



2026:UHC:2160

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
	25.03.2026		<p data-bbox="691 376 995 405">WPMS No.539 of 2026</p> <p data-bbox="691 427 1243 465"><u>Hon'ble Rakesh Thapliyal, J.</u></p> <p data-bbox="691 495 1481 651">Heard Mr. Dileep Chandra Mathur, learned counsel for the petitioner and Mr. Sahil Mullick, learned counsel for the respondent.</p> <p data-bbox="691 680 1481 1547">2. The petitioner is defendant in Civil Suit No.67 of 2021 and aggrieved by the order rejecting application moved under Order 7 Rule 11 of the C.P.C. against which revision was filed which was also dismissed now. Instant petition has been preferred under Article 227 of the Constitution of India challenging both the order. The order rejecting the application moved under Order 7 Rule 11 was also affirmed by the Revisional Court.</p> <p data-bbox="691 1603 1481 2056">3. It is argued by the learned counsel for the petitioner that a specific plea was taken in the application moved under Order 7 Rule 11 of CPC that the suit filed by the respondent/plaintiff is barred by Section 6 of the Societies Registration Act, 1860, since,</p>



the plaintiff of the suit in-question is not authorised to institute the suit.

4. Mr. Sahil Mullick, Learned Counsel for the respondent – plaintiff submits that in para no.1 of the plaint, a specific averment has been made that the plaintiff is the authorised representative of the society, who is authorised by resolution of the Society dated 06.08.2021 which is purely a question of fact and is the subject matter of the trial and on this ground alone plaint cannot be rejected. He also pointed out that the earlier plaintiff of the suit is now replaced by another authorised representative Mr. Gautam Kumar, who is also authorised by the trustee of the trust of the plaintiff society.

5. This Court is fully agree with the submissions advanced by the learned counsel for the respondent that “whether the plaintiff of the present suit is authorised representative of the society or not and have a locus to institute the suit is purely a



question of fact and law and is the subject matter of the trial which cannot be touched in to under Order VII rule 11 CPC”.

6. In such view of the matter, with the consent of learned counsel for the parties, the instant writ petition is disposed of finally with the direction to the court concerned to proceed with the trial by framing a preliminary issue with regard to locus of the plaintiff to institute the suit and decide the preliminary issue without being influenced with the impugned order and then proceed with other issues. So far as cost is concerned, the same shall be in abeyance and will depend on final outcome of the suit.

(Rakesh Thapliyal, J.)
25.03.2026

Shiv/Pant