

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU.**

**Case No: CM(M) No. 87/2025
CM NO. 1856/2025
Cav. No. 482/2025**

*Reserved on: 17.07.2026
Pronounced on: 07.08.2026
Uploaded on: 07.08.2026*

*Whether the operative part or full
Judgment is pronounced : **Full***

Vijay Kumar, aged 68 years
S/O Late Shri Ashwani Kumar,
R/O H.No. 173, Kanji House,
Upper Gummat Bazar, Jammu

.....Petitioner(s).....

Through: Mr. Karman S.Johal, Advocate

v/s

1. Rakesh Kumar son of late Shri Ashwani Kumar resident of 2nd Floor, Bhagat Soap factory, Upper Gummat, Jammu.
2. Gulshan Kumar son of late Shri Ashwani Kumar resident of Near Sachdeva Enterprises, Greater Kailash, Opposite Bharat Grand, Kaluchak, Jammu.
3. Anil Kumar son of late Shri Ashwani Kumar resident of 3rd Floor, Bhagat Soap Factory, upper Gummat, Jammu.

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Varun Raina, Advocate

.....Respondent(s)...

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

1. The petitioner is aggrieved by the order dated 28.02.2025 passed by the Court of the learned 3rd Additional Munsiff, Jammu (hereinafter referred to as the "trial Court"), whereby the application preferred by the petitioner-plaintiff under Order XII Rule 6 read with Order VII Rule 11 of the Code of Civil Procedure (CPC) was dismissed. Aggrieved thereof, the petitioner has preferred this petition under Article 227 of the Constitution of India, assailing the impugned order, *inter alia*, on the ground that the learned trial Court has failed to properly consider and appreciate the scope and ambit of Order XII Rule 6 and Order VII Rule 11 CPC.
2. It is stated that the suit shop was purchased by the petitioner through a registered Sale Deed dated 17.04.1988, to which respondent No. 1 is one of the attesting witnesses. It is further stated that the suit shop was given on a licence agreement to the joint family, headed by late Shri Ashwani Kumar, the father of the parties, in his capacity as *Karta* of the Hindu Undivided Family (HUF), with effect from the year 1988 and from the year 1988 to the year 1991, the HUF regularly paid the licence fee in respect of the occupation of the suit shop to the petitioner.
3. It is further stated that the impugned order suffers from a complete failure to consider material admissions on record. It is specifically pleaded that the entries in the licence fee register were written in the handwriting of respondent No. 1, thereby acknowledging that he and the other respondents were in permissive possession of the suit

property and licence fee was continued to be paid till the year 1992. The trial Court has neither adverted to nor appreciated this vital circumstance. Further, while recording the defendants' stand that the father of the parties had purchased the suit property in the plaintiff's name in the year 1988, the trial court ignored the respondents' inconsistent and mutually destructive pleas. In the earlier suit for permanent prohibitory injunction, the respondent No. 1 unequivocally admitted the petitioner to be the owner of the suit property, whereas in the present proceedings he claims ownership by adverse possession with effect from the year 2004. The plea of adverse possession is further demolished by the respondents' own documentary admissions. The registered Memorandum of Family Settlement dated 21.12.2016, executed by respondents Nos. 1 and 2, expressly records that late Sh. Ashwani Kumar remained in possession of all nine shops, including the suit shop, till his death in the year 2014, thereby completely negating the respondent No. 1's assertion of exclusive and hostile possession since the year 2004. Being the authors and signatories of the document, the respondents are bound by its recitals, which constitute substantive admissions and require no further proof under Sections 91 and 92 of the Indian Evidence Act. The same position is reiterated in respondent No. 1's legal notice dated 28.03.2017, wherein all the properties, including the suit property, were asserted to be joint family properties liable to partition. These unequivocal admissions are wholly inconsistent with the plea of adverse possession and leave no triable issue in support of the counterclaim. Consequently, the

impugned order, having ignored these binding admissions, deserves to be set aside.

