



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CR No. 315 of 2025

Order Reserved on: 9.2.2026

Order Delivered on: 9.4.2026

1 - Bank Of Baroda Branch - Rosarb, Through Chief Manager, Prahlad Kumar Jha, S/o Deochandra Jha, Aged About 45 Years, Address Bank Of Baroda, Regional Office Rajkishor Nagar Bilaspur, District- Bilaspur C.G. (Defendant No. 1)

... Applicant(s)

versus

1 - M/s. Start Up Engineers I.D.B.I Bank In Front Of A T M, Sindhi Colony, Tahsil And District Bilaspur, Through Partner Fazle Rasul, R/o H/88, Narmada Nagar, Nehru Nagar, Tahsil And District Bilaspur C.G. And Partner- Smt. Sujata Manik (Plaintiff No. 1).

2 - Smt. Shabnam Aara W/o Abdul Kalam Aged About 60 Years R/o Ward No. 7, House No. 1569, Gurughasidas Nagar Mini Basti, Jarhabhatha, Tahsil And District Bilaspur C.G.(Plaintiff No. 2).

3 - Rashtriya Laghu Ughog Nigam Limited (Government Of India Undertaking), Through Manager, 204, A-Block,cristal Arkid, Near Lodhipara Chowk, Raipur 492007 C.G.(Defendant No.2).

4 - Vishwajeet Bhoumik, Proprietor, Uddan Finance Company Jarhabhatha, Bilaspur C.G. (Defendant No. 3).

5 - M/s Abhilash Engineering, Through Manager, Abhilash Banarjee, Office Address- Uddan Finance Company Building, Jarhabhatha, Bilaspur R/o Lane No. 3 And 4 Bangali Para, Sarkanda Tahsil And District Bilaspur C.G. (Defendant No. 4).

6 - State Of Chhattisgarh Through The Collector, Bilaspur, District Bilaspur C.G. (Defendant No. 5)

... Respondent(s)

For Applicant(s)	:	Mr. Punit Ruparel, Advocate.
For Respondent(s) No. 1 & 2	:	Mr. Neeraj Kumar Sharma, Advocate along with Mr. Anurag Agrawal, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. By way of this revision, the applicant has prayed for following reliefs:-

"i. quash/set-aside the impugned order dated 24.06.2025 passed by First Additional District Judge, Bilaspur (C.G.) in Civil Suit (A)/88/2019 and consequently the application filed under Order 7 Rule 11of CPC may kindly be pleased to allow and dismiss the civil suit as prayed in the said application.

ii. quash/set-aside the order 24.06.2025 passed by the

trial court i.e. First Additional District Judge, Bilaspur in Civil Suit (A)/88/2019.

iii. call for the entire record pertaining to the Civil Suit (A)/88/2019 for kind perusal.

iv. any other relief as Hon'ble Court may pleased to grant it.”

2. Brief facts of the case, is that, by way of the present civil revision, the revisionist Bank has challenged the impugned order dated 24.06.2025 passed by the First Additional District Judge, Bilaspur (C.G.) in Civil Suit (A)/88/2019, whereby the application filed by the revisionist under Order VII Rule 11 of the Code of Civil Procedure was dismissed. The plaintiffs/respondent Nos. 1 and 2 instituted a civil suit seeking declaration and injunction for a sum of Rs. 60,00,600/-, contending that plaintiff No. 1 had availed a loan of Rs. 40,00,000/- from the revisionist Bank on 04.06.2019 for extension of his business, and that, as security, defendant No. 2 (mother of plaintiff No. 1) mortgaged her immovable property situated at Tifra, P.H. No. 21, diverted land Sheet No. 19/20, Plot No. 45, Khasra No. 724/05, Rakba 2200 sq.ft., Gayatri Nagar Ward, Bhartiya Nagar, Tahsil and District Bilaspur, with original documents handed over to defendant No. 3, however, upon default, the plaintiffs alleged fraud and cheating against defendant No. 3, Vishwajeet Bhaumik, who had allegedly assured sanction of the loan and retained signed cheques of plaintiff No. 2. The Bank/defendant No. 1 filed a counter-claim raising all objections

