



2026:DHC:397



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

Date of decision: 15th JANUARY, 2026

IN THE MATTER OF:

+ **CS(OS) 3398/2015**

MR ANUJ GUGLANI

.....Plaintiff

Through: Mr. Sanjiv Bahl and Mr. Amish Tiwari, Advocates

versus

MR HIRALAL C GUGLANI & ORS

.....Defendants

Through: Mr. Gyanendra Kumar, Senior Advocate, Mr. Soumya Dasgupta, Ms. Shambhawi Dwivedi and Ms. Sugandh Virmani, Advocates for LRs of D-1 & 2

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 8202/2025

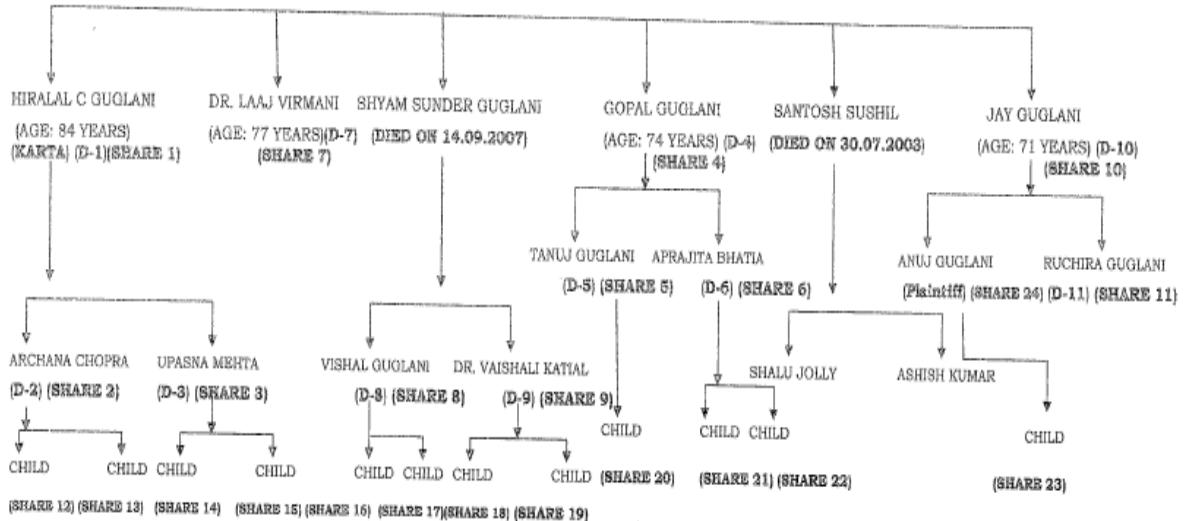
1. This is an application under Order VII Rule 11(a) & (d) of the CPC filed by Defendant No.2 for rejection of the plaint on the ground that the plaint fails to disclose a cause of action and is barred by law.

2. The present suit has been filed by the Plaintiff seeking a decree of partition, rendition of accounts and perpetual injunction against Defendants No.1, 12 and 13 in respect of immoveable property bearing No.F-4/16, Model Town, Delhi-110009 (*hereinafter referred to as the 'Suit Property'*), claiming that he is a coparcener in the H.C. Guglani HUF.

3. Before dwelling into the factual background of the case, it is imperative to understand the genealogy of the Guglani family. The Family Tree of the Guglani Family, as given in the Plaintiff, is as under:

FAMILY TREE OF GUGLANI FAMILY

DR. CHUNI LAL GUGLANI
(DIED IN 1973)
GANESH DEVI GUGLANI (WIFE)
(DIED ON 02.08.1984)



4. The other Defendants are siblings, legal heirs, or descendants of the above family members, arrayed on account of their lineage and claimed interests in the Suit Property.