4. It is further urged by the petitioner that the claim of respondent No. 1 of having acquired title to the suit shop by adverse possession does not satisfy the essential requirements of the law governing adverse possession. It is contended that the pleadings in the counterclaim do not disclose the necessary ingredients constituting a valid plea of adverse possession. Consequently, the counterclaim preferred by respondent No. 1 was liable to be rejected under the provisions of Order VII Rule 11 of the Code of Civil Procedure.

Submissions:

5. Mr. Karman Johal, learned counsel for the petitioner submitted that the learned trial Court has committed a jurisdictional error in dismissing the application filed under Order XII Rule 6 CPC and Order VII Rule 11 CPC. It was argued that the pleadings, legal notice, family settlement deed and other documents relied upon by the respondents contain clear and constructive admissions establishing the petitioner's ownership of the suit property and demolishing the plea of adverse possession. According to the petitioner, the plea of adverse possession is inherently inconsistent with the respondents' own admissions acknowledging the petitioner's title and the father's ownership and possession of the property during his lifetime. It was contended that the respondents have taken mutually destructive and contradictory stands in different proceedings, which disentitle them from maintaining the counterclaim. Learned counsel further argued

that the counterclaim does not disclose any legally sustainable cause of action and was liable to be rejected under Order VII Rule 11 CPC, while the admissions on record were sufficient to warrant a judgment under Order XII Rule 6 CPC without the necessity of a full-fledged trial. It was further argued that the counterclaim does not disclose the foundational facts necessary to constitute a valid plea of adverse possession and was liable to be rejected under Order VII Rule 11 CPC. In support of his submissions, reliance has been placed upon **Ravinder Kaur Grewal v. Manjit Kaur**, reported in (2019) 8 SCC 729; **Madan Lal Kaushik v. Shree Yog Mayaji Temple and others** reported in 2011 AIR (CC) 3403; **Monika Tyagi and others v. Subhash Tyagi@ Moolraj Tyagi and others** reported in 2021 SCC Online Del. 5400; , **Karan Madaan and others v. Nageshwar Pandey** reported in 2014 SCC Online Del. 1277; and **Rajiv Ghosh v. Satya Narayan Jaiswal** reported in 2025 INSC 467.

6. On the other hand, Mr. Rahul Pant, learned senior counsel for the respondents submitted that the impugned order is well reasoned and does not suffer from any illegality or perversity warranting interference under Article 227 of the Constitution of India. It was contended that the petitioner seeks a judgment on the basis of inferences drawn from certain documents, whereas no clear, categorical, unconditional and unequivocal admission exists in the pleadings so as to attract the provisions of Order XII Rule 6 CPC. Learned senior counsel further argued that the pleadings must be read as a whole and that the issues relating to ownership, adverse possession and the effect of the family settlement deed involve

disputed questions of fact requiring adjudication after the parties lead evidence. It was further submitted that the counterclaim cannot be rejected under Order VII Rule 11 CPC as it discloses a cause of action and the grounds now urged by the petitioner were either not pleaded before the trial Court or are otherwise misconceived. Reliance was placed upon various judicial precedents to contend that the power under Order XII Rule 6 CPC is discretionary and can be exercised only where the admission is clear, unequivocal and unconditional, which is not the position in the present case. It was argued that the pleadings disclose several disputed questions of fact relating to title, possession and adverse possession, which necessarily require adjudication after the parties lead evidence. It was further submitted that the counterclaim discloses a complete cause of action and contains all the necessary pleadings to sustain the plea of adverse possession and, therefore, cannot be rejected under Order VII Rule 11 CPC. Reliance has been placed upon **Himani Alloys Ltd. v. Tata Steel Ltd.**, (2011) 15 SCC 273; **Karan Kapoor v. Madhuri Kumar**, 2022 LiveLaw (SC) 567; and judgment of Delhi High Court in case titled **M/s Puran Chand Packaging Industrial Pvt. Ltd. v. Smt. Sona Devi**, RFA (OS) No.41/2000 dated 26.05.2008.

