

**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA****OMP No.385 of 2023 in Civil Suit
No.29 of 2023.****Reserved on : 1st September, 2025****Decided on : 28th November, 2025****Beverley Singh****.....Applicant/Plaintiff****Versus****Tejinder Singh & Another****.....Defendants***Coram:***The Hon'ble Mr. Justice Virender Singh, Judge.*****Whether approved for reporting?¹ Yes.***

For the Plaintiff : Mr. Neeraj Gupta, Senior Advocate
with Mr. Ajeet Pal Singh Jaswal,
Advocate.

For the Defendants : Mr. R.L. Sood, Senior Advocate with
Mr. Arjun Lal, Ms. Sanjeevani Sood
and Mr. Aakash Thakur, Advocates,
for defendant No.1/applicant.

Mr. Nitin Thakur, Advocate for
defendant No.2/Non-applicant.

Virender Singh, Judge

The order of mine shall dispose of the application,
filed by defendant No.1-Tejinder Singh, in Civil Suit No.29 of
2023, titled as Beverley Singh versus Tejinder Singh & Another,
under Order 7 Rule 11, read with Order 1 Rule 10, 6 and 151 of
the Code of Civil Procedure (hereinafter referred to as 'the CPC'),

¹

Whether reporters of Local Papers may be allowed to see the judgment?



for rejection of the plaint and in the alternative, deleting the name of defendant No.1/applicant from the array of parties.

2. Brief facts, leading to the filing of the present *lis*, before this Court, as borne out from the record, may be summed up, as under:-

2.1. Plaintiff-Beverley Singh, has filed the civil suit for Permanent Prohibitory Injunction, against the defendants, for the following substantive reliefs:-

a). the Defendant may be restrained from transferring, selling, encumbering, creating third party rights or alienating in any manner whatsoever the lands situated in Mohal Shilla, (Patwar Circle Shilla) Tehsil Dharamshala, District Kangra H.P. denoted by Khasra Nos. 470,498 and 499 (Kita-3) measuring 00-83-56 hecets to the extent of 4010880/1329/7396 share measuring 00-25-20 hecets. And Khata No. 132, Khatauni No. 175, Khasra No. 629/494, 495 and 496 (Kita-3) total land measuring 00-39-54 hecets to the extent of 1/66 share measuring 00-00-60 hecets, situated at Mohal Sheela, Mauza Sheela, Tehsil Dharamshala District Kangra H.P. as per jamabandi for the year 2012-2013 (total land measuring 00-25-00 hecets) and Khata No. 38, Khatauni No. 42, Khasra No. 526/1, 527, 529, 530, 1581/522, 1582/522, Kita -6 total land measuring 00-58-53 hecets (Salam); Khata No. 178, Khatauni No. 236, Khasra No. 52 land measuring 00-36-87 hecets (Salam); Khata No. 230, Khatauni No. 297, Khasra No. 519, total land measuring 588753/2644224 share measuring 00-07-67 hecets; Khata No. 231, Khatauni No. 298, Khasra Nos. 523,524, 1579/522 (Kita-3) total land measuring 00-64-34 hecets to the extent of 1297/3217, total land measuring 00-41-53 hecets to the extent of 3001/4155 share measuring 00-30-01



hects to the extent of 640/1561 share measuring 00-19-20 hecsts situated at Mohal Sukkar, Khas, Mauza Sukkar, Tehsil Dharamshala, District Kangra H.P. as per jamabandi for the years 2013-2014 (total land measuring 02-05-75 hecsts) issued by the Halqa Patwari Shilla;