5. Facts, in brief, leading to the present Suit, are as under:

a. Late Dr. Chuni Lal Guglani, the grandfather of the Plaintiff, migrated to Delhi along with his Joint Hindu Family at the time of Partition. It is stated that at that time, the family consisted of Dr. Chuni Lal Guglani, his wife Late Smt. Ganesh Devi Guglani, and their children—sons Hiralal C. Guglani, Late Wg. Cdr. Shyam Sunder Guglani, Gopal Guglani, and Jay Guglani, and daughters Dr. Laaj Virmani and Late Smt. Santosh Sushil. It is stated that the family lived jointly, constituting a traditional Hindu joint family.



b. It is stated that during his lifetime, Late Dr. Chuni Lal Guglani was engaged in professional work, including homeopathic medical practice, and also assisted in family business activities. It is stated that Late Dr. Chuni Lal Guglani supported his eldest son, Defendant No.1 Hiralal C. Guglani, in securing employment and business opportunities in Delhi and Mumbai. The family resided in official accommodations allotted to Late Dr. Chuni Lal Guglani for several years. It is stated that Late Dr. Chuni Lal Guglani invested a substantial sum in a film distribution venture through Defendant No.1, which resulted in losses, following which the family finally settled in Delhi.

c. It is stated that on 26.03.1957, a vacant plot bearing No. F-4/16, Model Town, Delhi was purchased by Defendant No.1 Hiralal C. Guglani in his own name by a registered sale deed. It is stated that the sale consideration of Rs.3,936.04/- was collected using the joint family funds by Dr. Chuni Lal Guglani and his wife by selling family jewellery and other assets. It is stated that the property, though registered in the name of Defendant No.1, is alleged to have been held by him in a fiduciary capacity for the benefit of the joint family and its coparceners. It is further stated that at the time when the abovementioned property was purchased, Defendant No.1 had just begun his professional career and was financially dependent on his father.

d. It is stated that construction on the property commenced in 1957–1958, with the ground floor being built first. It is stated that the entire family resided together in the premises as a joint



family. It is further stated that Defendant No.1 got married in 1960, and subsequently, in 1964, the first and second floors were constructed to accommodate the growing family. It is stated that the constructions were funded jointly by Late Dr. Chuni Lal Guglani, Smt. Ganesh Devi Guglani, Defendant No.1, and Late Wg. Cdr. Shyam Sunder Guglani, who, even during his Air Force service, allegedly remitted a significant portion of his earnings for the family home.

- e. It is stated that in August 1964, a formal Hindu Undivided Family (HUF) was constituted under the name “H.C. Guglani HUF”, with Defendant No.1 acting as its Karta. It is stated that the said HUF included Dr. Chuni Lal Guglani, Smt. Ganesh Devi Guglani, their sons and daughters, and the Suit property was thrown into the common hotchpotch of the HUF.
- f. It is stated that Dr. Chuni Lal Guglani passed away in 1973 at the suit property. His wife, Smt. Ganesh Devi Guglani, continued to live there until her death on 02.08.1984. Thereafter, Smt. Santosh Sushil passed away on 30.07.2003 and Late Wg. Cdr. Shyam Sunder Guglani passed away on 14.09.2007. It is stated that despite changes in residence due to employment exigencies, all sons of Late Dr. Chuni Lal Guglani remained in joint, constructive, and symbolic possession of the Suit property.
- g. It is stated that between 1980 and 1981, a partnership firm, namely, M/s Elmech Systems was constituted by Defendant No.1 and Defendant No.10 (Jay Guglani), and it functioned



from the Suit Property. It is stated that the Official records of the Sales Tax Department described the Suit Property as belonging to H.C. Guglani HUF, and no rent was charged by the HUF for the operations of M/s Elmech Systems from the Suit Property. It is the case of the Plaintiff that this act reinforces the HUF character of the property even after the death of Dr. Chuni Lal Guglani.

