



\$~

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 20<sup>th</sup> January, 2026

Pronounced on: 05<sup>th</sup> February, 2026

+ CS(COMM) 28/2025, I.A. 9391/2025, I.A. 12893/2025, I.A. 13288/2025 & I.A. 13320/2025

**M/S JIA LAL KISHORI LAL PRIVATE LIMITED** .....Plaintiff

Through: Mr. Pradeep Dhingra, Advocate along with Mr. Kunal Mehra (M:9717093000, 9818093000)

versus

**MUNICIPAL CORPORATION OF DELHI & ANR.** .....Defendants

Through: Mr. Vikas Chopra, SC-MCD with Mr. Neeraj Kumar, Advocate (M:9212036118)

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**JUDGMENT**

**MINI PUSHKARNA, J.**

**I.A. 9391/2025 (Application under Order VII Rule 11 read with Section 151 of Code of Civil Procedure, 1908)**

1. The present application has been filed on behalf of the defendants seeking rejection of the plaint under Order VII Rule 11 (d) of Code of Civil Procedure, 1908 (“CPC”), on the ground that the suit is not maintainable for being barred by limitation.

2. It is the case of the defendants that the 16<sup>th</sup> running bill for Rs. 4,99,82,236/- dated 04<sup>th</sup> July, 2014 raised by the plaintiff, has already been rejected by the defendants *vide* letter dated 09<sup>th</sup> October, 2014. Thus, all the legitimate dues of the plaintiff for the work done under the Agreement dated



20<sup>th</sup> July, 2007 for “Const. of Road under Bridge at Level X-ING in Vivek Vihar I.T.I”, has already been paid by the defendants. The cause of action, if any, arose last on 09<sup>th</sup> October, 2014, when the defendants rejected the claim of the plaintiff.

3. As per the defendants, the plaintiff failed to take any legal action for more than seven years, and in order to circumvent the limitation period, the plaintiff has artificially created a cause of action on the basis of a fictitious and self-serving bill dated 09<sup>th</sup> September, 2024, seeking escalation charges.

4. Further, the plaintiff has attempted to rely upon a receipt dated 04<sup>th</sup> January, 2023 to invoke Section 18 of the Limitation Act, 1963 (“Limitation Act”), to extend the limitation period. However, this receipt does not qualify as an acknowledgment of liability within the meaning of Section 18 of the Limitation Act, as it was not made by the defendants within the prescribed limitation period of the plaintiff’s claim, which ended on 03<sup>rd</sup> July, 2017. Thus, the alleged receipt dated 04<sup>th</sup> January, 2023 does not constitute a valid acknowledgment as it was made long after the expiration of the limitation period of the plaintiff’s claim raised under the bill dated 04<sup>th</sup> July, 2014.

5. As per the defendants, the question of limitation in the present case is purely a question of law, as the dates of bill, i.e., 04<sup>th</sup> July, 2014 and rejection of bill, i.e., 09<sup>th</sup> October, 2014 have been clearly given. Further, the right of the plaintiff based on the 16<sup>th</sup> running bill dated 04<sup>th</sup> July, 2014 extinguished in the year 2017, and cannot be revived at this stage.

6. *Per contra*, on behalf of the plaintiff, reliance is made upon the receipt dated 04<sup>th</sup> January, 2023, issued by the defendants, in response to the 16<sup>th</sup> running bill dated 04<sup>th</sup> July, 2014 to submit that the defendants, being a statutory authority, have clearly made an admission of approximately Rs. 25



Lakhs, to be released in favour of the plaintiff.

7. He further relies upon the communications dated 06<sup>th</sup> February, 2023, 06<sup>th</sup> March, 2023 and 19<sup>th</sup> July, 2024 from the defendants in this regard.

8. It is further submitted on behalf of the plaintiff that questions involving limitation and factual disputes regarding acknowledgments, etc., are mixed questions of law and fact, and therefore, cannot be adjudicated at the threshold under Order VII Rule 11 of CPC.