AND

The land situated in Mohal Dhyal, Mauza Dhyal, Patwari Circle Kajlot, Tehsil Dharamshala District Kangra H.P. which land is comprised in Khata No. 36, Khatauni No. 97 to 100, Khasra Kita 32 total land measuring 01-75-22 hecsts to the extent of 52566/1103886 share measuring 00-08-34 hecsts, Khatra No. 85, Khatauni No. 247, Khasra Kita 17 total land measuring 00-76-83 hecsts to the extent of 6/19 share measuring 00-24-26 hecsts. Khata No. 87, Khatauni No. 249, 250 Khasra Nos. 501, 503, 507, 509, 502, 504, 508, Kita 7 total land measuring 00-13-02 hecsts to the extent of 339/1302 share measuring 00-03-39 hecsts, Khasra No. 91, Khatauni No. 254 to 256, Khasra Nos. 466, 468, 469, 273, 474, 487, 488, 492, 496, 510, 511, 515, 516, 412, 414, 467, 475, 480, 500, 505, 506, Kita 21 total land measuring 00-57-83 hecsts to the extent of 26528628/173749794 share measuring 00-08-83 hecsts; Khata No. 92, Khatauni No. 257 to 265; Khasra Kita 30 total land measuring 00-68-86 hecsts to the extent of 31871/70561 share measuring 00-31-10 hecsts; Khasra No. 93 Khatauni No. 266, Khasra Nos. 439, 411 (Kita-2) total land measuring 00-25-01 hecdts to the extent of 256/1296 share measuring 00-04-94 hecsts situated at Mohal Dhyal, Mauza & Tehsil Dharamshala District Kangra H.P. as per jamabandi for the years 2015-2016 total all Khatas area land measuring 00-80-86 hecsts issued by the Halqua Patwari Kajlot;

OR

Any other lands which may have been settled/gifted by the defendants to the plaintiff either themselves or by utilizing any General Power of Attorney or other documents of the plaintiff which defendant No.1 may



have obtained surreptitiously and fraudulently from the plaintiff or by using any General Power of Attorney in respect of lands in Tehsil Dharamshala District Kangra H.P.

b). The defendant No.2 may be restrained from transferring, selling, encumbering or alienating in any manner whatsoever the land in Mauja Shilla, Tehsil Dharamshala District Kangra H.P. described hereinabove which has been settled/ gifted to the plaintiff by the defendant No. 1 either by himself or by authorizing defendant No.1 under a General Power of Attorney executed in his favour.”

3. By way of the present application, it has been pleaded that as per the prayer clause of the suit, relief of Permanent Prohibitory Injunction has been sought against the defendants from transferring, selling, encumbering, creating third party rights or alienating in any manner whatsoever, which is subject matter of the suit.

4. The applicant further pleaded that as per the plaint, it has been admitted by the plaintiff/non-applicant that defendant No.1, is not the owner of the suit property and suit property was stated to be settled by defendant No.1, in favour of defendant No.2, by way of settlement deed dated 29.07.2015, as per the details given in para 20 of the plaint. Defendant No.1, in order to get the relief, as claimed, in the present application, has also relied upon the order dated 21.07.2023, passed by this



Court, while deciding the question of inherent jurisdiction. In this regard, defendant No.1, has relied upon paragraphs 19 and 23 of the said order.

5. Relying upon the averments, as made, in the plaint, it is the case of the applicant that he is not owner of the suit property and as per the pleadings, defendant No.2, is owner-in-possession and is in use and occupation of the same from 29.07.2015, onwards. As such, according to defendant No.1, he has nothing to do with the subject matter of the *lis*. He can neither sell, transfer or encumber the same, nor, he can create any charge over it.

6. On the basis of the above facts, it has been pleaded that there is no question of defendant No.1, attempting to transfer, alienate or creating any charge over of the property of defendant No.2, in any manner.

7. According to the applicant/defendant No.1, plaintiff herself has admitted that the suit land was transferred by way of a settlement deed, dated 29.07.2015, in favour of defendant No.2, and thereafter, defendant No.2, has become exclusive owner-in-possession and is in exclusive possession of the suit land. The settlement deed dated 31.08.2021, is stated to be of



no avail, as the same does not confer any right, title or interest, in favour of the plaintiff, as after 29.07.2015, when the first settlement deed was executed and registered in favour of defendant No.2, defendant No.1 could not settle the suit land, in favour of the plaintiff, as, he was not owner-in-possession of the suit land at that time.

8. It is the further case of defendant No.1 that even injunction cannot be granted in favour of defendant No.2, who, is in possession of the suit land, since 29.07.2015. Although, objections, qua pecuniary jurisdiction has been taken, however, the said issue has already been decided, by this Court, on 19.08.2025. As such, it has been contended that applicant/defendant No.1, has wrongly been arrayed as one of the defendants, in the suit.

