



CR-3186-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3186-2025 (O&M)

Reserved on : 15.07.2026

Pronounced on : 30.07.2026

Uploaded on : 30.07.2026

Santosh @ Santosh Grover

...Petitioner

Versus

Kishore Kumar Khurania and another

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Jatinder Singh Kaliraman, Advocate and
Mr. Tara Dutt, Advocate
for the petitioner.

Mr. Aman Pal, Senior Advocate with
Ms. Neha Rani, Advocate and
Mr. Balraj Sharma, Advocate
for respondent No.1.

HARPREET KAUR JEEWAN, J.

1. The defendant No.2-petitioner has filed this Civil Revision under Article 227 of the Constitution, impugning the order dated 05.04.2025 (Annexure P-8), passed by the Civil Judge (Junior Division), Kaithal, dismissing the application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure, 1908 (*for short, 'the CPC'*).

Brief facts:

2. Description of the property:

MCK No.951/11, Property ID No.110C64U21;

MCK No.952/11, Property ID No.110C57U21;



CR-3186-2025

Situated at Patti Kaisth Seth, Ambala Road, Kaithal, measuring 866.33 square yards.

2.1 Respondent No.2-Anand Prakash Khurania, being the owner of the property took a loan facility from Hero Fin Corp, Delhi, but ultimately, there was a default and proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*for short, 'the SARFAESI Act'*) were initiated and the petitioner purchased the said property in a public auction, in pursuance of the said proceedings.

2.2 The plaintiff-respondent No.2 filed a civil suit against the petitioner seeking declaration that the Auction and Sale Certificate issued in favour of the petitioner regarding the suit property are illegal, null & void. The relief of permanent injunction was also sought.

2.3 The petitioner-defendant filed an application (Annexure P-2) under Order VII Rule 11 CPC in the aforesaid suit. Vide order dated 08.12.2022 (Annexure P-3), the application was accepted by the trial Court; and the plaint was rejected on the ground that filing of a civil suit is barred in view of the provisions of Section 34 of the SARFAESI Act.

2.4 Thereafter, the said order has been challenged by defendant No.2 by way of filing an appeal (Annexure P-4), which is stated to be pending.

2.5 Meanwhile, another suit (Annexure P-5) was filed by Kishore Kumar Khurania, respondent No.1, seeking a decree for separate possession by way of partition of the suit property. The relief



CR-3186-2025

for permanent injunction was also sought. The petitioner-defendant No.2 filed an application under Order VII Rule 11 CPC (Annexure P-6), alleging that the suit has been filed by the plaintiff in collusion with defendant No.1-Anand Parkash Khurania, his real brother, with an ulterior motive to harass the petitioner; petitioner-defendant No.2 is the *bona fide* purchaser of the suit property for valuable consideration; and as per the *jamabandi*, there are many co-sharers who have not been impleaded as a party to the suit, as such, the suit is liable to be dismissed. The said application has been dismissed by the trial Court by passing the impugned order dated 05.04.2025. Aggrieved by the said order, the petitioner is before this Court.

3. Learned counsel for the petitioner contends that the petitioner is a *bona fide* purchaser of the suit property for valuable consideration; the suit filed by the plaintiff-respondent is barred in view of the provisions of Section 34 of the SARFAESI Act; the suit has been filed by the respondent-plaintiff in collusion with his brother, who had earlier filed a suit challenging the Sale Certificate in favour of the petitioner, which was rejected; and all the necessary parties, i.e. co-sharers reflected in the *jamabandi* have not been made a party to the suit, as such, the plaint is liable to be rejected. Cites *K. Akbar Ali Vs. K. Umar Khan (SC), 2021 (2) R.C.R. (Civil) 287*; and *Vidur Impex and Traders Pvt. Ltd. Vs. Tosh Apartments Pvt. Ltd. (SC), 2012 (4) R.C.R. (Civil) 308*.