9. Having heard learned counsels for the parties, at the outset it is to be noted that while deciding an application under Order VII Rule 11 of the CPC, only averments made in the plaint, along with the documents filed, are germane. At this stage, the pleas taken by the defendants in the written statement and application for rejection of the plaint on merits, would be irrelevant and cannot be taken into consideration. Thus, in the case of *Dahiben Versus Arvindbhai Kalyanji Bhanusali (Gajra) and Others, (2020) 7 SCC 366*, the Supreme Court held as follows:

“xxx xxx xxx

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.*

xxx xxx xxx

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.

xxx xxx xxx

23.8. Having regard to Order 7 Rule 14 CPC, the documents filed along with the plaint, are required to be taken into consideration for deciding the application under Order 7 Rule 11(a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

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. 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 & Co. [Hardesh Ores (P) Ltd. v. Hede & 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 Vijay Pratap Singh v. Dukh Haran Nath Singh, 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 11 CPC.**

*23.14. The power under Order 7 Rule 11 CPC 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. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823].*

*23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.*

xxx xxx xxx

*24.1. In Swamy Atmananda v. Sri Ramakrishna Tapovanam [Swamy Atmananda v. Sri Ramakrishna Tapovanam, (2005) 10 SCC 51] this Court held : (SCC p. 60, para 24)*

*"24. A cause of action, thus, means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded."*

*(emphasis supplied)*

*24.2. In T. Arivandandam v. T.V. Satyapal [T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467] this Court held that while considering an application under Order 7 Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something purely illusory, in the following words : (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....”*

*(emphasis supplied)*

24.3. Subsequently, in *ITC Ltd. v. Debts Recovery Appellate Tribunal* [*ITC Ltd. v. Debts Recovery Appellate Tribunal*, (1998) 2 SCC 70] this Court held that law cannot permit clever drafting which creates illusions of a cause of action. What is required is that a clear right must be made out in the plaint.

24.4. If, however, by clever drafting of the plaint, it has created the illusion of a cause of action, 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] held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage. The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court.

xxx xxx xxx”

*(Emphasis Supplied)*

10. Reiterating the position of law that only averments made in the plaint have to be read as a whole while deciding the question of limitation, the Supreme Court in the case of *Shakti Bhog Food Industries Limited Versus Central Bank of India and Another*, (2020) 17 SCC 260, held as follows:

“xxx xxx xxx

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 plaintiff 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 plaintiff 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.”

xxx xxx xxx”

(Emphasis Supplied)

11. Considering the aforesaid position of law, this Court proceeds to deal with the averments made in the present plaint and the documents placed on record by the plaintiff, in order to assess as to whether the claim of the plaintiff is barred by limitation, as averred by the defendants.

12. The plaintiff has placed on record the receipt issued on the 16<sup>th</sup> running bill, as *Document no. 85*, and the said receipt dated 04<sup>th</sup> January, 2023 was prepared and issued by the defendants, i.e., erstwhile East Delhi Municipal Corporation (“EDMC”), now Municipal Corporation of Delhi



(“MCD”) after unification.

13. The plaintiff has averred in the plaint that despite approval of the aforesaid 16<sup>th</sup> running bill by the defendants *vide* the receipt dated 04<sup>th</sup> January, 2023, the bill of the plaintiff company remains unpaid. The averments of the plaintiff as regards the 16<sup>th</sup> running bill in the plaint, are reproduced as under:

“xxx xxx xxx

*14. That despite approval of the 16th (DOCUMENT-85) running bill by the defendants dated 4.01.2023, bill of the plaintiff company still remained unpaid despite its approval by the defendants, hence, there is a clear admission on part of the defendants about the amount due and to be paid by the defendants to the plaintiff company otherwise there is no dispute with regard to the payment of the bills and amount thereof to be paid by the defendants to the plaintiff company and as such the defendants are under legal obligation to discharge their legal liability qua the plaintiff company towards the work executed by the plaintiff company in terms of the work order and agreement referred above and as per the approval of the bills accorded by defendants to the plaintiff company.*

xxx xxx xxx

*20. That the defendants were illegally withholding the legitimate dues of the plaintiff company despite having approved the bill no.16 as detailed above, the plaintiff company got served a legal notice dated 12.06.2024 upon the defendants and other authorities under Section 80 C demanding their legitimate dues on 14.06.2024 through speed post, copy of the legal notice dated 12.06.2024 is annexed herewith as DOCUMENT-89. Copies of the postal receipts are collectively annexed herewith as DOCUMENT-90. However, despite service of legal notice, the defendants have failed to comply the same without any reason.*

xxx xxx xxx

*23. That the cause of action for filing the present suit accrued in favour of the plaintiff company and against the defendants on 4.01.2023 when the 16<sup>th</sup> bill of the plaintiff company was approved by the defendants for the release of the payments qua the work done by the plaintiff company in terms of the work awarded by the defendants to the plaintiff company. It further arose on each and every date when the plaintiff company made communications to the defendants for*



