

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No.S-355 of 2025

[Abrar Ahmed and others vs. Muhammad Akram and others]

Petitioners by : Mr. Muhammad Arshad Pathan
Advocate

Respondent by : Nemo

Date of Hearing : 19.01.2026

Date of Decision : 19.01.2026

O R D E R

ARBAB ALI HAKRO, J:- Through this constitutional petition, the petitioners have assailed the orders passed by the Courts below whereby their application under Order VII Rule 11, C.P.C., seeking rejection of the complaint, was dismissed.

2. The brief facts of the matter are that respondent No.1 instituted Suit No.1471 of 2019, before the Court of V-Senior Civil Judge, Hyderabad, seeking Declaration, Cancellation and Permanent Injunction in respect of 00-03.673 ghuntas out of 02-16 acres in Survey No.73, situated in Deh Tappa Gujjo, Taluka City, District Hyderabad ("the Suit Land"). The petitioners, who are the defendants, filed an application under Order VII Rule 11 C.P.C. for rejection of the complaint. Learned Trial Court dismissed the said application vide order dated 31.05.2024, which was subsequently maintained by the VI-Additional District Judge, Hyderabad, through Judgment dated 25.10.2024. Hence, the present petition.

3. It further appears that earlier vide order dated 28.09.2020, the petitioners' application had been allowed and the complaint was rejected. Respondent No.1 challenged the order by way of Civil Revision Application No. 85 of 2020, which was allowed vide Judgment dated 28.04.2023, and the matter was remanded to the Trial Court for a fresh decision after hearing the parties.

4. Learned counsel for the petitioners contended that the impugned orders passed by both Courts below are contrary to the settled principles of justice, equity and good conscience. He argued that the Courts below failed to properly apply the provisions of Order VII Rule 11 C.P.C. and dismissed the application without considering the relevant legal provisions. He further submitted that respondent No.1/plaintiff did not disclose in the plaint the boundaries of the alleged land, nor did he annex any map, site plan, or permission regarding change of status of the Suit Land, if any. According to counsel, the Trial Court appeared to have been influenced by the earlier remand order. He maintained that meritless and misconceived claims should be terminated at the initial stage, and that unnecessary evidence should be avoided. He argued that the Suit is frivolous and intended merely to prolong litigation and that the impugned orders suffer from misreading and non-reading of the material available on record. He therefore prayed that the impugned orders be set aside and the plaint be rejected.

5. Arguments heard. Record perused. At the very outset, it is necessary to delineate the precise controversy brought before this Court. The petitioners have invoked the constitutional jurisdiction of this Court to assail the concurrent orders of the Courts below, whereby their application under Order VII Rule 11 C.P.C, seeking rejection of the plaint in F.C. Suit No. 1471 of 2019, was declined. The challenge is premised on the assertion that the plaint, even if taken at its face value, does not disclose any cause of action, is barred by law, and is founded upon documents that, according to the petitioners, are fabricated, unregistered, un-mutated, and devoid of legal efficacy. The petitioners further contend that the plaintiff's claim is inherently self-contradictory, lacks boundaries, fails to identify the alleged plots, and rests upon a sale deed which, in their view, is incapable of conferring any title.

6. To appreciate the substance of these contentions, it is imperative to revisit the pleadings and the material placed before the Courts below. The

memo of plaint reveals that respondent No.1/plaintiff has asserted ownership and possession over 00-03.6730 Ghuntas out of 02-16 acres in Survey No.73, Deh Tappa Gujo, Taluka City, District Hyderabad, by virtue of a registered sale deed dated 09.05.2016. The plaintiff has further narrated a chain of antecedent transactions, commencing with a 1989 lease arrangement, followed by a subsequent agreement of 1998, culminating in the registered sale deed of 2016. The plaintiff has also pleaded long-standing possession, construction of a residential structure, payment of utility bills, and alleged attempts at forcible dispossession by defendants Nos. 7 to 10. The plaint further avers that certain entries in the revenue record, particularly Entry No. 28 dated 31.08.1989, are fraudulent and manipulated and are liable to cancellation.