7. Heard learned counsel appearing for the parties and perused the record.

Factual Matrix:

8. A suit came to be instituted by the petitioner against the respondents for the issuance of the following reliefs:

- (i) Mandatory injunction against defendants for vacating the shop consisting of three floors measuring 9.8 ft. by 32.6 ft. situated at Upper Gummat (hereinafter referred to as the suit property), to remove all their belongings from the property and handing over the vacant and peaceful possession of the suit property; and for the issuance of
- (ii) A decree in favour of the plaintiff and against the defendants for Licence fee at market rate of that time along with 18% compound interest from 1st April 1991 onwards till filing of suit which was promised by defendants while taking the suit property as license in the interest of justice and equity; and for the issuance of-
- (iii) A decree in favour of the plaintiff and against the defendants for a sum of Rs.22000/- per month for illegally occupying the suit property w.e.f. from the date of the filing of the suit till realization along with pendentlite and future interest @18% compound interest per annum for illegally occupying and trespassing the suit premises in the interest of justice and equity; and for the issuance of-
- (iv) A decree in favour of the plaintiff and against the defendants for increment of future damages @10% every year till possession is delivered in the interest of justice and equity; and for the issuance of-
- (v) Any other interim or final relief to which the plaintiff may be found entitled to in the facts and circumstances of the case.

9. The above mentioned reliefs were sought by the petitioner on the grounds that the suit shop was purchased by him in the year 1988 through the medium of sale deed dated 17.04.1988 and one of the witnesses to the said sale deed was respondent No.1. The petitioner stated that he gave the shop to joint family headed by its Karta, namely, Ashwani Kumar, father of the parties, as the licensee, at the prevailing market rate and the license fee/rent for financial year 1988-1989 was Rs.750/-, for the year financial year 1989-1990 was Rs.750/-, license fee/rent for financial year 1990-1991 was Rs.900/-. In the financial year 1990-1991, he raised the RCC construction on this shop and constructed two more floors above this shop. In the financial year 1991-1992, the respondent No.1 and respondent No.2 who were managing joint family business and joint family properties

with the consent of father Ashwani Kumar and all other family members/coparceners, told the petitioner that they will give 18% compound interest on license fee and license fee will be increased at market rate at the end of every financial year. In the year 2017, he came to know that respondent no.1 has given the second floor of the suit shop along with adjacent joint family property to M/s Kanav Coaching Centre on rent at the Rs.35,000/- per month and first floor as Godown to a blanket wholesaler who was already a tenant in joint family property without his consent and accordingly in the month of November, 2017, he cancelled the license of respondent no.1 by personally visiting the shop with his friend and asked him to vacate and handover the peaceful possession of the suit property to the petitioner to which respondent No.1-Rakesh Kumar said that he needed at least 12 months' time to clear all the dues of license fee along with interest @ 18 % till that date, as agreed while taking the premises as licensee and also to vacate the premises. The Licensee Anil Kumar-respondent No.3 and Gulshan Kumar-respondent no.2 also promised the petitioner that they will make the payment of the arrears of license fee along with 18% compound interest as agreed while taking the premises in their possession as licensee from the petitioner and will hand over the entire premises to the petitioner in November 2018 along with arrears of license fee with compound interest. In December, 2018, the petitioner also cancelled the license of Anil Kumar and Gulshan Kumar in presence of his friend and asked them to handover the vacant and peaceful possession of the suit property within 30 days and clear all the dues of license fee till that

date with 18% compound interest as agreed while taking the shop and floors as licensee.

