



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CR No. 23 of 2022**Judgment Reserved on 02.03.2026****Judgment Pronounced on 15.04.2026**

Smt. Anjali Agrawal W/o Ashish Agrawal, Aged About 35 Years R/o 109 Balaji House , Indira Commercial Complex, Mohalla, Transport Nagar, Ward No. 13, Municipal Corporation Korba, Tehsil And District Korba Chhattisgarh.

... Applicants(s)**versus**

1 - Kurmi Chhetriy Kalyan Samiti, Sardar Vallabh Bhai Patel, Memorial Institution Near Tulsi Nagar Chowk, Mohalla , Gevra Ghat , Ward No. 2, Municipal Corporation Korba, Tehsil And District Korba Chhattisgarh, Through Ramashray Prasad Kurmvanshi, S/o Late Gayadeen Kurmvanshi, Aged About 61 Years, Ayodhyapuri, Ward No. 46, Municipal Corporation Korba, Near Shanti Hero, Post Office Jamnipali, Tehsil Katghora , District Korba Chhattisgarh.

Respondent/Plaintiff

2 - State Of Chhattisgarh, Through Collector, Korba District Korba Chhattisgarh.

Respondent/defendant No.1

3 - Municipal Corporation Korba Through its Commissioner
Municipal Corporation Korba District Korba Chhattisgarh.

Respondent/defendant No.2

4 - Kailash Chand Agrawal S/o Khemchand Agrawal R/o House
No. 11 Friends Colony Dhimrapur Chowk , Ward No. 4, Municipal
Corporation Raigarh , Tehsil And District Raigarh Chhattisgarh.

Respondent/defendant No.3

5 - Satyanarayan Agrawal (Since Died) S/o Khemchand Agrawal
Through Legal Heirs

5.1 - (A) Manish Agrawal S/o Late Satyanarayan Agrawal Aged
About 42 Years R/o Mohalla Ramsagar Para, Darri Road, Ward No.
1, Municipal Corporation Korba, Tehsil and District Korba
Chhattisgarh.

5.2 - (B) Manoj Agrawal S/o Late Satyanarayan Agrawal, Aged
About 40 Years R/o Mohalla Ramsagar Para, Darri Road, Ward No.
1, Municipal Corporation Korba, Tehsil and District Korba
Chhattisgarh.

5.3 - (C) Sumit Agrawal S/o Late Satyanarayan Agrawal, Aged
About 38 Years R/o Mohalla Ramsagar Para, Darri Road, Ward No.
1, Municipal Corporation Korba, Tehsil and District Korba
Chhattisgarh.

**Respondent No.5A to 5C are respondents/legal heirs of late
Satyanarayan Agrawal (defendant No.4)**

6 - Chief General Manager South Eastern Coalfields Limited ,
Regional Office Korba, Tehsil And District Korba Chhattisgarh.

... Respondent(s)

(Cause Title downloaded from CIS Periphery)

For Applicant(s) : Ms. Shivangi Agarwal, Advocate on behalf of
Mr. Anurag Singh, Advocate

For Respondent/ : Mr. Dilman Rati Minj, Dy. AG
State

For Respondent : Mr. Ajay Rajwade, Advocate
No.1

For Respondent : Mr. Abhijeet Sarkar, Advocate
No.4

For Respondent : Mr. Sharad Prasad, Advocate on behalf of Mr.
No.6 Rahul Mishra, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. This Civil Revision has been filed by the applicant/defendant No.5 against the order dated 22.12.2021 (Annexure A-1) passed by the First Civil Judge Class-I, Korba in Civil Suit No.24-A/2018, whereby the application under Order 7 Rule 11 of the CPC preferred by defendant No.5, has been dismissed.
2. Brief facts of the case are that respondent No.1 (plaintiff) filed a suit for declaration, permanent injunction and possession in respect of the suit property. The plaintiff sought a declaration that the gift deed dated 24.07.2014, executed by defendant Nos.3 & 4 in favour of defendant No. 5 (applicant herein) be declared as null and void. A further declaration was sought to the effect that the disputed property is Government Nazul land, over which defendants 3 to 5 have no right, title or interest, of which, they are not in possession.