9. On the basis of the above facts, following prayers have been made, in the application.

- a) *Reject the plaint after holding that no cause of action has arisen or could be said to have arisen in favour of the plaintiff against defendant No.1 since he is not the owner nor is he in owner in possession of the property. Further since he cannot transfer any title or interest in the suit property, which is exclusively owned and possessed by defendant No. 2 after execution and registration of settlement deed dated 29.07.2015, in her favour. Also as the plaintiff herself has no right, title or interest in the suit property, since, defendant No. 1 could not transfer the suit land*



or any interest, title or rights in her favour on 31.07.2021, as he was not the owner in possession of the suit property at that point of time.

- b) In the alternative, order the deletion of the name of defendant No.1 applicant from the array of parties and dismiss the suit of the plaintiff.*
- c) Reject the plaint, since no suit for injunction lies against the defendant No.2, as well, who is admittedly the registered /recorded owner in use and occupation of the property since 29.07.2015.”*

10. When put to notice, plaintiff has filed the reply, by taking the preliminary objections that the application is not maintainable, being moved with a view to delay the proceedings. Elaborating this objection, it has been pleaded that defendant No.1-applicant put appearance in the suit, through counsel, on 18.05.2023 and raised objections with regard to maintainability of the suit. The permission, which has been granted to him by the Court to raise preliminary objections, is stated to have completely been misused by defendant No.1.

11. It is the further case of the plaintiff/non-applicant that defendant No.1, has filed reply to OMP No. 210 of 2023, in which, he has raised objections with regard to the maintainability of the suit. The application was decided on 21.07.2023, rejecting the objections raised by defendant No.1/applicant and the suit of the plaintiff is held to be maintainable.



Thereafter, instead of filing written statement, he filed the present application, with *mala fide* intention, asserting the fact that objections raised by defendant No.1, have already been rejected by this Court, vide order dated 21.07.2023. The application is stated to be abuse of process of law.

12. According to the plaintiff/non-applicant, a composite application, under Order 7 Rule 11 and Order 1 Rule 10 CPC is not maintainable. Highlighting the fact that defendant No.1, could not bring his case, in any of the clauses of Order 7 Rule 11 of the CPC, it is the case of the applicant that the application is misconceived and not maintainable.

13. The application has further been contested on the ground that a reading of the plaint, coupled with the record of rights, would reveal that suit property is still recorded under the ownership of defendant No.1. The settlement deeds executed in favour of the plaintiff/non-applicant are of the similar nature and of same land/property, as, have been executed in favour of defendant No.2.

14. It is the further case of plaintiff/non-applicant that although, defendant No.1, has executed the settlement deeds, in favour of the plaintiff and defendant No.2, but, upon reading the



recitals of both the settlement deeds, it would be evident that defendant No.1, has retained the power, authority and control of the properties, under the settlement deeds with himself and under various recitals of the same, he continues to exercise full authority, over this property.

15. On the basis of the recitals in both the settlement deeds, it has been pleaded that defendant No.1, has rightly been arrayed as party in the present suit. Moreover, his impleadment as defendant, in the present *lis*, is also stated to be based upon the fact that defendant No.1 has created an embargo/restriction in the documents, and the embargo/restriction, was being misused by him. As such, present application has been filed.

16. Reiterating the fact that the objections have already been rejected, by this Court, vide order dated 21.07.2023, a plea of estoppel has been taken.

17. On merits, the application has been contested on the ground that defendant No.1, is being reflected to be owner of the suit land, in the revenue record, despite the fact that he has executed the settlement deeds. In this regard, plaintiff has further pleaded that as per settlement deed, dated 29.07.2015, executed by defendant No.1, in favour of defendant No.2,



defendant No.1, continues to exercise all rights, control and authority, to deal with the land, which is subject matter of the settlement deed.

18. It is the further case of the plaintiff/non-applicant that defendant No.1, has been indulged in executing the documents, as per his convenience, as regarding the same property, he has executed the settlement deed in favour of the plaintiff, as well as, defendant No.2. Defendant No.1, has made similar transactions.

