

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Revision Petition No. 358/2025

Babulal Mali Son Of Hajari, Aged About 55 Years, Resident Of
Truck Union, Rajiv Colony, Gangapur City.

-----Petitioner

Versus

1. Afsar Qureshi Son Of Abdul Rasid Qureshi, Aged About 38
Years, Resident Of Islampur Nahar Road, Gangapur City.
2. Altaf Son Of Nijam Qureshi, Aged About 41 Years,
Resident Of Qureshi Islampur, Nahar Road, Gangapur
City.
3. Sub Registrar, Gangapur City.
4. Tehsildar, (Land Holder), Tehsil Gangapur City.
5. State Of Rajasthan, Through District Collector, Gangapur
City.

-----Respondents

For Petitioner(s) : Mr. Ram Niwas Saini,
Ms. Nirmala Kushwah

For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

25/02/2026

1. The present revision petition has been filed by the petitioner
with a delay of 139 days, for which an explanation has been
furnished in the civil miscellaneous application (IA No. 476/2026)
filed under Section 5 of the Limitation Act, 1963.
2. For the reasons mentioned in the application, the same is
allowed, and the delay of 139 days in filing the present revision
petition is condoned.

3. While impugning the order dated 28.02.2025, passed by learned Additional District & Sessions Judge No.2, Gangapur City in Civil Suit No.07/2024 titled as '*Afsar Qureshi & Ors. Vs. Babulal & Ors.*', whereby the application filed by the petitioner/defendant No.1 under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC), was rejected; learned counsel for the petitioner submits that the suit for specific performance of the agreement to sell dated 18.03.2023, filed by the plaintiffs/respondents, is liable to be rejected under Order 7 Rule 11 of CPC, as the plaint fails to properly disclose a cause of action.

4. He further submits that under the agreement dated 18.03.2023, the plaintiffs/respondents were required to make the balance payment up to 20.11.2023, which they did not, therefore the suit filed by the plaintiffs/respondents is barred by Section 16 of the Specific Relief Act, 1963. He further submits that the present suit is also barred by limitation as the suit has been filed after the prescribed period of limitation; he therefore prays that the revision petition may kindly be allowed, and the impugned order dated 28.02.2025 may kindly be quashed and set aside, and appropriate orders be passed.

5. Heard and considered the submissions made by learned counsel for the petitioner, perused the material available on record, the copy of the application filed under Order 7 Rule 11 of CPC, and the reply thereto.

6. It would be apt to reproduce Order 7 Rule 11 of CPC, which reads as under :-

"Rejection of plaint - The plaint shall 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.

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.] "

7. From the averments in the plaint, it is evident that the present suit for specific performance pertains to the agreement to sell dated 18.03.2023. In the plaint, the plaintiffs/respondents have averred that they were always ready and willing to perform their part of the contract, but the defendant delayed its execution.

8. Further, even otherwise, the fact as to whether the plaintiffs/respondents were ready and willing to perform their part of the contract, law, and is a mixed question of fact and law, and cannot be looked into at the stage of considering an application under Order 7 Rule 11 of CPC. In para 9 of the plaint, they have disclosed a valid cause of action for filing the suit, and the suit has been instituted within three years from the date of the agreement.

9. Thus, it cannot be said that the suit is barred by limitation. In the totality of the facts and circumstances, the suit for specific

performance cannot be held to be barred by law or filed without a cause of action. Therefore, the arguments advanced by learned counsel for the petitioner cannot be accepted.

10. Apart from the above, this Court is of the considered opinion that the impugned order dated 28.02.2025 does not suffer from any jurisdictional error, perversity, or any legal infirmity so as to warrant any interference by this Court under the jurisdiction conferred under Section 115 of the Code of Civil Procedure, 1908.

11. Accordingly, the present Civil Revision Petition fails and is hereby dismissed.

12. The stay application and all other pending applications, if any, including IA No. 476/2026, also stand disposed of.

(MANEESH SHARMA),J