of action as averred in the plaint was not merely on the basis of libel but was also on the basis of complaints/inquiries etc. It was further held that the question of limitation was a mixed question of facts and law and thus the plaint was not liable to be rejected.

15. I have heard learned counsel for the parties and have also gone through the entire record carefully.

16. It will be relevant to notice the prayer made in the suit by the plaintiff as under:-

“It is therefore prayed that a decree for recovery of Rs.10,00,000/- (Rupees Ten Lakh only) along with 10% interest per annum future interest as damages caused to plaintiff on account of defamation committed by defendants, of the Mather CAS Society office at Bhalair PS Amb Tehsil Amb Distt. Una plaintiff through its President Kewal Krishan against the defendants may kindly be granted in favour of the plaintiff with costs against the defendants in the interest of justice.”

17. Thus, there cannot be any doubt regarding the nature of claim made by the plaintiff. The plaintiff has sought damages on account of defamation. As noticed above, the defamation is stated to have been caused by the complaints, made by the defendants to different authorities on 16.06.2011, 22.10.2011, 16.11.2016 and 24.03.2012. Part-VII of the Schedule annexed to Limitation Act, 1963 deals with the suits relating to tort. Since, the plaintiff has

alleged defamation by publication libel, the suit of the plaintiff will be governed by Article 75 of the Limitation Act. According to said provision the limitation for filing the suit for compensation on libel is one year from the date when the libel is published.

18. Thus, the presentation of plaint on 01.05.2018 was not within one year from the date of any of the publications alleged in the plaint. Though, the plaintiff had claimed the accrual of cause of action on the date of receipt of certified copies of inquiry reports from the office of Assistant Registrar Cooperative Societies, Una, but the Limitation Act does not provide for any such event for computation of period of limitation.

19. Viewed from another angle; by alleging accrual of cause of action from the date of receipt of certified copies of inquiry reports, the plaintiff has tried to circumvent the provisions of Limitation Act by using clever and crafty drafting.

20. The cause of action, for the purpose of Order 7, Rule 11 of the Code, has to be ascertained from the con-

tents of plaint only. In ***Shakti Bhog Food Industries Ltd. v. Central Bank of India*, (2020) 17 SCC 260** Hon'ble Supreme Court has summarised the legal position as under:

6. The central question is: whether the plaint as filed by the appellant could have been rejected by invoking Order 7 Rule 11(d) CPC?

7. Indeed, Order 7 Rule 11 CPC gives ample power to the court to reject the plaint, if from the averments in the plaint, it is evident that the suit is barred by any law including the law of limitation. This position is no more res integra. We may usefully refer to the decision of this Court in *Ram Prakash Gupta v. Rajiv Kumar Gupta* (2007) 10 SCC 59. In paras 13 to 20, the Court observed as follows:

“13. As per Order 7 Rule 11, the plaint is liable to be rejected in the following cases:

‘(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of Rule 9;’

14. In *Saleem Bhai v. State of Maharashtra* (2003) 1 SCC 557 it was held with reference to Order 7 Rule 11 of the Code that:

‘9. ... the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power ... at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage....’

15. In *ITC Ltd. v. Debts Recovery Appellate Tribunal*, (1998) 2 SCC 70 it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. “The trial court must remember that if on a meaningful—not formal—reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise its power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the

first hearing by examining the party searchingly under Order 10 CPC.”

See *T. Arivandandam v. T.V. Satyapal* , (1977) 4 SCC 467

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in *Roop Lal Sathi v. Nachhattar Singh Gill* (1982) 3 SCC 487 , only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In *Raptakos Brett & Co. Ltd. v. Ganesh Property* (1998) 7 SCC 184 it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 Order 7 was applicable.

19. In *Sopan Sukhdeo Sable v. Charity Commr.* (2004) 3 SCC 137 this Court held thus:

‘15. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction or words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms

of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.’

20. For our purpose, clause (d) is relevant. It makes it clear that if the plaint does not contain necessary averments relating to limitation, the same is liable to be rejected. For the said purpose, it is the duty of the person who files such an application to satisfy the court that the plaint does not disclose how the same is in time. In order to answer the said question, it is incumbent on the part of the court to verify the entire plaint. Order 7 Rule 12 mandates where a plaint is rejected, the court has to record the order to that effect with the reasons for such order.”

8. On the same lines, this Court in *Church of Christ Charitable Trust & Educational Charitable Society v. Ponniamman Educational Trust* (2012) 8 SCC 706

“10. ... It is clear from the above that where the plaint does not disclose a cause of action, the relief claimed is undervalued and not corrected within the time allowed by the court, insufficiently stamped and not rectified within the time fixed by the court, barred by any law, failed to enclose the required copies and the plaintiff fails to comply with the provisions of Rule 9, the court has no other option except to reject the same. A reading of the above provision also makes it clear that power under Order 7 Rule 11 of the Code can be exercised at any stage of the suit either before registering the plaint or after the issuance of summons to the

defendants or at any time before the conclusion of the trial.