19. The application has further been contested on the ground that defendant No.2, has also been shown to be the owner of the same land, for which, the plaintiff has given a right. Defendant No.1, is stated to unnecessarily complicating the matter by taking objections, on behalf of defendant No.2, who is yet to be served in the suit.

20. Lastly, a prayer has been made to dismiss the application.

21. At the time of deciding the application, only the averments in the plaint and the documents filed, in support thereto, could be examined. In this regard, it is apt to rely upon the decision of Hon'ble Supreme Court in ***Dahiben versus Arvindbhai Kalyanji Bhanusali (Gajra) dead through legal***



representatives, 2020 7 Supreme Court Cases, 366.

Relevant paragraphs 23.2 to 23.15, of the judgment, are reproduced, as under:-

23.2. The remedy under Order VII 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.

23.3. The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

23.4. In Azhar Hussain v. Rajiv Gandhi¹³ this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p.324, para 12)

“12. ...The whole purpose of conferment 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 an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”



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

23.6. Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint¹⁴ read in conjunction with the documents relied upon, or whether the suit is barred by any law.

23.7. Order VII Rule 14(1) provides for production of documents, on which the plaintiff places reliance in his suit, which reads as under:

“14. Production of document on which plaintiff sues or relies.–

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.



(4)Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory." (emphasis supplied)

23.8. Having regard to Order VII Rule 14 CPC, the documents filed alongwith the plaint, are required to be taken into consideration for deciding the application under Order VII Rule 11(a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

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.

23.11. The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V.Sea Success I which reads as : (SCC p.562, para 139)

"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed."



23.12. In *Hardesh Ores (P.) Ltd. v. Hede & Co.* 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.*

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 VII Rule 11 CPC.

23.14. The power under Order VII Rule 11 CPC may be exercised by the Court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of *Saleem Bhai v. State of Maharashtra*. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in *Azhar Hussain (supra)*.

23.15. The provision of Order VII Rule 11 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.

22. The decision of Hon’ble Supreme Court in ***Dahiben’s*** case was further relied upon, in the decision of Hon’ble Supreme Court in ***RBANMS Educational Institution versus B. Gunashekar & Another, 2025 SCC Online SC 793.*** Relevant



paragraphs 14.1, 15.2.4 and 15.2.5, of the judgment, are reproduced, as under:-

“14.1. Thus, it is clear that the above provision viz., Order VII Rule 11 CPC serves as a crucial filter in civil litigation, enabling courts to terminate proceedings at the threshold where the plaintiff's case, even if accepted in its entirety, fails to disclose any cause of action or is barred by law, either express or by implication. The scope of Order VII Rule 11 CPC and the authority of the courts is well settled in law. There is a bounden duty on the Court to discern and identify fictitious suit, which on the face of it would be barred, but for the clever pleadings disclosing a cause of action, that is surreal. Generally, sub-clauses (a) and (d) are stand alone grounds, that can be raised by the defendant in a suit. However, it cannot be ruled out that under certain circumstances, clauses (a) and (d) can be mutually inclusive. For instances, when clever drafting veils the implied bar to disclose the cause of action; it then becomes the duty of the Court to lift the veil and expose the bar to reject the suit at the threshold. The power to reject a plaint under this provision is not merely procedural but substantive, aimed at preventing abuse of the judicial process and ensuring that court time is not wasted on fictitious claims failing to disclose any cause of action to sustain the suit or barred by law. Therefore, the appeal before us requires careful consideration of the scope of rejection of the plaint under Order VII Rule 11 CPC, particularly, in the context of the suit filed based on an agreement to sell against third parties in possession.

