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SLP(C)No. 13463 OF 2000  
ITEM No.7

Court No. 8

SECTION XI  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.13463/2000

(From the judgement and order dated 15/05/2000 in FA 710/92  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

RAJ NARAIN SARIN (DEAD) THRU LRS. & ORS. Petitioner (s)

VERSUS

LAXMI DEVI & ORS Respondent (s)  
( With Appln(s). for permission to place annexure(s) and c/delay in  
filing rejoinder and with prayer for interim relief )  
( For Final Disposal )

Date : 24/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA  
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. Rakesh Dwivedi, Sr. Adv.  
Ms. Shalini Kumar, Adv.  
Ms. V. Mohana, Adv.

For Respondent (s) Mr. Vinai Singh, Adv. for  
Mr. R.D. Upadhyay, Adv.

UPON hearing counsel the Court made the following  
O R D E R

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Leave granted.  
The appeal is allowed in terms of the order.  
No order as to costs.

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Sarita (V.P. Tyagi) @@  
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Court Master@@  
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4489 OF 2001@@  
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(Arising out of SLP(C) No.13463/2000)

RAJ NARAIN SARIN (DEAD) THRU LRS. & ORS. ...APPELLANTS

VERSUS

LAXMI DEVI & ORS. ...RESPONDENTS

O R D E R@@  
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Leave granted.

In an application under Order 7 Rule 11, read with Section 151 of the Code of Civil Procedure for rejection of plaint, learned Additional District Judge, Agra, by his Order dated 23rd October, 1992, rejected the plaint. Learned Judge in coming to such a conclusion of rejection did place strong reliance on a decision of this Court in the case of T.@@

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Arvandandam -Vs.- T.V. Satyapal & Anr. (AIR 1977 SC 2421)@@  
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wherein this Court categorically laid down that if on a meaningful reading of the plaint it manifestly appears to be vexatious and meritless, in the sense of not disclosing a clear right to sue, the trial court should exercise its power under Order 7 Rule 11 of the Code of Civil Procedure taking care to see that the ground mentioned therein is fulfilled since bogus litigation ought to be shot down at the earliest stage. Incidentally, Order 7 Rule 11 as engrafted in the Code of Civil Procedure envisages four specific cases for rejection of the ..2/-

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plaint. Order 7 Rule 11, for the sake of convenience, is set out below :

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"Rejection of plaint - The plaint shall@@  
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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;"

.....L.....I.....T.....T.....T.....T.....T.....T.....J  
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It is convenient to note at this juncture that in an application for rejection of the plaint under Order 7 Rule 11, law has been rather well settled for quite sometime in a long catena of cases that the plaint should be taken as it is and the application should be considered on the basis of the averments in the plaint itself and no external aid is available to the Court for the purpose. It has also been the well settled principle of law that the Law Court should be rather hesitant to exercise the jurisdiction under Order 7 Rule 11 unless the factual score warrants such exercise and the matter in issue

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falls within the four corners of the requirement of the statute. It is for this purpose however, the necessary averments in the plaint ought to be considered. Paragraphs 6,7,8 & 9 of the plaint being the necessary averments in the plaint ought to be noticed at this juncture and the same be read as below :

.....L.....I.....T.....T.....T.....T.....J

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"6. That as stated above Sri Ram Sahai the predecessor in interest of Plaintiff was the occupancy tenant in respect of 3 Bigha 13 Biswas and owner of the Bunglow constructed built and existing over this area while Smt. Siddo ..... was occupancy tenant of rest of 6 Bighas 13 Biswas and Shri Ram Sahai was owner of house Bunglow built and existing over this area of which Sri Ram Sahai was the sub tenant as 'Zaili' and the nature status of the two holdings were quite separate and distinct though they constituted within one undivided 'Minjumla' plot No.673 old and 460 new.

7. That after the death of Sri Ram Sahai occupancy tenancy of 3 Bigha 13 Biswas and sub-tenancy of rest of 6 Bigha 13 Biswas in plot No.673 was inherited by Smt. Kaushalya his widow and after her death by Munni Lal, adopted son of Sri Ram Sahai and on his death by Plaintiff.