and asserting that the allegations of fraud do not confer jurisdiction upon the civil court. Simultaneously, the Bank approached the Debt Recovery Tribunal, Jabalpur, which, after the borrowers remained ex parte, passed judgment dated 04.11.2024 in Original Application No. 230/2022 in favour of the Bank, permitting sale of the mortgaged and other properties, restraining the borrowers from dealing with their assets, and issuing a Recovery Certificate under Section 19(22) of the Recovery of Debts and Bankruptcy Act for Rs. 59,07,165/-. Thereafter, on 29.07.2025, the Recovery Officer issued a demand notice claiming the awarded amount with simple interest and costs of Rs. 62,000/-. Earlier, the plaintiffs preferred M.A. No. 33/2022 challenging rejection of their application under Order XXXIX Rules 1 and 2 CPC, wherein status quo was granted by the Hon'ble Court and the matter remains pending. The revisionist Bank had also approached the Hon'ble Court in Writ Petition (227) No. 6/2023, wherein by order dated 22.08.2023 the trial court was directed to conclude the suit within one year, yet no substantial progress has been made since the suit's institution on 04.12.2019. It is submitted that the plaintiffs have not challenged the DRT judgment before the Debt Recovery Appellate Tribunal, and the DRT order has thus attained finality, nevertheless, they continue the civil suit on the same subject matter relating to the mortgaged property, while the Bank is proceeding to realize its dues through auction pursuant to the DRT order. The revisionist had earlier filed

Writ Petition (227) No. 599/2023 challenging dismissal of its order VII Rule 11 application, which was withdrawn with liberty to file a civil revision under Section 115 CPC, and thereafter Civil Revision No. 125/2023 was allowed by judgment dated 10.07.2024, wherein it was held that Section 34 of the SARFAESI Act, 2002 bars the jurisdiction of civil courts in matters falling within the domain of the DRT and consequently the suit was held not maintainable. The revisionist further relies upon the judgment of the Hon'ble Supreme Court reported in (2014) 1 SCC 479, wherein it has been categorically held that the jurisdiction of the civil court is completely barred in such matters and that the borrower's remedy lies under Section 13(4) read with Section 17 of the SARFAESI Act before the DRT. Despite the statutory bar and the finality of the DRT proceedings, the trial court dismissed the application under Order VII Rule 11 CPC, compelling the revisionist to file the present civil revision, as the civil suit is clearly barred by law and not maintainable in view of the SARFAESI Act and the Recovery of Debts and Bankruptcy Act.

3. Learned counsel for the applicant submits that the present civil revision has been preferred assailing the impugned order dated 24.06.2025 passed in Civil Suit No. A-88/2019 whereby the learned Trial Court rejected the applicant's application under Order VII Rule 11 of the CPC, and it is prayed that the suit pending before the Trial Court be dismissed as not maintainable. Learned counsel contends that the suit is barred in law,

particularly in view of Section 34 of the Arbitration and Conciliation Act, and further submits that the Bank had already initiated proceedings before the Debt Recovery Tribunal, Jabalpur, which culminated in an order in favour of the Bank that has attained finality, the same having not been challenged before the Debt Recovery Appellate Tribunal, Allahabad, notably, the plaintiffs/respondent Nos. 1 and 2 neither appeared nor filed any reply before the DRT proceedings. It is argued that despite having availed and enjoyed the loan amount, which was duly credited to their accounts and remains unpaid, the plaintiffs have instituted the present civil suit on the plea of fraud in respect of the mortgaged property, which action is legally impermissible and amounts to an attempt to circumvent and overreach the final order passed by the DRT. Learned counsel further submits that the objection raised by the plaintiffs regarding the earlier rejection of an application under Order VII Rule 11 and the filing of WP (227) No. 6/2023 is misconceived, as the said writ petition was disposed of merely with a direction for expeditious disposal of the suit and did not adjudicate upon the merits of the application under Order VII Rule 11, hence, the principle of res judicata is not attracted. It is also contended that the impugned order dated 24.06.2025 does not record any finding that the subsequent application is barred by res judicata, and since the plaintiffs have not independently challenged the said order on that ground before any competent forum, they are precluded from raising such objection in the