- h. It is stated that the Plaintiff, Anuj Guglani, was born on 26.03.1976 in the Suit Property. The Plaintiff claims to have become a coparcener in the HUF by birth. It is stated in the Plaintiff that no partition by metes and bounds ever took place and that Defendant No.1 repeatedly assured other family members of their respective shares in the Suit Property.
- i. It is stated that the dispute crystallised in March–May 2014, when Defendant No.1 allegedly applied for sanction of building plans and razed the existing structure of the Suit Property without the consent of other coparceners. It is stated that Defendant No.1 acted in collusion with his daughters (Defendants No.2 and 3) and builders Defendants No.12 and 13, and commenced construction of a multi-storey building, thereby altering the character of the HUF property.
- j. It is stated that a legal notice dated 22.08.2014 was issued by the Plaintiff demanding partition and rendition of accounts. In reply dated 09.09.2014, Defendant No.1 denied the existence of any HUF and asserted exclusive ownership over the Suit Property, which, according to the Plaintiff, marked a clear denial



of the plaintiff's rights.

k. Accordingly, the present Suit was filed seeking partition, rendition of accounts, and perpetual injunction in respect of the suit property

6. Summons were issued on 27.11.2015. Written Statements have been filed. Issues have been framed and trial has commenced and the Suit is at the stage of Plaintiff's evidence.

7. The present application has been filed by Defendant No. 2 under Order VII Rule 11(a) and (d) read with Section 151 of the Code of Civil Procedure, 1908, seeking rejection of the plaint on the ground that, even if the averments made by the Plaintiff are assumed to be correct, the suit is not maintainable in law.

8. It is the case of Defendant No.2 that Suit Property ceased to be a joint family or coparcenary property upon the death of Late Dr. Chuni Lal Guglani in the year 1973. Defendant No.2 has relied on Sections 6, 8 and 19 of the Hindu Succession Act, 1956, as applicable after the 2005 amendment, to contend that the interest of a male Hindu in Mitakshara coparcenary property devolves by succession and not by survivorship, and that a notional partition is deemed to have taken place immediately prior to the death of Late Dr. Chuni Lal Guglani. It is further stated that after the death Late Dr. Chuni Lal Guglani, the property would have devolved upon the heirs as tenants in common and would no longer retain the character of joint family property and, therefore, no Suit for partition, as pleaded by the Plaintiff, is maintainable.

9. The second ground taken by the Defendant No.2 is that the Plaintiff is inconsistent and legally untenable inasmuch as the Plaintiff himself has



pleaded that no HUF ever existed in the name of Late Dr. Chuni Lal Guglani as the HUF constituted in the year 1964 was in the name of Defendant No. 1 as "H.C. Guglani HUF", with Defendant No. 1 as its Karta. Defendant No. 2 further contends that, on the Plaintiff's own admission, the HUF is that of Defendant No. 1 and not of the common ancestor, and that an ascendant cannot be a member of an HUF created in the name of his son. It is therefore stated that the Plaintiff could never have been a coparcener in such an HUF and, as a result, no enforceable right or cause of action accrues to him.

10. The third ground urged by the Defendant No.2 is that the Plaintiff fails to disclose material particulars necessary to constitute a cause of action, as required under Order VI Rule 4 CPC. It is contended that after the enactment of the Hindu Succession Act, 1956, there is no presumption of the existence of an HUF, and specific and detailed pleadings are mandatory. It is stated that the Plaintiff contains only bald assertions that the Plaintiff's grandparents possessed properties in Pakistan and sold jewellery and other assets to fund the purchase of the Suit Property. It is stated that without disclosing any particulars of such properties, compensation claims, or supporting documents, the claim of the Plaintiff is vague, speculative, and devoid of the factual foundation required to disclose a right to sue.