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15.2.4. Further, the respondents are not in possession of the property. Whereas, the appellant's possession since 1905 is admitted in the plaint itself. In such circumstances, where the plaintiffs are not in possession and the defendant is in settled



possession for over a century, a suit for bare injunction by a proposed transferee is clearly not maintainable. Section 41(j) of the Specific Relief Act, 1963 prohibits grant of injunction when the plaintiff has no personal interest in the matter. In the present case, the respondents, being mere agreement holders, have no personal interest in the suit schedule property that can be enforced against third parties. The “personal interest” is to be understood in the context of a legally enforceable right, as when there is a bar in law, the mere existence of an interest in the outcome cannot give a right to sue. As held by us above, no declaratory relief has been sought as contemplated under Section 34 of the Specific Relief Act, 1963. This principle was clearly established in *Jharkhand State Housing Board (supra)*, in which, this Court emphasized that where title is in dispute, a mere suit for injunction is not maintainable. The relevant portion of the said judgment is reproduced hereunder:-

“11. It is well settled by catena of judgments of this Court that in each and every case where the defendant disputes the title of the plaintiff it is not necessary that in all those cases plaintiff has to seek the relief of declaration. A suit for mere injunction does not lie only when the defendant raises a genuine dispute with regard to title and when he raises a cloud over the title of the plaintiff, then necessarily in those circumstances, plaintiff cannot maintain a suit for bare injunction.”

15.2.5. Yet another defect in the plaint is regarding the identity of the property. The respondents/ plaintiffs, as seen above, have admitted to the possession of the appellant over the suit property. The plaint, on one hand, raises a dispute as to whether the property claimed by the respondents is the same as that possessed by the appellant, and on the other hand, seeks only a relief of permanent injunction restraining the appellant/ defendant from alienating the property, without seeking a



declaration affirming the title of their vendors. The entitlement of the plaintiffs to the possession rests on the title of their vendors and it is not an independent right. Without possession and without seeking a declaration of title, not only is the suit barred but the cause of action is also fictitious.”

(self emphasis supplied)

23. In view of the decision of Hon’ble Supreme Court, as referred to above, now, this Court, would proceed further to consider the fact whether plaint could be rejected, at this stage, or not.

24. The learned Senior Advocate appearing for defendant No.1, has relied upon the decision of this Court, rendered in the present case on 21.07.2023 and argued that the execution of the settlement deed has been held to be admitted and it has been held on the basis of the stand taken by the plaintiff that defendant No.2, has created it prior to the settlement deed dated 31.08.2021, which has been relied upon by the plaintiff.

25. The plaintiff in para 10 has pleaded that defendant No.1 has executed settlement deeds in favour of the plaintiff on 31.08.2021. The plaintiff has annexed the settlement deeds dated 31.08.2021, along with the plaint. The settlement deeds as a registered document, registered with Sub-Registrar, Dharamshala. Relying upon the said settlement deeds, learned



counsel for the plaintiff has pointed out that as per the term and condition No.1, the owner has transferred the land in favour of the plaintiff, however, by way of stipulation, at Serial No.7, complete embargo has been put upon the rights of the plaintiff to deal with the property, settled vide settlement deeds dated 31.08.2021.

26. Both the settlement deeds contain the same conditions. The plaintiff has also placed on record the GPA executed, by the plaintiff, in favour of defendant No.1, on 31.08.2021.

27. Apart from the said GPA, Mrs. Beverley Singh, plaintiff has also executed a Will in favour of defendant No.1, on the same day. GPA dated 31.08.2021, has been got cancelled by the plaintiff on 09.02.2023. In paragraph 20 of the plaint, it has been pleaded that defendant No.1, executed settlement deed in favour of defendant No.2, on 29.07.2015.

28. The present suit has been filed under Order 7 Rule 11 and Order 1 Rule 10 CPC. Under Order 7 Rule 11 CPC, a prayer has been made to reject the plaint and in the alternative, under Order 1 Rule 10 CPC, a prayer has been made to delete the name of defendant No.1, from the array of parties.



29. First of all, coming to the prayer as made, under Order 7 Rule 11, it seems that the applicant has sought the rejection of the plaint on the ground that no cause of action has accrued, in favour of the plaintiff against defendant No.1. This relief has been sought on the ground that as per the stand taken by the plaintiff, suit property, already has been recorded in the revenue record, in the name of defendant No.2, on account of settlement deed dated 29.07.2015.

