

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

Miscellaneous Civil Appeal No.85 of 2021

Appellants: Dr. Abi Waqas & others through Mr. Anis-ur-Rehman Siddiqui, Advocate.

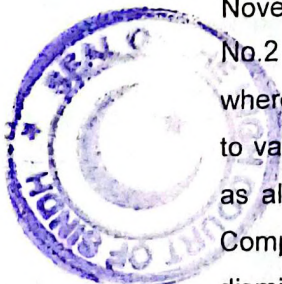
Respondents: Mst. Nasreen & another through M/s. Muhammad Arshad S. Pathan and Safdar Hussain Laghari, Advocates.

Date of hearing: 06.02.2025 & 07.02.2025
Date of decision: 14.03.2025

JUDGMENT

Through this First Appeal filed under section 96 of the Code of Civil Procedure (CPC), the Order dated 06-09-2021 passed by the learned 8th Additional District Judge Hyderabad has been assailed, whereby plaint of the Appellant's Defamation Suit No.67 of 2020 was rejected under Order VII Rule 11 CPC.

2. Brief facts of the case are that the Appellants / Plaintiffs filed Defamation Suit No.67 of 2020 against the Respondents/ Defendants alleging therein that, in the year 2001, on the request from the Defendants, the father of the Plaintiffs (Abdul Razzaque) granted License to Defendant No.2, to occupy Flat No.1, City Plaza, constructed on survey No.2522, Ward "A", situated at Jacob Road, Hyderabad. However due to his ill health in November 2001, such license was revoked by him with request to Defendant No.2 to vacate the premises. On 13.01.2012, the Plaintiffs' father expired, where after the Plaintiffs inherited the property and requested the Defendants to vacate the premises and pay monthly mesne profits. In response thereto, as alleged, the Defendants threatened the Plaintiffs and also filed Criminal Complaint No.641 of 2015 under section 22 A&B Cr.P.C., which was dismissed. This was followed by another Criminal Complaint No.1049 of 2020 under section 22 A&B Cr.P.C., which was also dismissed. Thereafter the



Defendants filed other complaints and letters to SSP Hyderabad and other authorities with false allegations in order to harass and blackmail the Plaintiffs. It was further averred in the plaint that the Defendants also got published false and fake news in newspapers using derogatory language against the Plaintiffs. Such acts of criminal complaints, other complaints, letters and publications by the Respondents damaged the name, dignity, reputation and social status of the Plaintiffs, for which the Plaintiffs claimed Rs.1,00,00,000/- (Rupees one crore) as damages for causing defamation to the honour, goodwill and dignity of the Plaintiffs. The claim of the plaintiff was for damages arising out of the alleged defamation in the form of libel, the suit was thus governed under the Defamation Ordinance 2002 (**Ordinance-2002**).

3. The Respondents/ Defendants in their written statement contested the suit wherein it was averred *inter alia* that the plaint disclosed no cause of action; the suit was barred under section 42 and 54 of the Specific Reliefs Act and, the suit was frivolous. At paragraph 3 of the written statement, filing of the criminal complaints by the Respondent No.2 and their disposal was not denied, however the claims of the Plaintiffs based thereon were challenged. The defendants also denied that plaintiffs were owners of Flat No.1 through inheritance, since the defendant has allegedly purchased the said property. Rest of the allegations in the plaint were also denied, and prayer for dismissal of the suit was made.

4. The Respondents also filed an application under Order VII Rule 11 CPC., which was contested by the parties and after hearing, the same was allowed vide impugned Order dated 06.09.2021, which has been challenged in this Appeal.

5. Dr. Anis-ur-Rahman Siddiqui, the learned senior counsel for the appellants contended that the plaint was wrongly rejected, though the appellants had a valid grievance to agitate before the Court of law; that such rejection was based upon considerations which were extraneous to the provision of Order VII, Rule 11 C.P.C.; that such facts were taken into consideration which were neither part of the plaint nor were admitted by the appellants; that written statement was wrongly considered for determination of factual allegations which were required to be proved in evidence; and that the plaint clearly disclosed a valid and legal cause of action. Reliance was placed upon 2006 SCMR 489, 2000 YLR 1548, 2003 YLR 2797, 1010 YLR

3313.