present revision. Placing reliance upon the judgment of the Calcutta High Court in ***Ashwin Desai v. Bijay Kumar Manish Kumar HUF (C.O. 3348 of 2016)***, it is urged that a second application under Order VII Rule 11 CPC is maintainable, particularly when there is a material change in circumstances, as in the present case where the Bank secured a final order from the DRT after rejection of the earlier application. It is further submitted that the doctrine of res judicata does not bar successive applications where subsequent developments materially alter the factual matrix, and the applicant has approached this Hon'ble Court with full disclosure of all prior proceedings, including the order dated 22.08.2023 passed in WP (227) No. 6/2023. Learned counsel additionally relies upon recent pronouncements of the Hon'ble Supreme Court holding that an application under Order VII Rule 11 CPC can be entertained at any stage of the proceedings, and submits that the controversy involved in the present case is squarely covered by the judgment rendered by this Hon'ble Court in Civil Revision No. 125/2023 (AFR Judgment) dated 10.07.2024, wherein in similar circumstances the suit was dismissed. On these grounds, it is prayed that the present revision be allowed and the civil suit pending before the Trial Court be rejected in limine.

4. On the other hand, learned counsel for respondents No. 1 & 2 submits that Civil Suit No. 58-A/2019 is presently pending before the learned First Additional District Judge, Bilaspur, at the stage of

production of evidence by the revisioner/defendant, and the trial is proceeding in accordance with law. It is contended that the present civil revision is wholly misconceived and not maintainable either in law or on facts, inasmuch as the revisioner is seeking to re-agitate an issue that already stood conclusively decided by order dated 23.12.2019, whereby the earlier application under Order VII Rule 11 CPC was rejected and the said order has attained finality. The impugned order dated 24.06.2025 arises from rejection of a second application under Order VII Rule 11 CPC filed by the same defendant on identical grounds, which is impermissible and barred by law. Learned counsel submits that in WP (227) No. 6/2023, the Hon'ble High Court merely directed expeditious disposal of the suit and did not interfere with or set aside the order dated 23.12.2019; hence, the revisioner cannot derive any benefit from the said proceedings to justify the filing of a subsequent application. It is further submitted that the order dated 31.03.2022 passed in MA No. 33/2022 only directed the parties to maintain status quo with respect to the suit property and did not adjudicate upon the merits of the rejection of plaint. The issue regarding rejection of the plaint under Order VII Rule 11 CPC having already been adjudicated between the same parties by a competent court and not having been overturned, the same operates as res judicata under Section 11 CPC, and therefore a second application on the same grounds is clearly barred. It is also a settled principle of law that while deciding an application

under Order VII Rule 11 CPC, the Court is required to confine itself strictly to the averments contained in the plaint and the documents filed therewith, and the defence taken in the written statement or the documents relied upon by the defendant are wholly irrelevant for that purpose. In view of the aforesaid submissions, it is most respectfully prayed that this Hon'ble Court be pleased to dismiss the present civil revision as not maintainable. He has placed reliance upon the judgment in the matter of ***Sulthan Said Ibrahim vs. Prakasan and others, 2025 INSC 764.***

5. I have heard learned counsel for the parties and perused the material available on record.
6. The Calcutta High Court in the matter of ***Ashwin Desai vs. Bijay Kumar Manish Kumar HUF, (2017) 3 CalHCN 788***, the High Court has observed as under:-

