

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.89 of 2017

1. Ajay Kumar Singh, son of late Indradeo Prasad Singh
2. Usha Singh wife of Ajay Kumar Singh
Both Residents of Mohalla-New Area, Bisra Talaw, P.S. Civil Lines, Town and District Gaya, at Present residing at SB-22 Dhorl Staff Quarter, P.S. Bermo, District Bokaro, Pin-825102, Jharkhand.

... .. Petitioner/s

Versus

1. Binod Pratap Singh, S/o of Late Indradeo Prasad Singh resident of Mohalla-New Area, Bisar Talaw, P.S.-Civil Lines, Town-District-Gaya.
- 2.1. Sarika Singh D/o Late Binay Kumar Singh, Resident of Mohalla New Area Bisar Talaw, P.S. Civil Lines, Town and District- Gaya.
3. Ajit Kumar Singh, Son of late Indradeo Prasad Singh
- 4.1. Vivek Kumar Son of late Sabita Singh, Resident of Mohalla New Area Bisar Talaw, P.S. Civil Lines, Town and District- Gaya.
- 4.2. Swati Singh Wife of Nikhil Kumar Singh, D/o Late Sabita Singh, Resident of Block no. 22, flat no. T-487, Rangoli Garden, Maharana Pratap Marg, near Vaishali Nagar, Jaipur, PIN - 302034.
5. Krishna Singh, Wife of Binay Kumar Sinha
6. Kushum Singh, Wife of Sri Binod Pratap Singh resident of Mohalla-New Area, Bisar Talaw, P.S.-Civil Lines, Town-District-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s :	Mr. Ray Saurabh Nath, Advocate Mrs. Manjari Nath, Advocate Mrs. Shalini Sinha, Advocate Mr. Abhinav Ashok, Advocate
For the Respondent/s :	Mr. Ranjeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

C.A.V. JUDGMENT

Date : 08-09-2026

1. Heard learned counsel for the petitioners and learned
counsel for the respondents.



2. The present petition has been preferred by the petitioners for setting aside the order dated 01.05.2017 passed by learned Sub-Judge XII, Gaya (hereinafter referred to as 'Trial Court') in Partition Suit No. 146 of 2017 (25/2013, 68/2013) (Binod Pratap Singh v. Vinay Kumar Singh & Others) whereby the learned Trial Court dismissed the application filed by petitioners/defendant nos. 3 and 6 for rejection of the plaint of the suit under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908 (hereinafter referred to as 'C.P.C.').

3. The brief facts of the case is that respondent no.1, Binod Pratap Singh, filed a partition suit bearing Partition Suit No. 68 of 2013 for partition claiming 1/5th share in the suit properties which include immovable and movable properties alleging that all the suit properties are joint family property of the plaintiff and the defendants which are both ancestral as well as purchased properties in the name of different members of the family out of the family funds are inherited from his father Indradeo Prasad Singh. He impleaded his brothers, namely, Binay Kumar Singh, Ajit Kumar Singh, Ajay Kumar Singh and his sister, namely, Sila Devi. He also impleaded his wife as well as respective wives of brothers as defendants in the said suit for partition. It is claimed that the properties in the name of family members were purchased



by the father of the plaintiff or acquired through the family funds are also the suit properties as the same are the joint family properties of plaintiff and defendants who have been continuing in joint possession thereof and there is unity of title and possession between the plaintiff and defendants, and defendant no.2, Ajit Kumar Singh, *de facto Karta* of the joint family is mismanaging and misappropriating the joint family properties who refused to make amicable partition of the suit properties.

4. The present petitioners filed an application dated 01.07.2014 under Order VII Rule 11 (a) and (d) of the C.P.C. for rejection of plaint on the grounds, *inter alia*, that the suit properties also included the properties of the defendant nos. 4 to 7, who were not coparceners in the family and thus, the suit was not maintainable. In rejoinder to the said application, the plaintiff stated that the properties described in the plaint under the name of female members cannot be a ground for rejection of the plaint.