Mr. Muhammad Arshad S. Pathan, learned senior counsel for the Respondents supported the Order impugned and submitted that the suit itself



was not maintainable, since even on the facts stated in the plaint, it was not shown that any cause of action existed; that Order V11 rule 11, C.P.C. gives four instances for rejection of the plaint but these cannot be regarded as exhaustive of all the cases in which a Court can reject a plaint; that the said provision does not limit the inherent powers of the Court for rejection of a plaint; and that the rejection of the plaint was validly done by the learned Judge. He placed reliance upon 2013 CLD 981, PLD 2008 SC 371, 2012 CLD 453, PLD 1966 (WP) Karachi 337, PLD 2011 Karachi 484 and 2007 SCMR 741 and an unreported Order dated 30-05-2016 in Suit No.135 of 2012.

7. Heard arguments of the learned senior counsels and perused the record with their able assistance. Before the main issue is discussed, the office of this Court has raised a preliminary objection on the provision (section 96 CPC) under which this appeal has been filed, whereas section 15 of the Defamation Ordinance 2002 (**Ordinance 2002**) specifically provides a remedy of appeal against a final Order passed under the Ordinance 2002. The preliminary question for determination therefore would be, whether the appeal has been rightly filed under section 96 CPC.? In this regard, firstly from a bare comparison of the above referred two provisions, it appears that, there is no special condition precedent provided under section 15 of the Ordinance, as compared to section 96 CPC, non-fulfillment whereof could have possibly rendered the appeal as incompetent. Secondly, the period for filing appeal in both the provisions is 30 days. Thirdly, on one hand, there is no express provision under the Ordinance giving it overriding effect over other laws, whereas on the other hand, section 10 of the Ordinance itself makes C.P.C. *mutatis mutandis* applicable to proceedings under the Ordinance 2002. Use of the word 'shall' in section 10, makes such applicability, as mandatory. As for the expression '*mutatis mutandis*', (as used in section 10), the same has different connotations in different dictionaries. For instance, in Chamber's 20th Century Dictionary, it has been defined as "with necessary changes"; whereas under the Black's Law Dictionary it means, "with necessary changes in points of detail, meaning that matters or things are generally the same, but to be altered when necessary, as to names, offices, and the like". The Venkataramaiy's Law Lexicon defines the same in further detail as, "When a law directs that a provision made for a certain type of case shall apply *mutatis mutandis* in another type of case, it means that it shall apply with such changes as may be necessary, but not that even if no change be necessary, some change shall nevertheless be made." In '*Muhammad Sharif V. The State*'¹ the expression has been held as an adverbial phrase qualifying the verb 'shall apply', meaning that, "those changes being made which must be made". The same was also followed in



the case of *'All Swat Paper Chips and Pops Owners Association District Swat V. Bakht Afsar Ex-Deo District Shangla and 5 Others'*², In *'MCB Bank Ltd. V. Commissioner Inland Revenue'*³, It was held that, "*mutatis mutandis*" literally means "necessary changes having been made" and the phrase "apply *mutatis mutandis*" means, that "the applicability of any other provision of the Ordinance to the 7th Schedule will also include and bring with it all the necessary changes required to make the said provision of the Ordinance functional under the law." By applying the above ratios to the present case, it appears that C.P.C. and Qanune Shahadat Order shall be fully applicable to the Ordinance, with all such necessary changes as required to make such provisions functional under the law.