10. The written statement/counterclaim was filed by respondent no.1 stating therein that respondent No.1 along with others including the plaintiff were conducting the business under the name and style of M/s Bhagat Soap Factory in the suit property as well as other adjoining shops and the same were under the possession of the father of the parties. Since the suit property was in continuous possession of the father of the parties, the said property was ultimately got purchased by the father of the parties through the medium of a sale deed in the year 1988 in the name of the petitioner. Further, the respondent no.1 was working as a partner in the above said firm right from the year 1976. The said business was ultimately shifted from the said location to Main Road, Kaluchak in the year 1992 and the premises was taken on rent by the partnership firm from Sh. Ashwani Kumar Sachdev. After the shifting of the business of M/s Bhagat Soap Factory from the abovementioned premises, the parties to the suit started conducting new business under the name and style of M/s Bhagat Soap and General Traders. The said partnership firm was reconstituted in the year 1996 and the petitioner retired from the partnership business after taking his respective share. The respondent No.1 denied that the firm M/s Sachdeva Garments ever closed its business, to the contrary new investments were made for the expansion of the business and the petitioner clandestinely invested the firm's funds in various new businesses and properties etc. regarding which different cases are pending before the competent courts with

respect to the said business and its assets, which fact has been suppressed by the petitioner from the court. The petitioner himself was the partner of the firm M/s Bhagat Soap & General Traders operating from shops of all the parties as such, any question of paying the rent to the petitioner from the year 1992 onwards does not arise. The petitioner willfully withdrew from the partnership business after taking his respective share and left the partners to manage the business on their own which continued till the year 2004 and stopped functioning thereafter and all the partners also abandoned the premises/shops of other partners and the shop belonging to the plaintiff again went back into his exclusive possession. In the year 1999, the petitioner had obtained a loan of Rs. 25,000/- from the proprietorship concern of the wife of the respondent No. 1 with a condition that the petitioner will repay the said amount to the respondent no.1 and his wife within a period of one year. Since the petitioner had failed to repay the loan amount as mentioned above to the wife of the respondent no.1, the respondent no.1 and his wife took over the possession of the suit shop forcibly in the year 2004 exclusively and till date the respondent no.1 and his wife are in peaceful possession of the same and the wife of the respondent no.1 who was conducting the business of provisional store from the other shops under the name and style of "M/s Sachdeva House" also started conducting the business of provisional store from the suit shop after taking over its possession under the name and style of "M/s Sachdeva House". The respondent No.1 has placed on record the registration certificate issued by the Labour Department in favour of the wife of

the respondent no.1, namely, Smt. Veena Sachdev. It is the case of the respondent no.1 that the suit shop is in his possession of the respondent no.1 and his wife right from the year 2004 and since then their possession over the suit shop is open, hostile and the respondent no.1 and his wife, namely, Smt. Veena Sachdeva have become owners of the suit property by way of adverse possession and now, the petitioner has no right or authority to interfere into their peaceful possession over the suit property and to interfere into the business being run therein by the wife of the respondent no.1 or to get the possession of the same from the respondent no. 1 or his wife.

11.The respondent No.1 while filing the written statement also filed counterclaim to the effect that he along with his wife Veena Sachdev be declared owner in possession of the shop consisting of three floors situated at Upper Gumat, Jammu by way of adverse possession on the basis of facts as noted above.

12.The respondent No.2 has also filed the written statement objecting the claim of the petitioner and admitting the claim of the respondent No.1 and his wife over the shop. Respondent No.3 has also filed his written statement on similar lines and objected to the suit of the petitioner.

13.The petitioner filed reply to the counter-claim by asserting that the same was not sustainable on the basis of adverse possession because a person who traces his possession to a lawful title can never become an owner by adverse possession. It was further stated that the respondent no.1 was not sure about the suit property as to who is true owner of the said property, therefore, the question of his being in hostile possession and the question of denying the title of the true owner does

not arise at all and the respondent No.1 on 21 December, 2016 in a so-called family settlement made unambiguous, unequivocal and clear statement that Ashwani Kumar was the owner of the suit property and not the petitioner, but in the present suit he has admitted that the suit property is individual property of the petitioner. Under these circumstances, the claim of the respondent no.1 cannot be entertained.