The plaintiff further sought a permanent injunction to restrain defendants 3 to 5 from raising any construction over the suit property, changing its nature, or dispossessing the plaintiff therefrom. Additionally, an injunction is sought to restrain the defendants from damaging the memorial statue of Sardar Vallabh Bhai Patel and a prayer for recovery of possession of the suit property. The suit was filed, inter alia, on the ground that the plaintiff is a registered institution and is in lawful possession of the suit property.

3. Defendant No.5 (applicant herein) filed his written statement, categorically denying all the allegations made in the plaint. It was averred that the suit property is the absolute ownership property of defendants 3 & 4, who duly executed the gift-deed in favour of the applicant. The written statement further stated that proceedings under Section 250 of the Land Revenue Code (in short "the Code"), were initiated by Kailash and Satyanarayan Agrawal (deceased) {defendants 3 & 4) against the plaintiff, which resulted in a final order dated 21.5.2015 passed by the competent revenue authority. The demarcation was subsequently conducted and the said order has since been upheld up to the level of the Commissioner. Furthermore, it is submitted that WP(PIL) No.76/2017 and WPC No.277/2017 were also filed, wherein a common order dated 14.7.2017 was passed by this Court. The Committee, constituted pursuant to the order passed by this Court, has conducted an enquiry and reached the logical conclusion that the applicant's

possession of Khasra No. 3/1 *Ka* area 259.68 acres, is valid. Further, the allegations of unauthorized possession over the Government Nazul land were found to be incorrect. An application under Order 7 Rule 11 of the CPC was filed by the defendant on the ground that the plaintiff has no right or title over the subject land and consequently, has no locus to challenge the gift-deed executed by defendants 3 & 4. It was further averred that the order passed under Section 250 of the Code, at the instance of the original owners (defendants 3 & 4) has been duly executed, therefore, the plaintiff cannot seek restoration of possession contrary to the said order. Moreover, no cause of action has arisen in favour of the plaintiff nor does any lie questioning the registered gift deed dated 24.7.2014. By the impugned order, the trial Court has rejected the application under Order 7 Rule 11 of the CPC on the ground that only the plaint averments ought to be seen and prima facie, the plaint averments discloses the cause of action. The impugned order is illegal, erroneous and contrary to law. Hence, this Revision.

4. Learned counsel for the applicant/defendant No.5 submits that Khasra No.3/1, admeasuring 275 acres situated at Village -Korba, P.H. 9, is recorded as Government land as per the Misal Bandobast of 1930. Out of the said land, Khasra No.3/1 *k* (admeasuring 267.80 acres) was granted to SECL for mining/surface rights for a period of 30 years pursuant to a lease deed dated 4.7.1972. On a portion of the said land i.e. on 3.76 acres situated near Tulsidas Chowk, the plaintiff, with the permission of SECL, has constructed a hall and

installed a statue of Sardar Vallabhbhai Patel. The proceedings for the lease of the suit land to the plaintiff have been pending before defendant No.1 since 2002. She submits that the suit property comprises 2.18 acres out of the total 3.76 acres. By a *Bedakhali* order dated 21.5.2015 passed by the Tehsildar, Korba, the stage and other constructions over the said property were demolished on 3.6.2015 with the exception of hall and the statute, thereby dispossessing the plaintiff from 2.18 acres of the land. The order of the Tehsildar, Korba was challenged by the plaintiff before the SDO, Korba, which was dismissed vide order dated 16.11.2015. Aggrieved by the said order, the plaintiff preferred a Second Appeal before the Commissioner, Korba, which was again dismissed vide order dated 31.3.2016. The plaintiff preferred a revision against the said order before the Board of Revenue, which was ultimately allowed vide order dated 9.2.2026. Against the order dated 9.2.2026, defendant No.5 has filed a writ petition before this Court, which is pending adjudication. She further submits that defendants 3 & 4 on the ground that the suit property is recorded in their names in revenue records, executed the gift deed dated 24.7.2014 in favour of defendant No.5. She also submits that the plaintiff holds no title over the suit property, therefore, no cause of action has arisen in favour of the plaintiff. He further submits that since the plaintiff has no title over the suit property and he did not seek a relief of declaration of title over the suit property, the present suit is not maintainable. A suit simplicitor for possession, without seeking a