*release of the approved/sanctioned bills amount to the plaintiff company but despite receipt of the communications and reminders, the defendants failed to pay the legitimate dues of the plaintiff company. It further arose on 9.9.2024 when the plaintiff made its last communication with the defendants but yet despite service of the correspondence/communication the defendants failed to make the payment of the legitimate dues of the plaintiff company. It further arose on 12.6.2024 when the plaintiff company served upon the defendants a legal notice demanding their legitimate dues, however, the defendants despite service of the legal notice failed to comply the same. It further arose on 25.9.2024 when the plaintiff company filed a pre-litigation mediation application before the Delhi High Legal Service Authority. It lastly arose on 8.11.2024 when despite services of the notices by Delhi High Legal Service Authority for prelitigation mediation, the defendants did not appear, the cause of action is still subsisting and continuing since the defendants are still illegally and malafidely are withholding the legitimate dues of the plaintiff company and have failed to pay the same to the plaintiff company.*

*xxx xxx xxx”*

14. Perusal of the aforesaid averments made in the plaint clearly show that the plaintiff has categorically submitted that the cause of action for filing the present suit accrued in favour of the plaintiff company and against the defendants on 04<sup>th</sup> January, 2023, when the 16<sup>th</sup> running bill of the plaintiff company was approved by the defendants for release of payments *qua* the work done by the plaintiff company.

15. Further, this Court takes note of the letter dated 19<sup>th</sup> July, 2024, issued by the defendants-MCD itself, wherein, with regard to the dues payable to the plaintiff, it has been stated that the said payments be released to the plaintiff at the earliest to avoid further legal hassle. The letter dated 19<sup>th</sup> July, 2024 issued by the defendants-MCD, and placed on record as Additional Document no. 2 by the plaintiff, is extracted as below:



2026:DHC:979



Municipal Corporation of Delhi  
OFFICE OF THE EXECUTIVE ENGINEER (PR)  
SHAHDARA (NORTH) ZONE,  
G.T ROAD (OPPOSITE SHYAM LAL COLLAGE)  
SHAHDARA DELHI-110032



No. D/EE(Pr)Shah (N)/2024-25/ D- 542

Dated: 19/07/24

Please find enclosed the letter from M/s Jialal Kishorilal Pvt Ltd. JLKL/MCD/VV/8520  
Dated 01.07.2024 regarding payment of Rs. 22,54,000/- against W.O.No. EE(Pr)-  
ISH.N/SYS/2007-08/07 dated 16.07.2007.

Cash liability under head of A/c in which the work was undertaken has already been sent to  
DCA(Plan) & a copy of cash liability is also enclosed for ready reference.

The mentioned payment may please be released at the earliest to avoid further legal  
hassle.

DCA (Plan)-H8

EE(Pr)Shah(N)

08/07/24

16. The plaintiff has also placed on record the internal Office Noting of the erstwhile EDMC dated 06<sup>th</sup> February, 2023, wherein, the Executive Engineer (Projects), Superintendent Engineer (Projects), and the Chief Engineer approved the processing of payment in favour of the plaintiff. The said internal Office Noting dated 06<sup>th</sup> February, 2023, is reproduced as under:



## DOCUMENT-3

पूर्ण दिल्ली नगर निगम

Name of works:-

SH :-

Const. of Road under Bridge at level X-ing in Vivek Vihar Near I.T.I AC-44.  
Constn. of approaches to Road under Bridge, service Road, Sump well cum pump house, stair case, stilt portion for joining both the service roads, widening/strengthening of road.

The above noted work was awarded to M/s Jia Lall Kishori Lall vide W.O. No. D/EE-XXVII/TC/2007-08/07 dated 16.07.07 after the concurrence of finance Department under Head of account L.A. Roads. The same was booked by Planning Department (copy placed in file). Bill for Rs.23,00,000/- was passed and sent for allocation of budget to make payment under Head of Accounts LA Road, but as per finance department, no allocation has been made for the financial year 2022-23.

Now, DCA (Engg.) is requested to process the case under any appropriate head of account (either plan or non plan Head), so that the payment amounting to Rs.23,00,000/- be made to the contractor.