5. The learned Trial Court *vide* the impugned order dated 01.05.2017, rejected the application of the petitioner. It was held that the plaintiff had a valid cause of action to bring the suit and whether on the cause of action disclosed in plaint, the plaintiff would succeed or not is not a consideration for allowing the petition under Order VII Rule 11 of the C.P.C. It cannot be



adjudicated at this stage from perusal of the plaint only that, cause of action as disclosed by plaintiff is vexatious, meritless or illusory. The plea regarding bar of the suit under the provisions of Benami Transactions (Prohibition) Act, 1988 (hereinafter referred to as '*Benami Act*') could be considered only after the parties lead their evidence and at this stage it cannot be held that the filing of the suit is itself prohibited under sub-Section (1) and (2) of Section 4 of the *Benami Act*. It is further held that on the basis of the pleas that the suit is not properly valued and the relief of the declaration of title has not been sought, a plaint cannot be rejected immediately under Order VII, Rule 11 of the C.P.C. for if the pleas raised by the defendants are upheld, the plaintiff could avail the opportunity to apply for amendment of plaint also and plaintiff can be granted an opportunity to pay the deficit Court fees, if any. On the submission on behalf of the petitioners that plaintiff has concealed the date of death of his father, as such, the plaint is liable to be rejected, the learned Trial Court rejected the said contention and held that a plaint cannot be rejected on the ground that plaintiff has concealed a fact or has not pleaded a fact or incorrectly pleaded a fact as these facts are to be considered at the time of hearing of the suit.



6. Heard learned counsels for the parties and perused the materials available on the record.

7. Learned counsel for the petitioners has submitted that defendant nos. 4 to 7, who are respective wives of the brothers, cannot be coparceners. Hence, properties standing in their name cannot be coparcenary property. A suit for partition is maintainable where the property is jointly held by the coparceners. However, where the suit property is not in the name of Hindu Undivided Family (HUF) or in the name of coparceners, then a suit is not maintainable without seeking a declaration of title also. Learned counsel for the petitioners has submitted that plaintiff has got no cause of action as no partition suit is maintainable with respect to 'Stridhan' and the present suit is barred by provisions of the *Benami Act*.

8. Learned counsel for the petitioners referred and relied on the judgments of this Court in the case of ***Bachchi Devi v. Vinay Kumar*** (Civil Writ Jurisdiction Case No. 12078 of 2010) decided on 22.09.2014 and ***Suresh Rai v. Urmila Devi and Ors.*** reported in **2024 SCC OnLine Pat 4322**.

9. Learned counsel for the respondents has submitted that in an application under Order VII, Rule 11 of the C.P.C., a plaint cannot be rejected in part. The law is well settled that if the plaint



survives against certain defendant(s) and/or properties, Order VII Rule 11 (d) of the C.P.C. will have no application at all and the suit as a whole, must then proceed to trial. He has referred and relied on the judgment of Hon'ble Supreme Court in ***Kum. Geetha, D/o Late Krishna and Others v. Nanjundaswamy and Others***, reported in ***(2024) 14 SCC 390; 2023 SCC OnLine SC 1407***.

10. Learned counsel for the respondents further submitted that under Order VII Rule 11 (a) of the C.P.C., the Court cannot dissect the pleading into several parts and consider whether each of them discloses a cause of action. For the purpose of considering objection, the averments in the plaint should be assumed to be true and the Court has to find out whether their averments disclose a cause of action or a triable issue as such. The Court cannot probe into the facts on the basis of the controversy raised by the petitioners. He further submitted that the cause of action is very clearly described in the plaint and the plaintiff is seeking relief against the ancestral properties as well as from the properties purchased in the names of different family members for the benefit of joint family and the learned Trial Court has rightly rejected the application of the petitioners by the reasoned order which requires no interference by this Court within the ambit of its revisional jurisdiction.



11. Having heard learned counsel of parties and perused the materials available on record, the principle question before this Court is: “*Whether the learned Trial Court is justified in rejecting the application of the present petitioners under Order VII, Rule 11 (a) & (d) of the C.P.C.?*”

12. It is pertinent to note that Order VII Rule 11 of the C.P.C. is mandatory in nature. It provides that the plaint shall be rejected if any of the grounds specified in clauses (a) to (e) are made out. Where the Court finds that the plaint does not disclose a cause of action or the suit is barred by any law, the Court has no other option but to reject the plaint under Order VII Rule 11 (a) & (d) of the C.P.C. The hon’ble Supreme Court in ***Dahiben v. Arvinbhai Kalyanji Bhanusali and Ors.***, reported in (2020) 7 SCC 366 succinctly explained the relevant principles in para 23, as herein under:

“23.23.2. *The remedy under Order 7 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 7 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 Gandhi [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315.] 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 powers 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 7 Rule 11 are required to be strictly adhered to.*

23.6. *Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] , read in conjunction with the documents relied upon, or whether the suit is barred by any law.*

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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 [Sopan Sukhdeo Sable v. Asstt. Charity Commr., (2004) 3 SCC 137] .