relief of declaration of title, particularly when the plaintiff's right is non-existence or under a cloud, is not maintainable. Moreover, the plaintiff's suit is also not maintainable on the ground that he is prosecuting independent proceedings under Section 250 of the Code before the Revenue Authorities. Learned counsel for the applicant submits that in the instant civil suit, the plaintiff has premised his cause of action dated 3.6.2015, upon the proceedings initiated by the Tehsildar, Korba under Section 250 of the Code. He submits that the plaintiff has failed to challenge the legality or validity of the ongoing revenue proceedings in the subject civil suit. In support of his submissions, learned counsel would place reliance on the matters of **Anathula Sudhakar Vs. P. Buchi Reddy (dead)** reported in **(2008) 4 SCC 594**, which has settled this position and has been recently reaffirmed in the matter of **T.V. Ramakrishna Reddy Vs. M. Mallappa**, reported in **(2021) 13 SCC 135**.

5. Learned counsel for the respondent No.1/plaintiff submits that a careful reading of the plaint would show that respondent No. 1/plaintiff, a registered institution, has specifically pleaded that the gift deed dated 24.07.2014 executed by defendant Nos.3 and 4 in favour of defendant No.5 (the present applicant) is null and void and not binding in law. He also submits that defendant No.3- Kailash Chandra Agrawal and defendant No.4 – late Satyanarayan Agarwal, had filed Civil Suit No.244A/2006 regarding the land in question before the Civil Judge Class-I, Korba and by judgment dated 21.4.2008, the said suit was dismissed. Since the judgment

dated 21.4.2008 has not been challenged in any competent Court, the same has attained finality. Subsequently, after a substantial period of time, by concealing the material facts, the above defendants had obtained a relief from the Court of Tehsilar, Korba. He further submits that the suit property is Government Nazul land, over which defendant Nos.3 to 5 have no right, title, or interest. The plaintiff has also sought consequential reliefs of permanent injunction restraining the defendants from raising any construction, altering the nature of the suit property, or dispossessing the plaintiff therefrom. Additionally, an injunction has been sought to prevent interference with or damage to the memorial statue of Sardar Vallabhbhai Patel situated on the suit land, along with a prayer for recovery of possession. Admittedly, the plaint discloses a specific and definite cause of action, stated to have arisen on 03.06.2015, when the defendants demolished the existing construction and dispossessed the plaintiff. These averments, taken at face value, clearly indicate a cause of action. He further submits that as per the provisions contained under Order 7 Rule 11 of the CPC, the trial Court is only required to consider the plaint presented by the plaintiff. He submits that the trial Court has rightly applied the settled principles of law and has correctly held that the plaint discloses a cause of action. He lastly submits that no jurisdictional error, illegality, or material irregularity is found in the impugned order warranting interference under revisional jurisdiction.

6. I have heard learned counsel for the parties and also perused the

documents, including plaint averments, annexed with the Revision carefully.