“18. The learned Court below the rejected second application of the defendant petitioner for rejection of the plaint filed in the suit on the ground that on rejection of the earlier application under Order 7. Rule 11 of the Code no such second application lies under the same provision. The learned Court below held that the aforementioned order dated March 31, 2015 passed by this Court in C.O. 1093 of 2015 not having been assailed by the defendant anywhere is binding on it. It was contended on behalf of the plaintiff opposite party that

the said finding of the learned Court below is the correct exposition of law. However, no decision or authority was cited before me to support the said finding of the learned Court below. However, it is to be noted that the reasoned decision by which this Court held the earlier application of the defendant petitioner under Order 7, Rule 11 to be not maintainable was passed in C.O. 1092 of 2015 and not in C.O. 1093 of 2015 as recorded in the impugned order. In the facts of the present case already discussed above, it is evident that the grounds urged by the defendant petitioner in the second application for rejection of plaint and the ground urged in his said earlier application decided by this Court in the aforementioned earlier revisional application are completely different. Therefore, the dismissal of the earlier application of the defendant petitioner for rejection of the plaint could not render the second application of the defendant petitioner under Order 7, Rule 11 of the Code to be not maintainable. For all these reasons, I am unable to convince myself to sustain the finding of the learned Court below that in view of the rejection of the earlier application of the defendant petitioner under Order 7, Rule 11 of the Code, his said second application for rejection of the plaint was not maintainable. In the facts of the instant case, as I have already discussed, the

finding of the learned Court below that the defendant filed the said second application to misuse and abuse the judicial process cannot be sustained.”

7. Considering the facts and circumstances of the case and further considering the rival submissions advanced by learned counsel for the parties and a comprehensive scrutiny of the material available on record, this Court is of the considered opinion that the impugned order dated 24.06.2025 passed by the learned First Additional District Judge, Bilaspur, rejecting the application preferred by the revisionist Bank under Order VII Rule 11 of the Code of Civil Procedure, is legally unsustainable and suffers from patent infirmity. The record unequivocally reveals that the revisionist Bank had already invoked the jurisdiction of the Debt Recovery Tribunal, Jabalpur, by instituting Original Application No. 230/2022, which culminated in a final judgment and order dated 04.11.2024 in favour of the Bank, whereby a Recovery Certificate under Section 19(22) of the Recovery of Debts and Bankruptcy Act was duly issued for recovery of a sum of Rs. 59,07,165/- together with applicable interest and costs. It is not in dispute that the said adjudication has not been assailed before the Debt Recovery Appellate Tribunal and has, therefore, attained finality and binding effect between the parties. In the face of such conclusive adjudication, the statutory bar engrafted under Section 34 of the SARFAESI Act, 2002 squarely operates, expressly excluding the jurisdiction of the civil court in respect of matters

which fall within the domain and competence of the Tribunal, and relegating the aggrieved borrower to the remedies provided under Sections 13(4) and 17 of the said Act. The continuation of the civil suit, which in substance seeks to impede, question, or nullify the enforcement of the secured asset and the recovery proceedings undertaken pursuant to the DRT's order, is thus manifestly barred by law and constitutes an impermissible collateral challenge to a final and binding adjudication. The objection raised on behalf of the respondents that the second application under Order VII Rule 11 CPC is hit by the doctrine of res judicata is equally untenable, for the reason that significant and material subsequent developments have intervened after the rejection of the earlier application, most notably the final determination by the DRT and issuance of the Recovery Certificate, which substantially alter the factual and legal matrix of the case. It is well settled that an application under Order VII Rule 11 CPC can be entertained at any stage of the proceedings if, from a plain reading of the plaint, the suit appears to be barred by any law for the time being in force. The principles laid down in *Ashwin Desai vs. Bijay Kumar Manish Kumar HUF* fortify the proposition that a subsequent application is maintainable where fresh or distinct grounds arise due to changed circumstances. The learned Trial Court, while passing the impugned order, has failed to appreciate the binding effect of the DRT's final adjudication, the statutory ouster of civil

court jurisdiction, and the legal consequences flowing therefrom, thereby exercising jurisdiction with material irregularity.

8. Consequently, the present civil revision merits acceptance and is hereby **allowed**.

9. The impugned order dated 24.06.2025 passed in Civil Suit (A)/88/2019 by the learned First Additional District Judge, Bilaspur (C.G.) is set aside. As a necessary corollary, the plaint in the aforesaid civil suit stands rejected under Order VII Rule 11(d) CPC, being barred by law.

10. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)

Judge

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
9.2.2026	9.4.2026	-	15.4.2026

Raghu Jat