

14<sup>th</sup> February, 2023

# SCOPE OF POWER UNDER O. VII R.11 IS TO EXAMINE THE PLAINT CAPITAL LAND CASE

## 1. BACKGROUND

- 1.1 The High Court of Delhi vide its order dated 19.01.2022 in the case of *Capital Land Builders Pvt Ltd. v. Shiv Kumar Jindad & Ors.* (2022 SCC OnLine Del 176) held that while exercising the powers under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC), the trial court is duty-bound to consider only the averments made in the plaint without delving into and examining the sufficiency of the evidence.
- 1.2 The Hon'ble Judge of Delhi High Court noted that for the purpose of rejection of plaint under Order VII Rule 11 the trial court shall not examine sufficiency of evidence put forth by the plaintiff and any defences made therein by the defendant and should restrict itself to the contents of the plaint.
- 1.3 The aforesaid ruling in the case is where a civil suit filed by the Respondents ("*Shiv Kumar Jindad*") for a declaration against a sale deed executed by the Petitioners ("*Capital Land Builders Pvt Ltd.*").

## 2. INTRODUCTION

- 2.1 In every civil case after plaint is filed, at the initial stage court scrutinizes the plaint before proceeding further with the suit. At this stage the trial court is empowered to reject the plaint under Order VII Rule 11. A plaint is bound to be rejected if the court is of the opinion that the suit is frivolous, scandalous, or vexatious and the institution of such a suit will result in nothing, but a waste of time and abuse of the process of law.
- 2.2 However, at this stage, the trial court cannot venture into details about the veracity of the evidence and the claims made under the suit. Often, verdict of the trial court is challenged in the Appeal based on this ground. This article articulates the rationale laid in *Capital Land's* case and other precedents regarding the grounds and process for the

rejection of the plaint.

## 3. BRIEF FACTS

- 3.1 Mr. Shiv Kumar Jindad claimed to be the owners in possession of a certain piece of land. Their principal claim was with regard to a declaration against the sale deed executed in favour of Capital Lands Builders Pvt. Ltd.
  - 3.2 Thereafter, Capital Land Builders moved an application under Order VII Rule 11 for the rejection of the plaint. They contended that the Mr. Shiv Jindad had not filed any title documents, but rather have only filed revenue records which are insufficient to establish to claim the ownership of the said property.
  - 3.3 However, the trial court dismissed the Capital Lands' application, recording the statement that – Mr. Shiv Jindad and other parties have made a categorical statement that they are in possession of the suit property; and that the veracity of evidence supporting such is to be adjudicated at the trial and not during the stage of rejection of the plaint.
  - 3.4 Aggrieved by the order of the trial court rejecting application filed under Order VII Rule 11, Capital Lands' approached the High Court of Delhi with a petition under Article 227 of the Constitution of India for the High Court to exercise its power of superintendence over the trial court's order.
- ## 4. ISSUE(S)
- 4.1 Whether the trial court has erred in dismissing the application for rejection of plaint when there is insufficient evidence supporting Shiv Jindad's claim?
- ## 5. REJECTION OF PLAINT [ORDER VII RULE 11]
- 5.1 Order VII Rule 11 mentions in subclauses (a) to (f) grounds under which a plaint can be rejected by the trial court, if in the plaint –
    - (a) Non-disclosure of cause of action.



**Vidushi Tripathi**

Associate, MCO Legals

B.A, LLB(Hons.),  
Rajiv Gandhi National  
University of Law, Patiala

**Expertise:**

Corporate Litigation

✉ abinash.a@mcolegals.co.in



**Vibhor Victor**

Research Partner

LLM (Competition Laws), Jindal  
Global University, Sonapat



- (b) Relief claimed is undervalued.
- (c) Complaint on insufficiently stamped paper
- (d) Barred by any law (*period of limitation, res judicata or constructive res judicata*)
- (e) Not filed in duplicate
- (f) If the plaintiff fails to supply as many copies of the complaint as there are defendants.

- 5.2 However, these above-mentioned grounds are not exhaustive in nature. *{K Akbar Ali v. Umar Khan, SLP (Civil) No. 31844 of 2018, Supreme Court of India}* The trial court is at liberty to include other grounds, which make the complaint defective or indicate that the suit is frivolous, vexatious, or scandalous.
- 5.3 The Supreme Court in *Sopan Sukhdeo Sable v. Assistant Charity Commissioner (AIR 2004 SC 1801)* noted that the objective behind conferring of such power to the civil court is to ensure that no meaningless or bound to be “abortive” suits should occupy the court’s time and such suits must be ended at the earliest. *{Sakeen Bhai v. State of Maharashtra (AIR 2003 SC 759)}*. While examining the complaint, the court must not act in a mechanical manner but rather should consider each complaint separately.
- 5.4 Further, in the case of *Azhar Hussain v. Rajiv Gandhi (1986 AIR 1253)* the Supreme Court opined that the word “shall” mentioned under Order VII Rule 11 casts a duty on the court to reject the complaint if it is established that the complaint does not disclose a legitimate cause of action or is barred by any law.

## 6. JUDGMENT & DISCUSSION

- 6.1 The Hon’ble Single Judge while dismissing the appeal of Capital Lands’ stated that the impugned order does not suffer from any jurisdictional infirmity. For the purpose of rejection of the complaint under Order VII Rule 11 the trial court should only consider the averments made in the complaint. Examination of evidence and the arguments made by the defendants must not be taken into consideration at this stage. Further, while rejecting the complaint, the trial court must conclude that the suit needs to end or be aborted immediately.

- 6.2 The Court relied on the case of *Saleem Bhai v. State of Maharashtra} (2003) 1 SCC 557}* wherein the apex court observed that an application for rejection of the complaint ought to be decided based on the allegations, for which the averments in the complaint are germane; and for that purpose, a written statement by the defendant is irrelevant and unnecessary.
- 6.3 Additionally, when the question relates to the suit being barred by any law under clause (d) of Order VII Rule 11, only the statements made in the complaint are seminal in nature and complaint cannot be rejected unless the suit is barred by any law (*Popat and Kotecha Property v. SBI Staff Association, (2005) 7 SCC 510*).
- 6.4 Further, the court also relied on *{Urvashiben & Anr. v. Krishnakant Manuprasad Trivedi, (2019) 13 SCC 372}* wherein it was opined by the apex court that the veracity of evidence, merits, and demerits of the matter cannot be taken into consideration while exercising the power under Order VII Rule 11.
- 6.5 In the present case, the Hon’ble High Court noted that the trial court has cogently analysed the grounds raised by Capital Lands’ and come to conclusion that it does not fall within the scope of Order VII Rule 11.

## 7. CONCLUSION

- 7.1 The power of rejection of complaint under Order VII Rule 11 needs to be exercised sparingly and only in those cases when from the bare reading of the complaint it is established that the suit needs to come to an end. The Supreme Court has time and again laid down that the suits need to be rejected based only on the averments made in the complaint and the insufficiency of evidence, merits and demerits of the case should not be taken into consideration at this initial stage.