8. That Sri Munni Lal aforesaid in or about the year 1941 transferred under a sale deed to defendant No.1 his tenancy (occupancy holding rights) over 3 Bigha 13 Biswas area of plot No.673 along with bunglow existing thereon. The above Sale Deed had nothing to do with the rest of the area i.e. 6 Bigha 13 Biswas and Bunglow and building thereon which continued to be owned and possessed by the plaintiff and prior to him by Sri Munni Lal, his predecessor in interest and the defendant No.1 or any other defendants have or had no right title or interest thereon nor have they ever been in possession.

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9. That as stated above that 6 Bigha 13 Biswas area of Plot No.673 old and 460 new was occupancy tenancy land of Smt. Siddo wife of sri

Khumani, of which Sri Ram Sahai, was the sub tenant and in which Sri Munni Lal, had no transferable right is uneffected by the sale by him aforesaid and which during the course of time devolved and inherited by Plaintiff and prior to him his predecessors in title and the contrary recital in the aforesaid sale deed if any is illegal and invalid and not binding on the Plaintiff."

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It is significant to note that the transfer of a portion of the property in the year 1941 has not been challenged or disputed in any way. On the contrary, it has been averred (vide paragraph 9 of the plaint) that the second area, i.e., 6 Bighas 13 Biswas being plot No.673 (old) and new 460 was sold without any authority and contra recital in the said sale deed is illegal and invalid and not binding on the plaintiff. Learned Additional District Judge however having considered the same and came to the conclusion that it was with the knowledge of the plaintiff that such sale did take place and since the plaintiff has not taken any steps in the matter or having the document of sale declared invalid or not binding or ineffective, it is too late to contend the same at this stage.

On the factual score, it further appears that being aggrieved by the order as passed by the learned Additional District Judge, the plaintiff in the suit moved the High Court by way of an appeal and the High Court upon consideration of the  
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Order 7 Rule 11, however, set aside the order and decree of rejection of plaint espoused by the learned Additional District Judge, and hence the special leave petition before this Court.

While it is true that notice was issued in the matter but this Court thought it fit and expedient to dispose of the application at the admission stage itself by consent of the parties.

As noticed above, the learned Single Judge of the Allahabad High Court though elaborately laid down the requirement of Order 7 Rule 11 and the true effect thereof, but in our view, totally misread and misapplied the provision in the contextual facts. No explanation whatsoever is available on the plaint as to the situation under which the suit was filed after about a long period of 40 years. The knowledge of the deed of sale stands accepted by reason of the averment in the plaint itself (vide paragraph 9 of the plaint).

On an analysis of the plaint, apart from there being a mere bald statement that the sale deed has nothing to do with the rest of the area, i.e., 6 Bighas 13 Biswas and the Bungalows built thereon which stands to be owned and possessed by the plaintiff and prior to him by Munni Lal, there is no other averment tracing the title for 6 Bighas and 13 Biswas  
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Admittedly, several portions of the plot stood demarcated as being 3 Bighas 13 Biswas and the other being 6 Bighas 13 Biswas: whereas there is no dispute as regards 3 Bighas 13 Biswas but the conferment of title on to the plaintiff as regards 6 Bighas 13 Biswas is not available in the plaint itself. The plaint is totally silent on that score, though, however, the existence of

the deed of sale noticed above stands accepted by the plaintiff. The litigation, in our view, cannot but be termed to be utterly vexatious and abuse of the process of court, more so by reason of the fact that the deed of sale being executed as early as 1941 stands unassailed for a period of over 50 years. The decision of this Court in T. Arvandandam (supra) has its due@@

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application and having regard to the decision as noticed above and upon consideration of the relevant provisions as engrafted in the Code itself, we have no hesitation in accepting the order of learned Additional District Judge. The High Court obviously fell into a manifest error and as such this appeal is allowed. The order of the High Court stands set aside. The order of the learned Additional District Judge stands restored. No order as to costs.

.....J.  
(A.P. MISRA)

New Delhi,  
July 24, 2001.

.....J.  
(U.C. BANERJEE)