E.D.M.C.

SE/Project/Shah, No.  
Dy No. 160  
Date 02/02/23  
15/02/23

Office of the Chief Engineer  
Municipal Corporation of Delhi  
Dy. No. 7-1292  
Date 09/02/23

10/02/23

Office of the DCA/Engg-III/CHM  
Dy. No. 5667  
Date 14/02/23

EE/Project/Shah, No.  
Dy. No. 1608  
Date 16/02/23  
16/02/23

EE/PR-I Shah (N) Ch. P.K. SINGH  
E.E. (Pr.)-I SH (N) Z  
MCD

SE (PR) Shah (N) Agt  
16/02/23  
SE/Project/Shah.  
North Zone  
MCD

ANAO (PR) I Shah (N)  
EE/Pr/I/SH (N) 06/02/23

EE/Pr/I/SH (N) 06/02/23

R.K. Alawadi  
Chief Engineer  
Municipal Corporation of Delhi

closed per file  
is to occur.

10/2

CE/KN

16/02/23  
SE/PR  
EE/Project/I

16/02/23  
CE/PR  
EE/Project/I

17. The plaintiff has also placed on record the account maintained by the Office of the Executive Engineer (Projects), MCD, wherein, for the month of February, 2023, an amount of Rs. 23 Lakhs is shown as due and payable to the plaintiff.

18. At this stage, it is to be noted that the aforesaid additional documents have already been taken on record by this Court *vide* order dated 20<sup>th</sup>



January, 2026.

19. Perusal of the averments made in the plaint and the documents placed on record by the plaintiff clearly demonstrate a continuous and running cause of action in favour of the plaintiff. The defendants have not only approved the 16<sup>th</sup> running bill dated 04<sup>th</sup> July, 2014, by way of the receipt dated 04<sup>th</sup> January, 2023, but have also issued the letter dated 19<sup>th</sup> July, 2024, clearly stating that the amount as mentioned therein be released at the earliest to the plaintiff. Clearly, the cause of action for filing the present suit arose in favour of the plaintiff on 04<sup>th</sup> January, 2023, when the 16<sup>th</sup> running bill of the plaintiff was approved by the defendants, and again on 19<sup>th</sup> July, 2024, when letter regarding release of payments to the plaintiff was issued by the defendants. Therefore, the suit for recovery filed by the plaintiff in the year 2025, is within the period of limitation.

20. This Court also takes note of the position of law as elucidated by the Supreme Court in the case of ***M/s S.D. Shinde Tr. Partner Versus Govt. of Maharashtra and Others, 2023 SCC OnLine SC 1045***, wherein, it has been held that the claim crystallizes upon the issuance of the final bill. Thus, it has been held as follows:

“xxx xxx xxx

18. As far as the argument with regard to delay is concerned, the judgments of this court have clearly held that in such matters, the claim crystallizes upon the issuance of the final bill - which in this case was on 14.12.1992. The contractor's complaint with respect to payment was first aired to the EE in 1988; the rejection resulted in an appeal before the SE, who never rendered his opinion or decision. Even in 1993, (after the final bill was drawn), the SE's decision was not given. In the circumstances, the claim before the civil court for the appointment of the arbitrator: made in January, 1995 was within the period of limitation.....

xxx xxx xxx”

(Emphasis Supplied)



21. Thus, when the defendants themselves have issued the approval of the 16<sup>th</sup> running bill in the year 2023, the claim of the plaintiff cannot be said to have been crystallized finally in the year 2014, and, thus, the present suit for recovery filed in the year 2025, can in no manner be said to be beyond the period of limitation.

22. In this regard, reference may be made to the judgment in the case of *Aries & Aries Versus Tamil Nadu Electricity Board, (2018) 12 SCC 393*, wherein, by relying upon Article 113 of the Limitation Act, the Supreme Court, held as follows:

“xxx xxx xxx

10. Article 18 of the Limitation Act, 1963 provides for filing of a suit for recovery of money for work done by the plaintiff, within three years from the date when the work is done, in a situation where no time has been fixed for payment. Article 55 of the Limitation Act, 1963, on the other hand, provides for limitation of three years from the date of breach of a contract in a case of a suit for compensation for damages arising out of such breach. Article 113 of the Limitation Act, 1963 is the residuary provision which provides for a suit to be instituted within three years from the date when the right to sue accrues.