4. *Per contra*, learned counsel for respondent No.1 contends that the application filed by the petitioner under Order VII Rule 11 CPC has been rightly dismissed. Reliance has been placed on *Dahiben*



CR-3186-2025

***Vs. Arvindhbai Kalyanji Bhanusali (Gajra) (D) Thr Lrs & Ors, 2020(3)
R.C.R. (Civil) 98.***

5. I have considered the aforesaid contentions and perused the paper-book.

6. It is well-settled that the purpose of the provisions under Order VII Rule 11 CPC is to ensure that a litigation, which is meaningless, should not be permitted to waste judicial time of the Courts. The power conferred upon the Courts to terminate a civil action is, however, subject to the condition laid down under Order VII Rule 11 CPC. The said provisions are reproduced 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;*
- (e) where it is not filed in duplicate;*
- (f) where the plaintiff fails to comply with the provisions of rule 9;*

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.”



CR-3186-2025

7. The Hon'ble Apex Court in *Dahiben (supra)* has held that the remedy under Order VII Rule 11 CPC 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 the said provisions. It is further held that if in a suit, no cause of action is disclosed, or the suit is barred by limitation, the Court would not permit the plaintiff to unnecessarily continue with the proceedings. The relevant observations of the Hon'ble Apex Court are as under:-

“12.1 We will first briefly touch upon the law applicable for deciding an application under Order VII Rule 11 CPC, which reads as under:

XXXXXXX

XXXXXXXXXXXXX

XXXXXXXXXX

The remedy under Order VII 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.

The underlying object of Order VII 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.

In Azhar Hussain v. Rajiv Gandhi¹ this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words :

“12. ...The whole purpose of conferment of such power is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of



CR-3186-2025

the Court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even if an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”

12.2 The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order VII Rule 11 are required to be strictly adhered to.

12.3 Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint², read in conjunction with the documents relied upon, or whether the suit is barred by any law.

xxxxxxx

xxxxxxxxxxxxx

xxxxxxx

12.8 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 VII Rule 11 CPC.”

8. Coming to the facts of the present case, scrutiny of the plaint (Annexure P-5) indicates that partition of various properties has been sought which are detailed in para No.1 of the plaint. It is the case of the plaintiff that Smt. Brijmohini, mother of the plaintiff, was the owner-in-possession of the suit property, who had expired on 27.07.2021 and thereafter, the plaintiff and defendant No.1 have inherited the property in equal shares, whereas their married sister, namely, Smt. Raman has already taken her share and she is not concerned with the property.

9. The first grouse of the applicant is that the married sister has not been impleaded as a party. It is further the contention of the petitioner that other co-sharers of the land mentioned in the Revenue Records are not impleaded. However, under these circumstances, the plaint would not be liable to be rejected, since necessary parties can be



CR-3186-2025

impleaded at any stage, at the instance of a party or even by the Court *suo motu*, and such point of consideration is open for the trial Court at any stage.

10. The petitioner has taken another plea that suit has been filed in collusion with the defendant No.1-brother of the plaintiff. Such plea cannot be made as a ground for rejection of the plaint under Order VII Rule 11 CPC. As per the provisions of Order VII Rule 11 CPC, a plaint can be rejected where it does not disclose the cause of action; where the claim is undervalued; where the plaint is not sufficiently stamped; where the suit is barred by any law; where the suit is not filed in duplicate; or where the plaintiff fails to comply with the provisions of Rule 9. The plea taken by the petitioner cannot be decided in a summary manner while deciding an application under Order VII Rule 11 CPC.

10.1 The right of the plaintiff-respondent to seek partition of various properties cannot be curtailed on the ground that one of the properties was purchased by the plaintiff through auction proceedings under the SARFAESI Act.

11. The case law cited by learned counsel for the petitioner is distinguishable on facts.

12. In view of the above, this Court is of the considered opinion that a well-reasoned order has been passed by the trial Court, which does not require any interference under Article 227 of the Constitution.

13. Consequently, present petition being devoid of any merit, is accordingly dismissed.



CR-3186-2025

14. Pending Civil Misc. application(s), if any, shall also stand disposed of.

30.07.2026

atulsethi

[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :
Whether Reportable :

Yes	No
Yes	No