11. The fourth ground taken by the Defendant No.2 is that the suit is *ex facie* barred by limitation. Relying upon the plaintiff's own pleadings, Defendant No. 2 contends that a clear separation occurred on 03.10.1990, when the plaintiff's father admittedly moved out of the suit property along with his family and, therefore, the pleas of joint, constructive, and symbolic possession are illusory, and such admitted separation constitutes a clear starting point for limitation under Article 65 of the Limitation Act. It is



stated that since the Suit was filed only in the year 2015, the Plaintiff is hopelessly barred by limitation and, therefore, liable to be rejected under Order VII Rule 11(d) CPC.

12. Reply to the present Application has been filed by the Plaintiff wherein it is contended that the questions raised by Defendant No. 2 in the present application have already been considered by this Court and have been crystallised *vide* order dated 11.09.2018, wherein this Court has framed the issues with the consent of parties. It is stated that the issues include the issue of limitation, the nature and character of the Suit Property, the source of consideration, the alleged fiduciary capacity of Defendant No. 1, the existence and constitution of the H.C. Guglani HUF in August 1964, and the Plaintiff's entitlement to partition and other reliefs. It is stated that once these issues have been framed for trial, the same questions cannot be reagitated at an interlocutory stage through an application under Order VII Rule 11 CPC, and must necessarily be adjudicated only after evidence is led.

13. The Plaintiff further objects to the contention raised by the Defendant No.2 that the alleged HUF is the HUF of Defendant No. 1 alone. According to the Plaintiff, in August 1964, as per the wishes and intention of Late Dr. Chuni Lal Guglani and Late Smt. Ganesh Devi Guglani, an HUF under the name and style of "H.C. Guglani HUF" was constituted with Defendant No. 1 as Karta, but with all the children of Dr. Chuni Lal Guglani and the parents themselves as members. The Plaintiff asserts that the formation of this HUF, the pooling of the Suit Property into the common hotchpotch, and the continued treatment of the property as joint family property are all matters of fact which stand squarely covered by Issue No. 4 framed by this Court and cannot be adjudicated without trial.



14. The Plaintiff also refutes the plea of absence of material particulars, asserting that the Plaintiff contains sufficient factual averments to disclose a cause of action and that, at the stage of deciding an application under Order VII Rule 11 of the CPC, the Court must proceed on the assumption that the pleadings are true. The Plaintiff has also objected to the plea of limitation raised by the Defendant No.2. It is stated that there was no ouster or separation in 1990 and that the Plaintiff continued in joint, constructive, and symbolic possession of the Suit Property. It is further stated that limitation is a mixed question of law and fact and has already been framed as an issue. The plaintiff therefore submits that the present application is premature, vexatious, and an abuse of process, and prays that the same be dismissed, leaving all issues to be decided at trial.

15. Heard the learned Counsels for the parties and perused the material on record.

16. For the adjudication of the present application, it is pertinent to reproduce the Order dated 11.09.2018, passed by this Court, framing issues in the present matter. Order dated 11.09.2018 is reproduced in its entirety and the same reads as under:

***“1. Whether the present suit is barred by limitation?
OPD***

2. Whether the property bearing No.F-4/16, Model Town, Delhi was purchased for the benefit of the Joint Hindu Family with the entire financial contribution of Dr. Chuni Lal Guglani & Smt. Ganesh Devi Guglani? OPP

3. Whether the property bearing No. F-4/16, Model Town, Delhi was held by Defendant No.1 in fiduciary



capacity for the benefit of the coparceners & other members of Joint Hindu Family of Dr. Chuni Lal Guglani? OPP

4. Whether as per the desire and wishes of Dr. Chuni Lal Guglani & Smt. Ganesh Devi Guglani an HUF was formed under the name and style of H.C. Guglani HUF with defendant no.1 as its Karta in August 1964 with all the children of Dr. Chuni Lal Guglani as its members? OPP

5. Whether the family property bearing F-4/16, Model Town, Delhi was put in the pool of H.C. Guglani HUF in the year 1964? OPP