11. This position was explained by this Court in *Saleem Bhai v. State of Maharashtra* (2003) 1 SCC 557 , in which, while considering Order 7 Rule 11 of the Code, it was held as under:

‘9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court.’

It is clear that in order to consider Order 7 Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the court to scrutinise the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly

irrelevant and the matter is to be decided only on the plaint averments. These principles have been reiterated in *Raptakos Brett & Co. Ltd. v. Ganesh Property* (1998) 7 SCC 184 and *Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express*, (2006) 3 SCC 100 .

12. It is also useful to refer the judgment in *T. Arivandandam v. T.V. Satyapal* (1977) 4 SCC 467 , wherein while considering the very same provision i.e. Order 7 Rule 11 and the duty of the trial court in considering such application, this Court has reminded the trial Judges with the following observation: (SCC p. 470, para 5)

‘5. ... The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC. An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Chapter XI) and must be triggered against them.’

It is clear that if the allegations are vexatious and meritless and not disclosing a clear right

or material(s) to sue, it is the duty of the trial Judge to exercise his power under Order 7 Rule 11. If clever drafting has created the illusion of a cause of action as observed by Krishna Iyer, J. in the aboveresferred decision *T. Arivandandam v. T.V. Satyapal*, (1977) 4 SCC 467 , it should be nipped in the bud at the first hearing by examining the parties under Order 10 of the Code.”

9. We may also advert to the exposition of this Court in *Madanuri Sri Rama Chandra Murthy v. Syed Jalal* (2017) 13 SCC 174. In para 7 of the said decision, this Court has succinctly restated the legal position as follows:

“7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and

circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.”

21. In **Swamy Atmananda v. Sri Ramakrishna Tapovanam (2005) 10 SCC 51** Hon'ble Supreme Court has held as under:

“24. A cause of action, thus, means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but

includes all the material facts on which it is founded.”

22. Reiteration of same principles can be found in recent judgments passed by Hon’ble Supreme Court in ***Indian Evangelical Lutheran Church Trust Association Vs Sri Bala and Co. 2025 SCC Online SC 48*** and ***P. Kumarakurubaran Vs P Narayanan 2025 SCC Online SC 975***. It has been emphasized that where issue of limitation is mixed question of facts and law, the plaint should not be rejected, however, where from bare statement of facts disclosed in the plaint, the suit is found to be beyond limitation, courts are within jurisdiction to reject the plaint.

23. Coming back to the facts of the case, it is nowhere pleaded in the plaint that the plaintiff was not aware about the complaints made by the defendants against its Secretary and Office bearers. It is also not the case of the plaintiff that it was not aware about the inquiries/investigations conducted on the complaints of the defendants. Rather, it becomes evident from the documents relied upon by the plaintiff with the plaint that the plaintiff had the notice of the complaints made against

it and inquiry/investigations conducted thereon. Further, there also is no averment in the plaint that the plaintiff was not aware about the result of the inquiries/investigations.

24. Thus, the period of limitation under Article 75 of the Limitation Act would not get extended after expiry of one year from the date of publication of libel. It cannot be said that the complaints made by the defendants against the plaintiff had been subject matter of any legal proceedings. The inquiries conducted by the Directorate of Cooperative Societies through its office bearers cannot be said to be the legal proceedings. The plaintiff has not even provided the date on which the FIR No. 43 of 2012 was allegedly cancelled.

25. In light of what has been discussed above, there is no hesitation to hold that the suit of the plaintiff is not within limitation prescribed under Article 75 of the Limitation Act. The above conclusion is inevitable from the complete reading of the contents of the plaint. The plaintiff

even if proves all the averments in the plaint, the period of limitation will not get extended.

26. Thus, the impugned order cannot be sustained as learned trial court has erred in exercise of jurisdiction vested in it.

27. Accordingly, the instant petition is allowed and the order dated 11.11.2019 passed by the learned Senior Civil Judge, Court No.1, Amb, District Una, H.P., whereby the application for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure had been dismissed, is set aside. Consequently, the plaint is ordered to be rejected under Order 7 Rule 11 (d) of the Code of Civil Procedure, being barred by law of limitation.

28. The petition as also all pending miscellaneous application(s), if any, stand disposed of. Records be sent back forthwith.

(Satyen Vaidya)
Judge

25th November, 2025.
(jai)