30. In addition to this, it has also been pleaded in paras 20 and 21 of the plaint that defendant No.2, is also owner of the suit land. This fact has been highlighted by the learned Senior Counsel appearing on behalf of the applicant/defendant No.1, to demonstrate that when the settlement deed has allegedly been executed in favour of the plaintiff, as well as, defendant No.2, then, the plaintiff has no cause of action against defendant No.1. Hence, the rejection of the plaint has been sought.

31. The plaintiff has filed the suit for Permanent Prohibitory Injunction, restraining the defendants from selling encumbering or alienating in any manner or creating third party right over the property, which is subject matter of the suit.



32. It is no longer *res integra* that while deciding application, under Order 7 Rule 11 CPC, only the averments, as made in the plaint, as well as, accompanying documents, produced by the plaintiff are to be considered.

33. The plaintiff has taken a stand in para 10 of the plaint, by pleading that defendant No.1 has executed a settlement deed, in favour of the plaintiff, in respect of the land in Mohal Shilla, as well as, the suit land situated in Mohal Dhyal, Mauja Dhyal, Tehsil Dharamshala, District Kangra and in para 11 of the plaint, it has been asserted that under the terms of both the settlement deeds, the plaintiff had no right to alienate, sell, mortgage, exchange, gift, lease or encumber the above mentioned land, without consent of defendant No.1.

34. As per the averments, as made in para 20 of the plaint, it has been pleaded that revenue record continues to appear in the name of defendant No.1, as such, he may adopt the similar modus-operandi with defendant No.2 and after gifting the same landed property in favour of defendant No.2, has obtained GPA, as well as, irrevocable Wills in respect of these very properties in his own favour by coercing defendant No.2. Defendant No.2, has not been impleaded as proforma



defendant, in the present case, as such, once, as per the documents, relied upon by the plaintiff, settlement deeds executed, in her favour, by defendant No.1, in that eventuality, the cause of action for the relief as sought does not arise, in favour of the plaintiff and against defendant No.1.

35. Situation would have been otherwise, had the present suit been filed as 'suit for declaration', challenging the terms and conditions of the settlement deeds, which, according to the plaintiff, are creating restrictions on the enjoyment of the property as owner. Once, the settlement deeds have been executed in favour of the plaintiff as pleaded, then merely name of defendant No.1, appeared in the revenue record is of no value as the revenue record is not the proof of title. As per the documents relied upon by the plaintiff, both the settlement deeds are registered documents.

36. Learned senior counsel appearing for the plaintiff, could not satisfy the judicial conscience of this Court, as to how the alleged apprehension of the plaintiff qua the fact that on the basis of the documents executed by defendant No.1, in favour of plaintiff and defendant No.2, he could sell, transfer, encumber or alienate the suit land, when he has already executed the



settlement deeds in favour of the plaintiff, as per her pleaded case.

37. In the present suit, the plaintiff is claiming conflicting claims, as, on the one hand, she has taken a plea that defendant No.1, has executed the settlement deeds, in her favour and the GPA executed by her in favour of defendant No.1, stood already revoked, as per the documents annexed with the plaint, then, the vague averments qua the fact that defendant No.1, on the basis of the various blank papers and signed documents, which have been executed, by the plaintiff, in favour of defendant No.1, may sell, transfer or encumber the suit property, cannot be accepted. The contradictory stand taken, by the plaintiff, in the plaint, cannot be said to be inconsequential, but, the same demonstrates that the plaintiff is having no cause of action to file the present suit.

38. The term “Cause of Action” although, has not been defined in the CPC, but, in view of the settled proposition of law, the same makes every fact which would be necessary for the plaintiff to prove, in support of her right to get judgment in her favour. In other words, cause of action consists of a bundle of material facts, which are necessary for the plaintiff to prove in



order to entitle the plaintiff to the relief claimed. In order to ascertain the fact as to whether the plaintiff is having the cause of action in her favour, the averments, as made in the plaint and further the relief claimed, must be considered to find out the real nexus with the cause of action pleaded.

39. At the cost of repetition, it can be said that at the time of deciding application, under Order 7 Rule 11 CPC, only pleadings, as made in the plaint, as well as, the accompanying documents, produced by the plaintiff, are to be considered.