8. Considering the above position, it appears that neither the time period for filing the instant appeal has lapsed, nor there is any mistake on part of the appellant in approaching the correct forum i.e. the High Court, for filing this appeal, nor any of the rights of the respondents have been prejudiced. Mere quoting a wrong provision of law in the title of appeal, would not render this appeal as incompetent and liable to dismissal, when the same was filed before the correct forum, and was filed within the prescribed period, as merit and substance are to govern and not the technicalities. For this, reference can be made to, *'Messers Spinghar Textile Mills Ltd. and another V. United Bank Limited and another'*⁴, *'Land Acquisition Collector, Rawalpindi v. Lieutenant-General Wajid Ali Khan Burki'*⁵, *'Sajid Hussain Shah v. Ghulam Rukia'*⁶ and *'Sikandar Trading Company v. Habib Bank Ltd.'*⁷. The office objection in this regard is therefore, overruled.

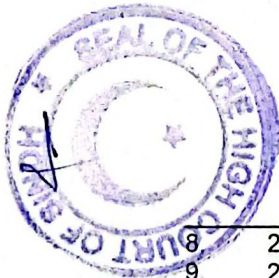
9. Turning to the main question in the present appeal i.e. whether the plaint in Defamation Suit No.67 of 2020 disclosed a cause of action, or the same fell under the mischief of rule 11 of Order VII CPC. For this purpose, the plaint is to be tested on two parameters i.e. firstly, on the criterion of the Defamation Ordinance 2002, and secondly, on the touchstone of Order VII Rule 11 CPC. The relevant Constitutional provisions can always be looked into in this regard.



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1. PLD 1999 Supreme Court 1063
 2. 2019 PCr.LJ 225
 3. 2014 PTD 1874
 4. 2011 CLD 1683
 5. PLD 1961 Lahore 1028
 6. PLD 2004 Lahore 475
 7. 2008 CLD 326

10. Starting with the Defamation Ordinance 2002, a quick survey of the relevant provisions whereof sets certain boundaries, which are to be observed not only for lodging claims thereunder, but also for the defenses to be chosen against such claims. For instance, section 3 defines the two forms of defamation, being '*libel*' and '*slander*'. Section 4 has two parts, the former specifically declares publication of defamatory matter as an actionable wrong, even in the absence of special damage, whereas the latter part grants statutory presumption of damages, in cases of publication of defamatory matter, subject to proof. Even the defenses to be adopted in such cases have also been elucidated in the Ordinance, whereas two of such defenses (absolute and qualified privileges) have been expressly outlined in sections 6 & 7 respectively. A fourteen days prior written notice is mandatorily required to be sent by the Plaintiff, within two months of the defamatory publication coming to his notice. Such statutory notice under section 8, has been held as absolutely mandatory, in the cases of '*Preetam V. Madhu Das Godwal*'⁸, '*Chief Editor Muhammad Riaz Anjum V. Dr. Muhammad Shahbaz*'⁹, '*Kazim Ali V. Ishaq Ali*'¹⁰, '*Said Rasool V. Dr. Humayun Khan*'¹¹, '*Mst. Dr. Yousaf Fida v. Justice (Retd.) Muhammad Azam Khan*'¹², '*Shafqat-ur-Rehman V. Daud-ur-Rehman*'¹³ and '*Said Rasool V. Dr. Hamayun Khan*'¹⁴.

11. That specifically with respect to actions against newspapers and broadcasting sections, six months' time has been statutorily fixed for initiating an action. The District Courts and the High Courts have been vested with exclusive jurisdiction for deciding suits and appeals respectively, within the specific and expeditious periods, as provided under sections 13 to 15 of the Ordinance. '*Dr. Abdul Jabbar Khatak V. Ind Senior Civil Judge, Larkana And Others*'¹⁵ and '*A. Khalid Anari V. Mir Shakee ur Rahman*'¹⁶. Section 11 keeps open the remedy of criminal defamation, meaning thereby that both remedies are concurrently available to an aggrieved person.