23.11. *The test for exercising the power under Order 7 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 [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] 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 and Co. [Hardesh Ores (P) Ltd. v. Hede and Co., (2007) 5 SCC 614] 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 [D. Ramachandran v. R.V. Janakiraman, (1999) 3 SCC 267; See also Vijai Pratap Singh v. Dukh Haran Nath Singh, 1962 SCC OnLine SC 56 : AIR 1962 SC 941] .*

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 7 Rule 11CPC.

23.14. *The power under Order 7 Rule 11CPC 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 [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] . The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain case [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315.]”*

13. The plaint can be rejected at the threshold on the grounds set out under Order VII Rule 11 of the C.P.C., so as to see that the defendants may not have to face the gamut of the litigation unnecessarily, even if the suit is found to be not maintainable and therefore, such powers are to be exercised at the earliest.

14. The hon'ble Supreme Court in ***Kum. Geetha, D/o Late Krishna and Others (supra)*** quoted and followed the said principle explained in the case of ***Dahiben (supra)***. It is further held in para 9 as under:

“9. If the statements in the plaint are taken to be true, the joint family properties may enure to the benefit of its members and they may well be available for partition. This is a matter of trial, the result of which would depend upon the evidence adduced by the plaintiff. At this stage, we are not concerned with the correctness of the averments, except to state that the plaintiffs have the carriage of the



proceedings, and have to discharge the heavy burden of proving their case. Insofar as the application under Order 7 Rule 11CPC is concerned, this Court will proceed only that far, to examine whether the plaint discloses a cause of action, and no further.”

15. This Court in the case of ***Sunanda Singh & Ors. v. Soni Shahi & Anr.***, reported in ***(2023) 5 BLJ 102*** has held that only the averments in the plaint can be looked into while deciding application under Order VII Rule 11 of the C.P.C. The relevant para of the said judgment is reproduced as under:

“25. Now it is well settled that for the purpose of invoking Order VII Rule 11(d) C.P.C. no amount of evidence can be looked into and only averments made in the plaint are relevant.

26. The Hon’ble Apex Court in the case of Abdul Gaffur vs. State of Uttrakhand (2008 (10) SCC 97) held that if the High Court is convinced that the plaint read as a whole does not disclose any cause of action, it may reject the plaint in terms of Order VII Rule 11 of the Code.

27. The Hon’ble Supreme Court in the Judgment dated 20.07.2012 in Bhau Ram vs. Janak Singh and Ors. (Civil Appeal No. 5343 of 2012) held that the law has been settled by this Court in various decisions that while considering an application under Order VII Rule 11 C.P.C., the Court has to examine the averments in the plaint and the pleas taken by the defendant in its written statement would be irrelevant. Accordingly, the law is well settled that only the averments in the plaint can be



looked into while deciding the application under Order VII Rule 11 C.P.C.

28. *This Court in the case of I.T.C. Ltd. Vs. Shakuntala Devi reported in 2012 (2) PLJR 592 held that:-*

“In view of the aforesaid principles and also on the basis of the apex Court on the issue of rejection of plaint under Order VII Rule 11 (d) CPC, the following broad principles can be culled out:

(I) The averments made in plaint are germane have to be taken as correct;

(ii) The whole plaint has to be read not in formal but in a meaningful manner;

(iii) No part of defence or evidence is to be considered

(iv) Being summary in nature, the Court should exercise this jurisdiction only when it becomes absolutely certain that the litigation is doomed to fail.”

29. *The Hon'ble Supreme Court in the case of P.V. Guru Raj Reddy Vs. P. Neeradha Reddy & Anr. 2015 (2) PLJR (Supreme Court) 205 in Paragraph 5 and 6 held as follows:*

“Rejection of the plaint under Order VII, Rule 11 of the CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order VII, Rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that has to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under order VII, Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint ex-facie do



not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situation, the claims will have to be adjudicated in the course of the trial. In the present case, reading the plaint as a whole and proceedings on the basis that the averments made therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex-facie discloses that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order VII, Rule 11 the stand of the defendants in the written statement would be altogether irrelevant.”