7. At this stage, it would be useful to examine the judicial precedents governing the issue.
8. In the matter of **Vijay Pratap Singh and another Vs Dukh Haran Nath Singh and another** reported in **AIR 1962 SC 941** , the Hon'ble Supreme Court held the following in para 9:-

9.....
“By the express terms of Rule 5 Clause (d), the court is concerned to ascertain whether the allegations made in the petition show a cause of action. The court has not to see whether the claim made by the petitioner is likely to succeed: it has merely to satisfy itself that the allegations made in the petition, if accepted as true, would entitle the petitioner to the relief he claims. If accepting those allegations as true no case is made out for granting relief no cause of action would be shown and the petition must be rejected. But in ascertaining whether the petition shows a cause of action the court does not enter upon a trial of the issues affecting the merits of the claim made by the petitioner. It cannot take into consideration the defences which the defendant may raise upon the merits; nor is the court competent to make an elaborate enquiry into doubtful or complicated questions of law or fact. If the allegations in the petition, prima facie, show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact, or whether the petitioner will succeed in the claims made by him. By the Statute, the jurisdiction of the Court is restricted to ascertaining whether on the allegations a cause of action is shown: the jurisdiction does not extend to trial of issues which must fairly be left for decision at the hearing of the suit.”

9. In the matter of **Shakti Bhog Food Industries Ltd. v. Central Bank of India and another**, reported in (2020) **17 SCC 260**, the following was materially observed :

7. Indeed, Order 7 Rule 11 CPC gives ample power to the court to reject the plaint, if from the averments in the plaint, it is evident that the suit is barred by any law including the law of limitation. This position is no more *res integra*. We may usefully refer to the decision of this Court in *Ram Prakash Gupta v. Rajiv Kumar Gupta* [*Ram Prakash Gupta v. Rajiv Kumar Gupta*, (2007) 10 SCC 59] . In paras 13 to 20, the Court observed as follows: (SCC pp. 65-66)

13. As per Order 7 Rule 11, the plaint is liable to 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;

14. In *Saleem Bhai v. State of Maharashtra* [*Saleem Bhai v. State of Maharashtra*, (2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that:

‘9. ... the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power ... at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of

deciding an application under clauses (a) and (d) of Rule 11 Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage....' (SCC p. 560, para 9).

15. In *ITC Ltd. v. Debts Recovery Appellate Tribunal* [*ITC Ltd. v. Debts Recovery Appellate Tribunal*, (1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. "The trial court must remember that if on a meaningful—not formal—reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise its power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, [it has to be nipped] in the bud at the first hearing by examining the party searchingly under Order 10 CPC."

(See *T. Arivandandam v. T.V. Satyapal* [*T. Arivandandam v. T.V. Satyapal*, (1977) 4 SCC 467], SCC p. 468.)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in *Roop Lal Sathi v. Nachhattar Singh Gill* [*Roop Lal Sathi v. Nachhattar Singh Gill*, (1982) 3 SCC 487], only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In *Raptakos Brett & Co. Ltd. v. Ganesh Property* [*Raptakos Brett & Co. Ltd. v. Ganesh Property*, (1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 Order 7 was applicable.

19. In *Sopan Sukhdeo Sable v. Charity Commr.* [*Sopan Sukhdeo Sable v. Charity Commr.*, (2004) 3 SCC 137] this Court held thus: (SCC pp. 146-47, para 15)

'15. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain

its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction or words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.'

20. For our purpose, clause (d) is relevant. It makes it clear that if the plaint does not contain necessary averments relating to limitation, the same is liable to be rejected. For the said purpose, it is the duty of the person who files such an application to satisfy the court that the plaint does not disclose how the same is in time. In order to answer the said question, it is incumbent on the part of the court to verify the entire plaint. Order 7 Rule 12 mandates where a plaint is rejected, the court has to record the order to that effect with the reasons for such order.”

8. On the same lines, this Court in *Church of Christ Charitable Trust & Educational Charitable Society v. Ponniamman Educational Trust* [*Church of Christ Charitable Trust & Educational Charitable Society v. Ponniamman Educational Trust*, (2012) 8 SCC 706 : (2012) 4 SCC (Civ) 612] , observed as follows: (SCC pp. 713-15, paras 10-12)

“10. ... It is clear from the above that where the plaint does not disclose a cause of action, the relief claimed is undervalued and not corrected within the time allowed by the court, insufficiently stamped and not rectified within the time fixed by the court, barred by any law, failed to enclose the required copies and the plaintiff fails to comply with the provisions of Rule 9, the court has no other option except to reject the same. A reading of the above provision also makes it clear that power under Order 7 Rule 11 of the Code can be exercised at any stage of the suit either before registering the plaint or after the issuance of summons to the defendants or at any time before the conclusion of the trial.