11. In the present case, dehors the correspondences that had been exchanged by and between the parties after the date of final payment i.e. 13-1-1981, the aforesaid date of final payment would have been crucial for determination of the period of limitation for filing the instant suit. However, in the present case, from the correspondences that had been exchanged after the date of final payment, it clearly appears that the plaintiff after receipt of the payment on 13-1-1981, reiterated its claim for additional payment on different counts including escalation and for extra works done. The defendant instead of rejecting the said claim entertained the same and kept the matter pending. Finally, on 6-11-1981 (Ext. P-2) the said claims were rejected. If the claims raised by the plaintiff were entertained and rejected finally on 6-11-1981, it would be reasonable to assume that the cause of action for the suit in respect of the said rejected claims arose on 6-11-1981 and the suit could have been filed at any point of time prior to the expiry of three years from the said date i.e. 6-11-1981 in view of Article 113 of the Limitation Act, 1963. The suit



*having been filed on 6-11-1984, the same, therefore, will have to be considered to be within the period of limitation. The High Court, therefore, was not justified in holding the contrary.*  
xxx xxx xxx”

*(Emphasis Supplied)*

23. Thus, when the defendants themselves approved the 16<sup>th</sup> running bill raised by the plaintiff by way of the receipt dated 04<sup>th</sup> January, 2023, it would be reasonable to assume that the cause of action for seeking recovery of the amount in question arose on 04<sup>th</sup> January, 2023. The suit having been filed within 3 years from 04<sup>th</sup> January, 2023, is within the period of limitation as per Article 113 of the Limitation Act, 1963.

24. Accordingly, reference to the averments in the plaint and the documents filed by the plaintiff, do not show that the suit of the plaintiff is barred by limitation.

25. Further, the effect of the approval of the 16<sup>th</sup> running bill by way of the receipt dated 04<sup>th</sup> January, 2023, and issuance of the letter dated 09<sup>th</sup> October, 2014 by the defendants would have to be gauged by this Court on the basis of the written statement of the defendants and the leading of evidence in the trial. While, holding that the factum of the suit being barred by limitation ordinarily would be a mixed question of fact and law, the Supreme Court in the case of ***Shakti Bhog Food Industries Limited (Supra)***, held as follows:

“xxx xxx xxx

22. *It is well-established position that the cause of action for filing a suit would consist of bundle of facts. Further, the factum of the suit being barred by limitation, ordinarily, would be a mixed question of fact and law. Even for that reason, invoking Order 7 Rule 11 CPC is ruled out.* In the present case, the assertion in the plaint is that the appellant verily believed that its claim was being processed by the regional office and the regional office would be taking appropriate decision at the earliest. That belief was shaken after receipt of letter



from the Senior Manager of the Bank, dated 8-5-2002 followed by another letter dated 19-9-2002 to the effect that the action taken by the Bank was in accordance with the rules and the appellant need not correspond with the Bank in that regard any further. This firm response from the respondent Bank could trigger the right of the appellant to sue the respondent Bank. Moreover, the fact that the appellant had eventually sent a legal notice on 28-11-2003 and again on 7-1-2005 and then filed the suit on 23-2-2005, is also invoked as giving rise to cause of action. Whether this plea taken by the appellant is genuine and legitimate, would be a mixed question of fact and law, depending on the response of the respondents.

xxx xxx xxx”

(Emphasis Supplied)

26. Similarly, holding that at the preliminary stage, the averments made in the plaint must be taken at their face value and issue of limitation cannot be decided summarily, the Supreme Court in the case of **P. Kumarakurubaran Versus P. Narayanan and Others, 2025 SCC OnLine SC 975**, held as follows:

“xxx xxx xxx

**12.1.** However, we are of the considered view that the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable.

**12.2.** In this regard, we may usefully refer to the following decisions of this Court, which have consistently held that when the question of limitation involves disputed facts or hinges on the date of knowledge, such issues cannot be decided at the stage of Order VII Rule 11 CPC: ..... .

xxx xxx xxx



**13.** In this backdrop, the approach of the High Court in reversing the well-reasoned order of the trial Court warrants interference. The trial Court had rightly held that the issue of limitation necessitated adjudication upon evidence, particularly in view of the appellant's assertion that the Power of Attorney executed by him did not confer any authority upon his father to alienate the suit property and that the impugned transaction came to his knowledge only at a much later point in time. In such circumstances, the determination of limitation involved disputed questions of fact that could not be summarily decided without the benefit of trial. The High Court, however, proceeded to reject the plaint solely on a *prima facie* assumption that the suit was barred by limitation, without undertaking any examination as to whether the plea regarding the date of knowledge was demonstrably false or inherently improbable in light of the record. In the opinion of this Court, such an approach amounts to an error of law and constitutes a misapplication of the well-established principles governing the exercise of power under Order VII Rule 11 CPC. For the same reasons, the decisions relied upon by the learned counsel for the respondents are inapplicable, being factually distinguishable.

