

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

**Case No. CR No. 39/2025**

**CM No. 6364/2025**

**CM No. 6365/2025**

**Date of pronouncement:- 10.10.2025**

**Date of uploading:- 14.10.2025**

Ragubir Singh

.....Petitioner(s)

Through: Mr. Rudhar Partap Singh, Advocate.

**Vs**

Sat Pal and anr.

..... Respondent(s)

Through:

**Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**(ORDER)**

1. The petitioner, through the medium of present petition, has challenged order dated 22.08.2024 passed by learned Munsiff, (Additional Special Mobile Magistrate, JMIC) R.S Pura, whereby his application under Order 7 Rule 11 CPC has been dismissed.

2. Heard learned counsel for the petitioner and perused the record.

3. It appears that the respondents/plaintiffs have filed a suit against the petitioner/defendant seeking a declaration that they are in peaceful physical possession of land measuring 01

kanal in khasra No. 388 situated at village Biaspur, Tehsil Suchetgarh, District Jammu with consequential relief of permanent prohibitory injunction restraining the defendant from forcibly interfering in their peaceful possession of the suit land.

4. In the plaint, it has been pleaded by the plaintiffs that their father had delivered temporary physical possession of the land in question to Cooperative Society, Biaspur for construction of a temporary store for the welfare of farmers/agriculturists of the area without any self-interest. It has been further pleaded that a temporary structure was constructed by the Cooperative Society over the suit land but after some time, the same was closed and for the last 35-40 years, the structure is lying idle and damaged. It has been further submitted that even the society is not in existence for the last 35-40 years. It has been further pleaded that the defendant has been declaring himself to be self-styled Secretary of the said society and in that capacity, he is trying to interfere in the suit property with a view to dispossess the plaintiffs from the said land.

5. The petitioner/defendant appeared before the trial Court and filed an application under Order 7 Rule 11 CPC seeking dismissal of the suit. It was submitted by the petitioner/defendant that the suit is barred by limitation as the Cooperative Society has remained in possession of suit property for more than 12 years. It has been averred that in fact the Cooperative Society is still in possession of the suit property. It has been further submitted that the cause of action for the plaintiff to file the suit has arisen against the Cooperative Society and not against the defendant. It was also contended that the assertion of the plaintiffs that society is non-operational for the last 35-40 years is false.

6. The learned trial Court vide impugned order dated 22.08.2024 came to the conclusion that the plaint discloses cause of action against the defendant as he is proclaiming himself to be self-styled Secretary of the society and is interfering in the suit land. Learned trial Court also came to the conclusion that the suit is not barred by any law.

7. It seems that the petitioner filed an appeal against the said order before the learned District Judge, Jammu who, vide order dated 04.02.2025, dismissed the appeal. The said order was challenged by way of appeal before this Court by the petitioner/defendant. On 11.09.2025, the 2<sup>nd</sup> appeal filed by the petitioner/defendant was dismissed by holding the same as not maintainable and giving liberty to the petitioner/defendant to challenge the order passed by learned trial Court by way of appropriate proceedings. It is in these circumstances that the petitioner has filed the present revision petition.

8. Learned counsel for the petitioner/defendant, while making his submissions, has confined his arguments to the contention that the suit as against the petitioner/defendant without impleading the Cooperative Society, Biaspur as a party to the same is not maintainable. It has been submitted that the petitioner is duly appointed Secretary of the said society and in this regard, he had placed on record copy of the resolution of the society, whereby the petitioner/defendant has been nominated as

the Secretary of the society. It has been contended that even against the Cooperative Society, the suit is not maintainable without issuance of prior notice.

9. In the above context, it is to be noted that in the application under Order 7 Rule 11 CPC, the petitioner/defendant has not raised this ground before the learned trial Court. The only assertion that has been made by the respondents/plaintiffs before the learned trial Court is that whole cause of action seems to have arisen against the Cooperative Society and not against the petitioner/defendant. It is nowhere pleaded in the application that the suit without impleading Cooperative Society is not maintainable or that the suit without issuance of prior notice to the said Cooperative Society is not maintainable.

10. In any case, the plaintiffs have sought declaration and injunction in the suit against the defendant on the basis that the defendant though not a Secretary of the Society is claiming himself to be so and that the Society itself has become non-functional for the last 35-40 years. The plaintiffs are not

aggrieved of any action of the Society as according to them, the Society is not in existence at all. The plaintiffs are aggrieved of the action of defendant No. 1, who according to them is not the Secretary of the Society but he only claims to be so. The question whether the aforesaid assertions of the plaintiffs are factually correct or not can be determined only after the trial of the case and not at this stage.

11. It is trite law that at the time of considering an application under Order 7 Rule 11 CPC, it is only the contents of the plaint and documents annexed thereto which are required to be scrutinized and analyzed by the trial Court for coming to the conclusion as to whether there is any cause of action in favour of the plaintiffs or whether the suit filed by them is barred by any law. In the instant case, there is no manner of doubt in holding that the suit is not barred by any law from the statement made in the plaint.

12. For the foregoing reasons, I do not find any illegality or irregularity having been committed by the learned trial Court

while passing the impugned order. The petition is without merit and is dismissed, accordingly.

(SANJAY DHAR)  
JUDGE

JAMMU  
10.10.2025  
Tarun/PS

Whether order is speaking: Yes  
Whether order is reportable: No