7. The application under Order VII Rule 11, C.P.C, filed by defendants No.7 to 10, proceeds on the premise that the plaintiff has no locus standi; that the land claimed does not exist in the form pleaded; that Survey No.73 has long been converted into residential plots; that the plaintiff's sale deed is un-mutated and boundary-less and that the Suit is barred under Sections 42 and 56 of the Specific Relief Act. The petitioners have also alleged that the plaintiff has recently grabbed the property with the aid of the police and has instituted the Suit merely to shield himself from criminal liability.

8. Learned Trial Court, while dismissing the application, has undertaken a detailed examination of the plaint and the annexures thereto. The Trial Court has correctly observed that for the purposes of Order VII Rule 11 C.P.C, the defence of the defendants is wholly irrelevant and the plaint must be examined on the assumption that its averments are true. The Trial Court has further noted that the plaint does disclose a cause of action, particularly in paragraph 18, wherein the plaintiff has narrated the sequence of events leading to the alleged dispossession, discovery of disputed entries and continuing threats. The Trial Court has also taken cognizance of the earlier remand order passed by the Revisional Court, wherein it was categorically

held that the controversy involves mixed questions of law and fact requiring evidence and that the earlier rejection of the plaint was unsustainable.

9. The Revisional Court, in its judgment dated 25.10.2024, has once again affirmed that the dispute is not amenable to summary adjudication under Order VII Rule 11 C.P.C. The Revisional Court has highlighted that the plaintiff's claim involves allegations of fraud, competing registered instruments, disputed mutations and questions relating to possession and title matters which cannot be resolved without framing issues and recording evidence. The Revisional Court has also noted that the petitioners' attempt to invoke Order VII Rule 11 appears to be an endeavor to delay the proceedings rather than to address any legal bar apparent on the face of the plaint.

10. Having examined the entire record, including the plaint, the application under Order VII Rule 11 C.P.C, the impugned orders and the arguments advanced before this Court, it becomes evident that the petitioners' case does not fall within the narrow and exceptional parameters of Order VII Rule 11 C.P.C. The settled principles regulating the exercise of power under Order VII Rule 11 C.P.C are not in doubt that a plaint can be rejected only when, on a plain reading, without embarking upon an evidentiary inquiry, it is manifestly barred by law or fails to disclose a cause of action. The Court cannot, at this stage, weigh the comparative strength of the parties' documents, evaluate the authenticity of competing sale deeds or determine the validity of revenue entries. These are matters that lie squarely within the domain of trial.

11. The petitioners' principal grievance that the plaintiff's sale deed lacks boundaries, that the land is non-existent in the form pleaded and that the plaintiff's title is inferior to theirs are all defences which may well be pressed at trial, but they cannot be used as a basis to reject the plaint. The law does not permit the Court to conduct a mini-trial under the guise of Order VII Rule 11 C.P.C. The petitioners' reliance on Sections 42 and 56 of the Specific Relief

Act is equally misconceived, for the bar under those provisions is not apparent on the face of the plaint and would require adjudication upon evidence.

12. It is also significant that the earlier remand order, which directed the Trial Court to re-hear the application and pass an order in accordance with law, has attained finality. The petitioners did not challenge that order before appellate forum. The Trial Court, therefore, rightly observed that it could not sit in appeal over the Revisional Court's findings, which had already held that the matter required evidence. The petitioners cannot seek to indirectly overturn what they failed to challenge directly.

13. In sum, the plaint, when read as a whole, does disclose a cause of action. The allegations of fraud, competing claims of title, disputed entries and alleged dispossession are all matters that necessitate a full-fledged trial. The Courts below have exercised their jurisdiction properly and have assigned cogent reasons for declining the application under Order VII Rule 11 C.P.C. No jurisdictional defect, illegality, perversity, or misreading of record has been demonstrated to warrant interference by this Court in its constitutional jurisdiction.

14. In view of the foregoing discussion and for reasons recorded hereinabove, no ground is made out for interference in the concurrent findings of the Courts below. Consequently, this petition is **dismissed** in *limine*, with no order as to costs.

JUDGE