11. This position was explained by this Court in *Saleem Bhai v. State of Maharashtra* [*Saleem Bhai v. State of Maharashtra*, (2003) 1 SCC 557] , in which, while considering Order 7 Rule 11 of the Code, it was held as under: (SCC p. 560, para 9)

'9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court.'

It is clear that in order to consider Order 7 Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the court to scrutinise the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averments. These principles have been reiterated in *Raptakos Brett & Co. Ltd. v. Ganesh Property* [*Raptakos Brett & Co. Ltd. v. Ganesh Property*, (1998) 7 SCC 184] and *Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express* [*Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express*, (2006) 3 SCC 100] .

12. It is also useful to refer the judgment in *T. Arivandandam v. T.V. Satyapal* [*T. Arivandandam v. T.V. Satyapal*, (1977) 4 SCC 467] , wherein while considering the very same provision i.e. Order 7 Rule 11 and the duty of the trial court in considering such application, this Court has reminded the trial Judges with the following observation: (SCC p. 470, para 5)

'5. ... The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC. An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Chapter XI) and must be triggered against them.'

It is clear that if the allegations are vexatious and meritless and not disclosing a clear right or material(s) to sue, it is the duty of the trial Judge to exercise his power under Order 7 Rule 11. If clever drafting has created the illusion of a cause of action as observed by Krishna Iyer, J. in the abovereferred decision [*T. Arivandandam v. T.V. Satyapal*, (1977) 4 SCC 467] , it should be nipped in the bud at the first hearing by examining the parties under Order 10 of the Code.”

9. We may also advert to the exposition of this Court in *Madanuri Sri Rama Chandra Murthy v. Syed Jalal* [*Madanuri Sri Rama Chandra Murthy v. Syed Jalal*, (2017) 13 SCC 174 : (2017) 5 SCC (Civ) 602] . In para 7 of the said decision, this Court has succinctly restated the legal position as follows: (SCC pp. 178-79)

"7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint

have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.”

(Emphasis supplied)

10. Keeping in mind the well-settled legal position, we may now proceed to analyse the averments in the plaint. A bare perusal of the plaint would reveal that the plaintiff has pleaded that the cause of action arose on 3.6.2015, when the defendants commenced the demolition of the plaintiff's construction. In my view, this pleading is prima facie valid. Even otherwise also, a cause of action is a bundle of essential facts, which requires a full-scale adjudication. Such a determination cannot be conducted at a nascent stage of the proceedings. The veracity and the merits of the cause of action can only be scrutinized after the parties have been afforded a proper opportunity to lead evidence. Insofar as the defendants' challenge to jurisdiction is concerned, there is nothing on the face of the plaint to suggest

that the trial Court lack jurisdiction to entertain the present suit. In the absence of any inherent lack of jurisdiction appearing from the averments themselves, the plaint cannot be rejected on this ground.

11. So far as the remaining grounds in respect of revenue proceedings etc are concerned, the same can only be adjudicated during the course of the trial. Such issues require leading of evidence by the parties and cannot be determined at this preliminary stage, where the Court is strictly confined to the four corners of the plaint.
12. In light of the foregoing discussion, this Court is of the view that the applicant has failed to establish a prima facie case for interference with the well-reasoned order (impugned order- {Annexure A-1}) passed by the trial Court, while dismissing an application under Order 7 Rule 11 of the CPC.
13. The Revision being devoid of merits, is liable to be and is hereby dismissed.

Sd/-

(Amitendra Kishore Prasad)
Judge