16. Rule 11 of Order VII enjoins the Court to reject the plaint where it does not disclose a cause of action. There is no question of striking out any portion of the pleadings under this rule. The Court cannot dissect the pleadings into several parts and consider whether each of them discloses a cause of action. It is now well settled that in an application under Order VII Rule 11 of the C.P.C. a plaint cannot be rejected in part. The plaint has to be rejected as a whole or not at all in exercise of power under Order VII Rule 11 (d) of the C.P.C. It is not permissible to reject a plaint *qua* any particular portion of a plaint including some of the



defendants and continue the same against others. If the plaint survives against certain defendant(s) and/or properties, Order VII Rule 11 (d) of the C.P.C. will have no application at all, and the suit as a whole must then proceed to trial. [See: ***Sejal Glass Ltd. v. Navilan Merchants Pvt. Ltd.***, reported in ***(2018) 11 SCC 780*** which was followed in ***Madhav Prasad Aggarwal & Anr. v. Axis Bank Ltd. & Anr.***, reported in ***(2019) 7 SCC 158***; and ***Kum. Geetha (supra)***].

17. In the case of ***Kaulasan @ Bhola v. Ramdut***, reported in ***AIR 1951 Pat 633; 1949 SCC OnLine Pat 97***, it was held that a suit for partition of the joint Hindu family property, so far as the properties sought to be partitioned stand in the name of strangers to the coparcenery, must be regarded as a suit for declaration of title and consequential relief, and consequently *ad valorem* Court fees was payable. This judgment has been referred and relied by this Court in ***Mohammad Raza Khan v. Saheb Raza Khan and Ors.***, reported in ***AIR 1976 Pat 108; 1975 SCC OnLine Pat 100*** and ***Bachchi Devi (supra)***.

18. The Co-ordinate Bench of this Court in ***Suresh Rai v. Urmilla Devi and Ors.*** reported in ***2024 SCC OnLine Pat 4322*** on which learned counsel for the petitioners relied upon is with



respect to framing of preliminary issue under Order XIV Rule 2 (2) of the C.P.C. with regard to maintainability of suit.

19. Absence of jurisdiction can be invoked at different stages and under different provisions of the C.P.C. Order VII Rule 11 of the C.P.C. is one, Order XIV Rule 2 is another. However, both operates in distinct procedural spheres. Order XIV Rule 2 applies after completion of pleadings and framing of issues, where the Court may decide a pure question of law arising from the admitted or undisputed facts without undertaking a full trial. Since Order VII Rule 11 of the C.P.C. tests the sustainability of the plaint on its face, Order XIV Rule 2 concerns the adjudication of the preliminary legal issues after the pleadings are complete.

20. In the instant case the plaintiff has to prove various facts to show that the properties which were acquired in the name of different members were acquired out of the nucleus of the ancestral properties. The question of the right of the plaintiff to get a share in the properties and the considerations for payment of Court fees are different. The aforesaid decisions are, therefore, of no assistance to the petitioners.

21. Recently, the three Judges Bench of Hon'ble Supreme Court in M/s Bhagya Estate Ventures Pvt. Ltd. v. Narne Estate Pvt. Ltd. & Anr. in Civil Appeal No. 4570 of 2023 considering the



earlier judgments in *Azhar Hussain v. Rajiv Gandhi* reported in *1986 SCC OnLine SC 394*; *T. Arivandandam v. T.V. Satyapal and Anr.*, reported in *(1977) 4 SCC 467*; and *Samar Singh v. Kedar Nath & Ors.*, reported in *1987 SCC OnLine SC 638*, observed that the purpose behind Order VII Rule 11 of the C.P.C. is to ensure that the complaints or petitions which are defective for any of the reasons enumerated shall not be allowed to proceed further and shall be put to an end before they progress. It is further observed that it is already clarified position of law that without disposing of an application under Order VII Rule 11 of the C.P.C., the Court cannot proceed with the trial. Further, it is reiterated that “it is a settled position of law that when the Court is considering an application under Order VII Rule 11 of the C.P.C., it must only peruse and consider the averments in the complaint to check whether the complaint is defective for any of the reasons provided under the Rule or is a proper complaint.