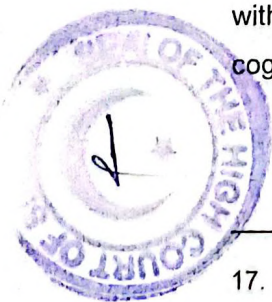


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8. 2021 MLD 1
9. 2023 MLD 525
10. PLD 2022 Quetta 66
11. 2014 MLD 1199
12. PLD 2016 Peshawar 105
13. PLD 2006 Peshawar 206
14. 2014 CLD 284
15. PLD 2017 Sindh 438
16. PLD 2011 Karachi 484

12. To understand the basic source of law and from the perspective of fundamental rights, the freedom of speech and expression have been guaranteed as a fundamental right under Article 19 of the Constitution of Islamic Republic of Pakistan 1973, subject to reasonable restrictions imposed by law, and as per the categories provided therein. Freedom of expression, being corner stone of democratic societies, carries with it the right to publish and circulate one's ideas, opinions and views with freedom. Such right though, is not unfettered and unbridled, for in any modern State, absolute and uncontrolled liberty is not encouraged.

13. While on one hand, where Article 19 protects freedom of expression, so on the other hand, Article 14 of the Constitution guarantees dignity of man and privacy of home as inviolable. Not only in the Constitution of Pakistan, but since time immemorial in history and even in religions, great value has been attached to the dignity of man and the privacy of home. The test would be to find a balance between these two fundamental rights, for where defamation is caused, it directly effects human dignity, honour, respect and privacy. The Defamation Ordinance 2002 is an attempt to strike such a balance between these two Constitutional guarantees, so that one does not infringe the other. Hence, in all fairness, a person while exercising the right of freedom of speech and expression, must keep in mind that he also has a corresponding responsibility to ensure that his freedom of expression or speech shall not transgress the limits of freedom, beyond the boundaries of Article 14 of the Constitution. The case of '*Flt. Lt. (Dr) Shariq Saeed V. Mansoob Ali Khan and 5 others*'¹⁷ is a valuable resource on this subject.

14. Award of general damages by Courts is comprised on the conditions of vindication, injury to reputation and injury to feelings. The amount of damages awarded in respect of vindication and injury to reputation and feelings depends on a number of factors, including (a) the gravity of the allegation; (b) the size and influence of the circulation; (c) the effect of the publication; (d) the extent and nature of the claimant's reputation; (e) the behaviour of the defendant; and (f) the behaviour of the claimant. The standard of proof is the normal civil standard of the balance of probabilities. However, in common with a plea of justification to serious charges, the evidence must be clear and cogent. Proof of a state of mind can only be inferred from the facts.¹⁷



15. In the present case, if the plaint in Defamation Suit No.67 of 2020 is measured on this first yardstick of the Ordinance 2002, it appears firstly that, prior mandatory notice dated 27-07-2020, as required under section 14 was sent by the Appellant (annexed to the plaint), which was also responded by the counsel for the Defendant on 06-08-2020. Secondly, the claim has been raised under the category of actionable libel (as provided in section 3 and 4 of the Ordinance *ibid*). Thirdly, the suit was filed on 17-08-2020 against the criminal complaints, alleged defamatory letters, social media posts and publications of various dates, including those dated March 2020 i.e being within the permissible period of six months (as provided under section 12). Hence, without touching the merits of the case, it appears that the prerequisites and basic requirements for filing of a claim against defamation under the Ordinance 2002 have thus, been fulfilled, nevertheless the test of truth or falsity of the claim is yet to be determined.

16. Turning to the second bench mark for assessing the plaint in this *lis* under rule 11 of Order 7 CPC, there is plethora of material available on the scope and applicability of this provision, a quick survey whereof provides the following guidelines, which are being enumerated herein, only for the purpose of convenience. Hence, for the purposes of considering an application under Order VII Rule 11 CPC, (i) the Court has to presume the facts stated in the plaint as correct; (ii) nothing more than the averments of the plaint have to be seen for the purposes of adjudicating whether the plaint unveiled any cause of action; (iii) that in case of any mixed questions of law and facts, the correct methodology and approach is to allow the suit to proceed to the written statement and discovery phases and to determine the matter either by framing preliminary issues or through a regular trial; (iv) that the dearth or weakness of proof would not be a justification for coming to the conclusion that there is no cause of action disclosed in the plaint; (v) that for the rejection of a plaint, the Court cannot take into consideration pleas raised by the defendants in the suit, as at that stage, the pleas raised by the defendants are only contentions in the proceedings, unsupported by any evidence on record; that only in rare and exceptional cases, the Court can consider the legal objections in the light of averments of the written statement but the pleading as a whole cannot be taken into consideration for the rejection of plaint; (vi) that even where there is a joinder of multiple causes of action, and at least some of these causes could potentially lead to a decree, a plea of demurrer cannot be admitted to reject the plaint; (vii) that if there are several parties and the plaint discloses a cause of action against one or more of them then, too, the plaint cannot be rejected; and (viii) that the plaint is not to be read in fragments but it has to be read as a whole. Reliance is placed on