**14.** It is also to be noted that the appellant has categorically averred in the plaint that he executed the registered power of attorney in favour of his father solely for the limited purpose of constructing a house and carrying out related activities. There is no express clause authorizing his father to sell the suit property to any person without the appellant's consent and knowledge. Yet, the appellant's father executed a sale deed in favour of his granddaughter, going beyond the scope of the power of attorney, which raises serious doubt about misuse of authority and potential fraud. Such assertions cannot be rejected in the application under Order VII Rule 11 CPC. Accordingly, we are of the view that the plaint discloses a cause of action which cannot be shut out at the threshold. Thus, the trial Court acted within its jurisdiction in refusing to reject the plaint and in holding that the matter ought to proceed to trial. The High Court, while exercising its revisional jurisdiction under Section 115 CPC, ought not to have interfered in the absence of any jurisdictional error or perversity in the trial court's order. Rejecting the plaint where substantial factual disputes exist concerning limitation and the scope of authority under the Power of Attorney, is legally unsustainable.

xxx xxx xxx”

(Emphasis Supplied)

27. Thus, when the plaint discloses a cause of action, and from the



reading of the plaint and the documents on record, it is demonstrated that the suit has been filed within the period of limitation, the plaint cannot be rejected under Order VII Rule 11 of the CPC.

28. Further, the provisions of CPC envisage rejection of plaint only if it appears from the statement in the plaint, to be barred by any law. However, disputed questions cannot be decided at the time of considering an application filed under Order VII Rule 11 of the CPC. The aforesaid position of law has been succinctly elucidated by the Supreme Court in the case of ***Popat and Kotecha Property Versus State Bank of India Staff Association, (2005) 7 SCC 510***, wherein, it has been held as follows:

“xxx xxx xxx

*10. Clause (d) of Order 7 Rule 7 speaks of suit, as appears from the statement in the plaint to be barred by any law. Disputed questions cannot be decided at the time of considering an application filed under Order 7 Rule 11 CPC. Clause (d) of Rule 11 of Order 7 applies in those cases only where the statement made by the plaintiff in the plaint, without any doubt or dispute shows that the suit is barred by any law in force.*

xxx xxx xxx

*14. In Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code 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 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 Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.*

xxx xxx xxx

*25. When the averments in the plaint are considered in the background of the principles set out in Sopan Sukhdeo case [(2004) 3 SCC 137] the inevitable conclusion is that the Division Bench was not right in holding that Order 7 Rule 11 CPC was applicable to the facts*



of the case. Diverse claims were made and the Division Bench was wrong in proceeding with the assumption that only the non-execution of lease deed was the basic issue. Even if it is accepted that the other claims were relatable to it they have independent existence. Whether the collection of amounts by the respondent was for a period beyond 51 years needs evidence to be adduced. It is not a case where the suit from statement in the plaint can be said to be barred by law. The statement in the plaint without addition or subtraction must show that it is barred by any law to attract application of Order 7 Rule 11. This is not so in the present case.

xxx xxx xxx”

*(Emphasis Supplied)*

29. Thus, the contention of the defendants that the claim of the plaintiff under the 16<sup>th</sup> running bill already stood rejected by way of letter dated 09<sup>th</sup> October, 2014 is based on averments made in the written statement, which the Court cannot go into while deciding an application under Order VII Rule 11 of CPC. Further, since the said contention of the defendants raises mixed question of fact and law, the same cannot be decided in a summary manner in an application filed under Order VII Rule 11, and has to be decided by the Court upon trial.

30. Considering the detailed discussion made hereinabove, no merit is found in the present application. The same is accordingly dismissed.

**MINI PUSHKARNA  
(JUDGE)**

**FEBRUARY 05, 2026/Kr**