22. It is not the case of plaintiff in the suit that the respective wives of brothers are coparceners. On the contrary, it is specific case of the plaintiff that the suit property is the joint family property and he is not claiming absolute title over the said suit property. The relationship between the parties is not in dispute. The Court has to adjudicate on the basis of the evidence that



whether the suit property is joint family property or self acquired property and to decide whether the rigor of the provisions of the *Benami* Act including Section 4 of the same is applicable in the present case or not.

23. Notably, whether the property is *benami* and is not covered by the exception, is an issue to be decided on the basis of evidence. The Hon'ble Supreme Court in case of *Shaifali Gupta v. Vidya Devi Gupta and Ors.*, reported in *2025 SCC OnLine SC 1181* has held as under:

“23. Section 4 of the Benami Act bars the suit, claim or action in respect of a property held benami by person at the behest of the person claiming to be its true owner. It reads as under:

“4(1). No suit, claim or action to enforce any right in respect of any property held benami against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property.”

24. The above provision bars an action in respect of ‘property held benami’. However, whether the property in respect of which the suit, claim or action has been brought about is a benami property or not, is the issue of prime consideration.

25. The plaint allegations all through describe the suit properties as the Joint Hindu Family properties and that they have been purchased either from the nucleus of the Joint Hindu Family property or the income derived from the joint family business. The properties are



not described as benami in the name of any member of the family. Therefore, from the plaint reading, the suit properties cannot ex-facie be held to be benami properties in respect whereof the suit may not be maintainable in view of Section 4 of the Benami Act.

26. The Benami Act further defines 'benami property' and 'benami transaction' under Sections 2(8) and 2(9) of the said Act. Benami property is the property which is the subject matter of benami transaction whereas benami transaction is a property held by a person in respect whereof consideration has been provided by some other person but would not include certain categories of properties such as where a person is holding a property in a fiduciary capacity for the benefit of another person.

27. In such circumstances, whether a property is a benami, has to be considered not in the light of Section 4 of the Benami Act alone but also in connection with Sections 2 (8) and 2 (9) of the said Act i.e. whether the property is benami falls in the exception. It is only where the property is benami and does not fall within the exception contained in Sub-Section (9) of Section 2 that a suit may be said to be barred. However, the issue whether the property is benami and is not covered by the exception, is again an issue to be decided on the basis of evidence and not simply on mere averments contained in the plaint. The defendants have to adduce evidence to prove the property to be benami.

28. In Pawan Kumar v. Babu Lal [(2019) 4 SCC 367], a similar issue arose before this Court in a matter concerning rejection of plaint under



Order VII Rule 11 (d) CPC. This Court held that for rejecting a plaint, the test is whether from the statement made in the plaint it appears without doubt or dispute that the suit is barred by any statutory provision. Where a plea is taken that the suit is saved by the exception to the benami transaction, it becomes the disputed question of fact which has to be adjudicated on the basis of the evidence. Therefore, the plaint cannot be rejected at the stage of consideration of application under Order VII Rule 11 CPC.

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31. More importantly, Section 14 of the Act simply provides that the property possessed by a female Hindu shall be held by her as a full owner. It does not bar or prohibit a suit in respect of such a property. Therefore, in the absence of any bar contained in the above provision, the suit plaint is not liable to be rejected as barred by law.”

(emphasis supplied)

24. In view of the above referred principles and in considered opinion of this Court, the learned Trial Court has not committed any error of law in rejecting the application under Order VII Rule 11 (a) and (d) of the C.P.C. and has rightly refused to reject the plaint. There is no valid ground to interfere with the well considered order passed by the learned Trial Court. The parties are at liberty to contest the suit on merits. They have right to get the necessary relevant issues framed in the suit including that of suit being barred by any provision of law and if any issue is framed, it will be open for the Trial Court to consider the same on



merits after the parties have led evidence. In such a situation, the petitioners/defendants have not suffered any prejudice.

25. In the result, this Civil Revision is dismissed. There shall be no order as to costs.

(Sunil Dutta Mishra, J)

Utkarsh/-

AFR/NAFR	AFR
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