*'Rehmat Begum V. Mehfooz Ahmed and others'*¹⁸ and *'Media Max (Pvt) Ltd. through Chief Executive V. Ary Communication Pvt. Ltd. through Chief Executive and another'*¹⁹ and *'Jehangir Akhtar V. Inayat Ahmed'*²⁰.

(ix) That with the aim of deciding whether the plaint discloses cause of action or not, the court has to perceive and grasp the averments made in the plaint and the accompanying documents; (x) that in case of any mix question of law and facts, the right methodology and approach is to let the suit proceed to written statement and discovery and determine the matter either on framing preliminary issues or regular trial; as held in *'President, Zarai Taraqati Bank Limited, Head Office, Islamabad V. Kishwar Khan and others'*²¹. (xi) Moreover, factual inquiry regarding averments in the plaint is not permissible *'Mst. Shabeena Perveen V. M/S. Defence Officers, Housing Society Authority, Karachi'*²², *'Messrs Bengal Corporation V. D.D.G. Hansa and 3 others'*²³, *'Hyderabad Municipal Corporation V. Messrs Fateh Jeans Ltd.'*²⁴, *'Dost Muhammad V. Ghulam Nabi'*²⁵ and *'Karachi Development Authority V. Evacuee Trust Board through Administrator'*²⁶.

(xii) That where a cause of action is disclosed in the plaint, the plaintiff has a right to a fair trial and to produce evidence and a judicial decision on merits of his cause; (xiii) even in case of vague pleadings and lack of proper particulars and details, the Court shall ask for better particulars and the proper course is to order the party to remove the vagueness and not to reject the plaint, as enunciated in the case of *'Dost Muhammad V. Ghulam Nabi'*²⁷, *'N. A, Shah Riyar V. Messrs Conforce Ltd., Lahore and another'*²⁸, and *'Seven Stars Goods Transport Co. (Regd.), Karachi V. The Administrator, Karachi Municipal Corporation, Karachi'*²⁹.

(xiv) It has also been held that the Court cannot take into consideration pleas raised by the defendant in his defense, as at that stage the pleas raised by the defendants are only contentions in the proceedings unsupported by any evidence on record. However, if there is some other material before the Court, apart from the plaint at that stage which is admitted by the plaintiff, the same can also be looked into and taken into consideration by the Court. Beyond

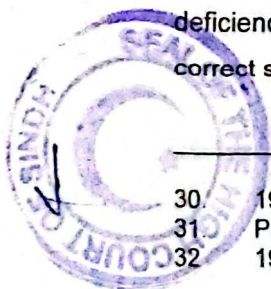


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| 18. | 2024 CLD 1254 |
| 19. | (PLD 2013 Sindh 555) |
| 20. | 1990 CLC 1053 |
| 21. | 2022 SCMR 1598 |
| 22. | 1993 CLC 2523 |
| 23. | PLD 1992 Karachi 75 |
| 24. | 1991 MLD 284 |
| 25. | 1990 MLD 164 |
| 26. | PLD 1984 Karachi 34 |
| 27. | 1990 MLD 164 |
| 28. | 1981 CLC 1009 |
| 29. | PLD 1976 Karachi 21 |

that the Court would not be entitled to take into consideration any other material produced on record unless the same is brought on record in accordance with the rules of evidence. Such view was taken by the Supreme Court in the case of '*Jewan and 7 others V. Federation of Pakistan through Secretary, Revenue, Islamabad and 2 others*'³⁰. It was also held that the rejection of plaint at a preliminary stage when the plaintiff has not led any evidence in support of his case, is possible only if the Court reaches this conclusion on consideration of the statements contained in the plaint and other material available on record before the Court which the plaintiff admits as correct.