6. Whether the Plaintiff is entitled to a decree of partition of the suit property bearing No.F-4/16, Model Town, Delhi-110009? OPP

7. Whether the Plaintiff is entitled to a decree of rendition of accounts directing the Defendant No.1 to render true and correct accounts with respect to the "H.C. Guglani HUF" and also in his personal name? OPP

8. Whether the plaintiff is entitled to a decree of perpetual injunction against the Defendants No.1, 12 and 13 restraining them, their agents, representatives, assigns, employees, successors-in-interest etc from encumbering, alienating, transferring or creating third party interest in respect of the suit property bearing No.F-4/16, Model Town, Delhi – 110009? OPP

9. Whether the Plaintiff is entitled to costs ? OPP

10. Relief?

Parties are directed to file their list of witnesses within



a period of four weeks.

The plaintiff is directed to file his evidence by way of affidavits within a further period of four weeks.”
(emphasis supplied)

17. It is also pertinent to refer to Order VII Rule 11 of the CPC, which reads as under:

“11. Rejection of plaint.

The plaint shall 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 returned 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:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the



time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

18. The law relating to rejection of a plaint under Order VII Rule 11 is crystallized through various judgments of the Apex Court. The Apex Court in Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510, has held as under:

“13. Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.

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.

15. In I.T.C. 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 and 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 the power under Order 7 Rule 11 of the Code 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 of the Code. (See *T. Arivandandam v. T.V. Satyapal* [(1977) 4 SCC 467].)*

*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* [(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* [(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 of Order 7 was applicable.*

19. 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 of 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. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is prima facie of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.”

19. A perusal of the above judgment makes it clear that the remedy under Order VII Rule 11 CPC is an extraordinary and special jurisdiction enabling the Court to summarily terminate a suit at the threshold only if the plaint, on a meaningful reading, fails to disclose a cause of action, is barred by law, is undervalued and not corrected despite direction, or is insufficiently stamped.

20. The Court, at this stage, is confined strictly to the averments in the Plaintiff and is prohibited from examining the defence, disputed questions of fact, or materials produced by the Defendants. The Plaintiff must be read as a whole, without culling out isolated sentences, and if upon such reading a cause of action is disclosed, the plaint cannot be rejected. It is equally settled that disputed questions, issues requiring evidence, or matters forming part of the Defendant's challenge cannot furnish a ground for rejection under Order VII Rule 11 CPC.

21. In view of the law laid down by the Apex Court, this Court is of the considered view that the present application does not satisfy the statutory threshold required for rejection of a plaint under Order VII Rule 11(a) or (d)



CPC. A meaningful reading of the Plaintiff, as a whole, clearly discloses a cause of action and raises substantial triable issues which cannot be adjudicated at the threshold without evidence.

22. The first contention of Defendant No. 2 that the Suit Property ceased to be joint family or coparcenary property upon the death of Late Dr. Chuni Lal Guglani in 1973 is founded upon an interpretation of the Hindu Succession Act, 1956, which necessarily requires examination of foundational facts, including the nature of the property, the source of funds, the existence and constitution of the alleged HUF, and the manner in which the property was treated by the family members. It is the case of the Plaintiff that the HUF was constituted under the name and style of "H.C. Guglani HUF". Whether the HUF continued or not or was there any separation, are all disputed facts and that is why issue No.4 was framed by this Court on 11.09.2018. Further, it has also been argued by the learned Counsel for the Defendant No.2 that the Suit Property ceased to be a joint family or coparcenary property upon the death of Late Dr. Chuni Lal Guglani in the year 1973 and that in accordance with Sections 6, 8 and 19 of the Hindu Succession Act, 1956, as applicable after the 2005 amendment, the interest of a male Hindu in Mitakshara coparcenary property devolves by succession and not by survivorship, and that a notional partition is deemed to have taken place immediately prior to the death of Late Dr. Chuni Lal Guglani. It is the case of the Plaintiff that the HUF was constituted under the name and style of "H.C. Guglani HUF". The Plaintiff, therefore, is not claiming the Suit Property as a coparcener but as a member of the HUF. Whether HUF existed or not, whether the Plaintiff is claiming the property as a coparcener or as a member of the HUF, are all issues which are to be considered on the



