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# REJECTION OF PLAINT UNDER ORDER VII RULE 11 of CPC: UNDERSTANDING THROUGH A CASE ANALYSIS

**Tannishtha Singh,**  
Legal Head, MCO Legals  
LLB (Hons.), ILS Law College, Pune  
Expertise: Litigation & Corporate/Commercial Arbitration

**Amit Singhal,**  
Research Partner  
B.A., LLB (Hons), National Law Institute University

## 1. INTRODUCTION & BACKGROUND

1.1 On the 20<sup>th</sup> of July, 2021, the division bench of the Hon'ble Supreme Court of India ("SC") unanimously upheld the judgment delivered by the Nagpur Single Judge Bench of the High Court of Judicature at Bombay ("HC"). [*Sayed Ayaz Ali v. Prakash G. Goyal and Others*, 2021 SCC OnLine SC 472]. The case primarily concerns the peaceful enjoyment and possession of the suit property, originally filed by the appellant (plaintiff) against the respondents (defendants) before the Civil Judge, Senior Division at Nagpur. The first respondent filed an application for the rejection of the plaint on the ground that it was barred under clauses (b) and (d) of Order 7 Rule 11 of the Code of Civil Procedure 1908 ("CPC"). The Fifth Joint Civil Judge, Junior Division, Nagpur allowed the application. However, while doing so, the appellant was "directed to seek proper relief and pay court fee thereon within 15 days, otherwise appropriate order will be passed". This order of the Trial Judge, insofar as it permitted the appellant to carry out an amendment for seeking appropriate reliefs was assailed before the High Court in a Civil Revision Application No 124 of 2017 by Defendants 1A to D and Defendant No 2 (Respondent Nos. 1 to 5 to these proceedings). The appellant instituted a Writ Petition under Article 227 of the Constitution for challenging the order of the Trial Judge allowing the application under Order 7 Rule 11 of the CPC. The High Court decided both the civil revision application and the writ petition by a common judgment. The HC dismissed the writ petition filed under article 227 of the Constitution of India by the appellant citing the same to be 'after thought and belated'. Against this common judgment of the HC, the appeals were filed before the SC – which is the matter of concern for this case analysis.

## 2. FACTS MATRIX

2.1 The appellant allegedly took a loan from the defendants for purchasing a suit property and agreed to execute the sale

deeds in the name of these defendants as a security for the repayment of the loan.

2.2 The appellant claims to have been placed in exclusive possession of the entire suit property and also claims to have commenced development on the land. The respondents have alleged to have entered the suit property illegally and committed some criminal acts in order to get back the loan amount.

2.3 The appellant filed a civil suit seeking permanent perpetual injunction against respondents thereby restraining them from interfering with the peaceful possession of the property.

2.4 An application was filed by the respondent for the rejection of the said plaint under clauses (b) and (d) of Rule 11 of Order VII of the CPC on the ground that the appellant did not seek the cancellation of the sale deeds and that they were executed only as a security for the loan transaction. As a result of this, the suit would be barred by section 34 of the Specific Relief Act, 1963.

2.5 The Trial Court allowed the application and directed the appellant to seek proper relief and pay court fee thereon within 15 days, otherwise, appropriate order will be passed.

## 3. ISSUES INVOLVED

3.1 The issues before the Court were as follows:

3.1.1 Whether the Trial Court erred in allowing the application under Order VII Rule 11 of CPC? [mixed question of law and fact]

3.1.2 Whether the Trial Court erred in granting to the appellant liberty to amend the plaint by seeking appropriate reliefs and paying the court fee? [pure question of law]

3.1.3 Whether the High Court committed an error in dismissing the writ petition filed by the appellant? [pure question of fact]

SC agreed to the decision of this finding of the Trial Court.

#### 4. UNDERSTANDING ‘REJECTION OF PLAINT’

4.1 Time of a court is very precious and therefore it has to be employed efficiently. The vexatious, fraudulent, and sham litigations not only waste the precious time of the court but also cause serious injustice to the other parties involved in the litigation. In order to avert such a situation to arise, rejection of plaint is one such instance which empowers the court to reject a plaint at the very threshold. Order VII Rule 11 of CPC governs the rejection of plaint. The grounds on which a plaint can be rejected are briefly described below sequentially:

4.1.1 Non-disclosure of cause of action – A cause of action is the sole reason for which the plaintiff approaches the court and if this cause of action is not mentioned then the court can reject the plaint.

4.1.2 When the relief claimed is undervalued.

4.1.3 When the relief claimed is properly valued but the papers are insufficiently stamped.

4.1.4 The suit appears from the statements mentioned in the plaint to be barred by any law.

4.1.5 When the plaint is not filed in duplicate.

4.1.6 Failure to comply with Order VII Rule 9 of CPC which pertains to the procedure for admitting a plaint.

4.2 However the court can allow amendment in the plaint to cure the undervaluation of relief claimed in the plaint and as well as the insufficient supply of stamped papers as abovementioned in clauses (b) and (c). For this purpose, the court can grant sufficient time for the plaintiff to do so.

#### 5. JUDGMENT IN REM AND IN PERSONEM

5.1 The division bench of the SC held the following:

5.1.1 On issue 1: The Trial Judge held that the plaintiff having failed to seek a declaration that the sale deeds were executed only as a security for the loan transaction, the suit is not maintainable in view of the provisions of the section 34 of the Specific Relief Act. Section 34 indicates that a person entitled to any legal character or to any right as to any property may institute a suit against any person denying or interested to deny his title to such character or right. The court may in its discretion make a declaration that the plaintiff is so entitled and the plaintiff need not in such a suit ask for further relief. However, no court shall make any such declaration where the plaintiff being able to seek further relief than a mere declaration of title omits to do so. The High Court and later the

5.1.2 On issue 2: The SC after reading the provision observed that the amendment in the plaint is allowed only in two cases and not in the case where the plaint is barred by any law. The present case deals with the rejection of plaint under Rule 11(d) of Order VII and not under Rules 11(b) and 11(c) of the same Order. Therefore, the High Court was justified in coming to the conclusion that the further direction that was issued by the Trial Judge was not in consonance with law.

5.1.3 In issue 3: The SC noted that the rejection of plaint under Order VII Rule 11 is deemed to be a decree as per the definition of decree given under section 2(2) of CPC. Hence, the order of the Trial Court rejecting the plaint is subject to a first appeal under Section 96 of the CPC. Therefore, the SC upheld the decision of the HC in granting no relief to the appellant in writ petition filed by him.

#### 6. CONCLUSION

6.1 The SC albeit affirmed the judgment of the HC, granted appellant a liberty to take recourse to appropriate remedy against the rejection of plaint as prescribed under CPC.

6.2 Through this judgment, the SC has reaffirmed that the time of the court is very precious and cannot be used for vested interest. However, it is to be borne in mind that the power under the said provision is a drastic one and therefore should be strictly adhered to. The courts need to exercise a very cautious restraint before rejecting any plaint at the threshold without giving due consideration to the facts and circumstances of the case. The judgment of the SC in this case will certainly go a long way in clarifying the application of allowing amendment of the plaint under Order VII Rule 11 of CPC.