(xv) That in the case of '*Saleem Malik V. Pakistan Cricket Board (PCB) and 2 others*'³¹ it was held by the Supreme Court that the scope of Order VII, Rule 11, C.P.C. is confined only to the extent of averments of the plaint and in addition, at the most uncontroversial material available on record can be considered for the purpose of determination of the question whether plaint is liable to be rejected or not but the scope of Order VII, Rule 11, C.P.C. cannot be enlarged to consider the pleading of the other side in the written statement or defense plea raised therein for the purpose of rejection of plaint;

(xvi) In the case of '*Haji Mitha Khan V. Muhammad Younus and 2 Others*'³² the Supreme Court has taken the view that the test of cause of action is that, what the plaintiff claims that he had entered into a valid compromise, and the respondents were party to it or bound by it, that both the parties were bound by it and that the rights of the appellant under the compromise were being violated, this was enough to afford a cause of action to the plaintiff and it would only be on merits that he could be defeated. It was further observed that if it is held that the claim is not within time, or that the parties were not parties to the compromise, or the compromise is not in accordance with the law applicable to the parties, then it would be a decision on merits which must take place in proper form. If any defect was found in the frame of the suit or deficiency in court-fee, then an opportunity is to be allowed to the Plaintiff to correct such defect and to remove the deficiency.



30. 1994 SCMR 826

31. PLD 2008 Supreme Court 650

32. 1991 S C MR 2030.

(xvii) Lastly, in the case of '*Mushtaq Ahmad Khan and another V. Mercantile Cooperative Finance Corporation Ltd. and another*³³', it was held that to enable a Court to reject a plaint on the ground that it does not disclose a cause of action under Order VII rule 11(a) CPC, it should travel within the four corners of the plaint and nothing else. Neither the defense set up nor the documents annexed thereto could legitimately be looked into. For failing to disclose cause of action, plaint can be rejected only, if the allegations given in the plaint, even if it is taken to be true in the manner and form, the plaintiff is not entitled to any relief whatsoever. If the contents of the plaint read as a whole, disclosed triable issues, then the dispute between the parties should not be resolved without proper trial i.e. settlement of proper issues and recording of evidence.

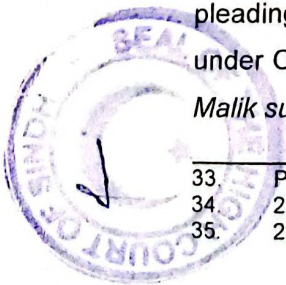
27. That specific to the claims of defamation, the basic rule which has been laid in '*Muhammad Ansarullah V. Masood Bakhtiar*'³⁴ is that the question of damages is a question of fact, which is to be determined after recording *pro* and *contra* evidence of both the parties. Besides, the allegation of defamation is a mixed question of law and facts, which cannot be tried as a preliminary issue, without recording evidence. Support on this is found from '*Syed Shakeel Ahmed V. Raj Kumar*³⁵'.

28. The plain reading of this provision would show that, subject to certain exceptions to clause (d) as a general principle, the plaint in a suit cannot be rejected on the basis of defense plea or material supplied by the opposite party with the written statement. This is settled law that in case of controversial questions of fact or law, the provision of Order VII, Rule 11, C.P.C. cannot be invoked, rather the proper course for the Court in such cases is to frame issue on such question and decide the same on merits in the light of evidence in accordance with law. The rejection of plaint on technical grounds would amount to deprive a person from his legitimate right of availing the legal remedy for undoing the wrong done in respect of his legitimate right, therefore, the Court may in exceptional cases, consider the legal objection in the light of averment of the written statement but the pleading as a whole cannot be taken into consideration for rejection of plaint under Order VII, Rule 11, C.P.C. Same view was held in the case of *Saleem Malik supra*.