basis of evidence and not on the basis of the stand of the Defendant No.2. As stated above, while considering an Application under Order VII Rule 11 of the CPC, the Court is confined to the averments in the Plaintiff and should not examine the defence taken up by the Defendants or the mixed questions of law and fact.

23. The plea that the alleged HUF was that of Defendant No. 1 alone and not of the common ancestor also cannot be accepted at this stage. The Plaintiff contains categorical averments that the HUF styled as “H.C. Guglani HUF” was constituted in August 1964 in accordance with the wishes of Late Dr. Chuni Lal Guglani and Late Smt. Ganesh Devi Guglani, with Defendant No. 1 acting as Karta, but with all children of the common ancestor as its members, and that the Suit Property was thrown into the common hotchpotch. Whether such an HUF was validly constituted, who were its members, and whether the Suit Property acquired the character of HUF property are all factual issues which require evidence. The Defendant’s contention proceeds on a disputed interpretation of the Plaintiff and cannot be used to non-suit the Plaintiff at the threshold.

24. The submission that the Plaintiff lacks material particulars and therefore discloses no cause of action is equally untenable. The Plaintiff sets out, in detail, the circumstances of migration of the family at the time of Partition, the alleged contribution of joint family funds for purchase of the suit property, the construction and enjoyment thereof, the constitution of the HUF, the fiduciary role allegedly played by Defendant No. 1, and the subsequent denial of the Plaintiff’s rights in 2014. At the stage of Order VII Rule 11 CPC, the Court is required to proceed on the assumption that the averments in the plaint are correct. Whether the Plaintiff is ultimately able to



prove these averments is a matter for trial and cannot be prejudged at this stage.

25. The plea of limitation raised by Defendant No. 2 also cannot be adjudicated under Order VII Rule 11(d) CPC. Though reliance has been placed on the alleged separation of the Plaintiff's father from the Suit property in 1990, the Plaintiff specifically pleads continued joint, constructive, and symbolic possession and denies any ouster or partition. Limitation, in the facts of the present case, is clearly a mixed question of law and fact, and has already been framed as Issue No. 1 with the onus to prove on the Defendants. It is well settled that where determination of limitation depends upon disputed facts, the Plaintiff cannot be rejected under Order VII Rule 11 CPC.

26. This Court also finds merit in the submission of the Plaintiff that the issues sought to be raised in the present application were crystallised by this Court *vide* order dated 11.09.2018, with the consent of parties, and the suit has since progressed to the stage of Plaintiff's evidence. Permitting the Defendants to reagitate the same issues through an application under Order VII Rule 11 CPC at this advanced stage would defeat the very object of orderly trial and would amount to permitting a collateral challenge to the framing of issues.

27. The Apex Court has time and again held that the jurisdiction under Order VII Rule 11 CPC is to be exercised sparingly and only in clear cases where the Plaintiff is manifestly vexatious, meritless, or barred by law on the face of it. The present Plaintiff does not fall within any of these categories. On the contrary, it raises serious and substantive disputes which can only be resolved after parties are afforded an opportunity to lead evidence.



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28. In view of the above, this Court is of the considered opinion that the Plaintiff discloses a cause of action, does not appear to be barred by any law on the face of it, and raises triable issues already framed for adjudication and, therefore, the present application is devoid of merit.

29. Accordingly, the Application is dismissed.

30. It is made clear that this Court has made no observations on the merits off the case and all the contentions of the parties on merits are left open to be adjudicated at trial.

SUBRAMONIUM PRASAD, J

JANUARY 15, 2026

Rahul