40. In this case, it is the case of the plaintiff, as pleaded in paragraph 20 of the plaint that defendant No.1, had executed a settlement deed in favour of defendant No.2.

41. Learned Senior counsel appearing for the plaintiff/non-applicant, could not satisfy the judicial conscience of this Court, as to how the cause of action for filing the present suit arose on 31.08.2021, when defendant No.1, executed a settlement deed in favour of the plaintiff. How the execution of the settlement deed could give a cause of action to the plaintiff, has not been explained in the plaint.

42. Moreover, the plaintiff has filed simplicitor suit for injunction, restraining the defendants from transferring, selling,



encumbering, creating third party rights or alienating, in any manner, whatsoever, qua the suit land, whereas, it is her pleaded case that the settlement deeds were executed, in his favour, on 31.08.2021.

43. In the plaint itself, the plaintiff has made a roving inquiry, by pleading that defendant No.1, by utilization of the General Power of attorney, in respect of the land, which defendant No.1, may have obtained, in his favour, from the plaintiff, may alienate the suit land. Moreover, no overt act has been pleaded in the plaint, which gives a cause of action to the plaintiff to file the present suit. It seems that the cause of action, as pleaded in paragraph 24 is illusory and not real.

44. Paragraph 24 of the plaint, in which, the cause of action, has been pleaded, is reproduced, as under:-

“That the cause of action for filing the present suit arose on 31.8.2021, when the defendant No.1 executed a settlement deed dated 31.8.2021 in favour of the plaintiff, whereby the lands at Mohal Shilla, Mohal Sukkar and Mohal Dhayal in Tehsil Dharamshala District Kangra H.P. described hereinabove was settled/gifted by the defendant No. 1 in favour of the plaintiff. The cause of action to file the present suit further arose when the defendant No.1 increased his acts of Domestic violence and harassment against the plaintiff and as a result, the plaintiff was forced to file a complaint under Section 12 of the Domestic Violence Act against the defendant No.1. The cause of action further arose when the defendant No.1 filed a suit before the Ld. Family Court at Shimla and by misstating and suppressing



facts obtained an ex-parte injunction order against the plaintiff restraining her from entering her marital/share household at Knollswood Estate Chotta Shimla, District Shimla (East). The cause of action further arose in the past three months when defendant No.1 is threatening to dispose of, alienate, transfer or encumber the lands at Mohal Shilla, Mohal Sukkar and Mohal Dhayal in Tehsil Dharamshala District Kangra H.P. which have been settled/gifted in favour of the plaintiff by defendant No.1. The cause of action continues to arise till the filing of the present suit.”

45. How the alleged act of domestic violence and alleged harassment to the plaintiff can be cause of action for filing the suit for Permanent Prohibitory Injunction, that too, only restraining the defendants from transferring, selling, encumbering, alienating, in any manner, whatsoever, or creating third party rights over the suit land.

46. In view of the above, it can be said that the plaintiff is having no cause of action, against the defendants for filing the present suit. As such, applicant/defendant No.1, is able to successfully bring his case under the purview of Order 7 Rule 11-D of the CPC, in the present case.

47. Apart from the applicant, another defendant Ms. Piya Singh, has been impleaded as defendant No.2 and by way of relief clause ‘(b)’, a prayer has also been made to restrain defendant No.2, from transferring, selling, encumbering or



alienating, in any manner, whatsoever, the land in Mauja Shilla, Tehsil Dharamshala District Kangra H.P. Said defendant No.2, has not filed any application. As such, the suit, in toto, cannot be rejected and it is also the settled law that under Order 7 Rule 11 CPC, the suit cannot be rejected against only one defendant, if there are more than one defendants. In such situation, the alternative prayer, as made, in the application is liable to be accepted, which is under Order 1 Rule 10 CPC.

48. Consequently, the application is partly allowed and by exercising the powers, under Order 1 Rule 10 CPC, the name of defendant No.1, is ordered to be deleted from the array of the parties. Registry is directed to make necessary correction in the cause title of the suit.

49. Application stands disposed of accordingly.

Civil Suit No.29 of 2023

50. List on **19th December, 2025.**

(Virender Singh)
Judge

November 28, 2025 (ps)