33. PLD 1989 Lahore 320

34. 2008 MLD 786

35. 2023 CLC 1273



29. If the above discussed principles on the scope and applicability of Order VII Rule 11 CPC are applied to the facts of the case as pleaded in the plaint of Defamation Suit No.67 of 2020, it appears that the alleged repeated criminal complaints, defamatory letters, social media posts and publications of various dates, including those dated March 2020 in the newspapers create factual controversies and triable issues of facts and the contents of the plaint clearly disclose a triable cause of action. Whether the allegations levelled in the plaint are true or false; and whether the plaintiffs will be able to succeed in their claim on the basis of the allegations levelled in the suit, are questions of fact, the burden to prove whereof lies on the Plaintiffs, and without which the plaintiffs would not be able to succeed. This can only be decided once issues are framed and opportunity of leading evidence is allowed to the Plaintiffs. Without recording of evidence, it would not be appropriate to hold at this stage as to which of the versions is correct, whether the one set up in the plaint is true, or the other one as pleaded in the defense is the correct version of the events. The defendants have already filed their written statement and they will also be at liberty to lead their evidence.

30. On the contrary, the treatment given to the plaint by the learned Judge was not well deserved. The learned Judge wrongly entered into considering the truth and falsity of and the possibility of success of Plaintiff's case, an exercise which was not permissible while hearing an application under Rule 11, and thus acted beyond the jurisdiction vested in it. The learned Judge also wrongly observed that the dispute was with respect to ownership of the flat, whereas not a single prayer was sought in the plaint with respect to the title or possession of the said flat. During course of hearing of this appeal, it was also confirmed by the learned counsel for the parties that with respect to the subject flat, a separate F.C. Suit No.1281 of 2020 for possession and mesne profits has already been filed by the Appellants (leading suit), which has been tagged with F.C. Suit No.1818 of 2021 for specific performance filed by the Respondents, wherein Issues have also been framed and the suits are at the stage of recording of evidence. Such facts further nullify the above discussed observations by the learned Judge. While making such observation, the learned Judge completely overlooked the plaint and its prayers in the present *lis*, which was solely for the claim of defamation, which the Appellants were required to prove in evidence, yet such opportunity was never allowed to the Appellants. Certain observations on merits of the case were also made, which may have prejudiced the rights of the parties, though such exercise was not permissible at this stage under the law.

31. The case law relied by the Respondents is either irrelevant or inapplicable and distinguishable to the facts and circumstances of the present case, in view of the principles and Judgments of the Supreme Court discussed *ibid*. PLD 1966 (WP) Karachi 337 was a criminal Revision application on sections 499 and 500 Pakistan Penal Code, parameters whereof completely differ from those of Order VII Rule 11 CPC. 2013 CLD 981 and 2012 CLD 453 both were with respect to exclusive jurisdiction of the District Judge in defamation matters which was not disputed in the present case. 2007 SCMR 741 was with respect to *suo motu* jurisdiction of the Court to exercise powers under rule 11 and also with respect to filing of second suit after withdrawal of first suit, regarding which also, there was no dispute in the present case and such facts are obviously different from the present *lis*. Facts in PLD 2008 SC 371 pertained to admitted settlement of claim through earlier arbitration, based whereon the suit was held as barred by law, which is not the case here.

32. Upshot of the above discussion is that the plaint in the Defamation Suit No. 67 of 2020 was wrongly rejected under VII Rule 11 CPC. Consequently, the instant appeal is allowed; the impugned Order dated 06-09-2021 is set-aside; and the case is remanded back to the learned District Judge with direction to expeditiously decide the same, after framing proper issues and allowing opportunity to the parties to produce evidence in accordance with law. There will be no order as to costs, in the circumstances of the case.

sd/-MUHAMMAD HASAN AKBER
JUDGE