14. Thereafter, application came to be preferred by the petitioner under Order 12 Rule 6 CPC for passing a judgment in favour of the plaintiff-petitioner to the extent of directing the defendants-respondents for vacating the shop consisting of three floors measuring 9.8 ft by 32.6 ft situated at Upper Gumat, Jammu and to remove all their belongings from the property and hand over the vacant and peaceful possession of the suit property to him and to dismiss the counterclaim of the respondents in the above titled case under Order 7 Rule 11 CPC. The issuance of judgment under Order 12 Rule 6 CPC was also sought by the petitioner on the ground that respondent No.1 on the basis of alleged judicial admissions of respondent No.1 and other authentic records most of which were prepared by respondent no.1 and respondent no.2 under their own hand and seal, which conclusively proves the claim of the petitioner. It is stated that respondent No.1 has admitted that Smt. Manju Sachdeva is Proprietor of M/s New Sachdeva Traders in official documents scribed under his own hand and seal in his position as Accountant of the Proprietorship business of Smt. Manju Sachdeva and was having knowledge of the fact that the petitioner has no concern with M/s New Sachdeva Traders right from the beginning. Besides,

the petitioner has placed reliance upon various documents, including the legal notice issued in the month of March, 2017, the Income Tax Returns (ITRs) and balance sheets of M/s New Sachdeva Traders allegedly prepared by respondent No. 1 to contend that respondent No. 1 has made clear, unequivocal and unambiguous admissions with regard to the claim of the petitioner. In paragraph 9 of the application, the petitioner has catalogued various statements and pleadings, which, according to the petitioner, constitute such admissions and, therefore, justify the passing of a judgment on admissions under law as well as the rejection of the counterclaim.

15. Interestingly, the application filed by the petitioner comprises of 71 pages wherein the petitioner has made an attempt to prove the admission on the part of the respondent no.1 with regard to the claim of the petitioner. The respondent No.1 in turn filed the objections to the said application thereby stating that he has neither made said admissions nor admitted any such facts on the basis of which judgment can be passed in favour of the petitioner or counterclaim can be rejected by the court.

16. The other respondents also filed objections thereby negating the claim of the petitioner.

Appreciation:

17. Before adjudicating the contentions raised by the parties, it would be apt to take note of the judicial precedents concerning the scope of Order XII Rule 6 CPC and Order 7 Rule 11. In “**Karan Kapoor Vs.**

Court has held as under:

16. Thus, legislative intent is clear by using the word 'may' and 'as it may think fit' to the nature of admission. The said power is discretionary which should be only exercised when specific, clear and categorical admission of facts and documents are on record, otherwise the Court can refuse to invoke the power of Order XII Rule 6. The said provision has been brought with intent that if admission of facts raised by one side is admitted by other, and the Court is satisfied to the nature of admission, then the parties are not compelled for fullfledged trial and the judgment and order can be directed without taking any evidence. Therefore, to save the time and money of the Court and respective parties, the said provision has been brought in the statute. As per above discussion, it is clear that to pass a judgment on admission, the Court if thinks fit may pass an order at any stage of the suit. In case the judgment is pronounced by the Court a decree be drawn accordingly and parties to the case is not required to go for trial.

18. On the issue of discretion of Court to pass judgment on admission, a threeJudge Bench of this Court in the case of S.M. Asif v. Virendar Kumar Bajaj - (2015) 9 SCC 287) made the **legislative intent clear to use the word 'may' which clearly stipulates that the power under Order XII Rule 6 of CPC is discretionary and cannot be claimed as a matter of right.** In the said case, the suit for eviction was filed by the Respondent Landlord against the Appellant Tenant. The relationship of tenancy was admitted including the period of Lease Agreement. The Plaintiffs' claim was resisted by the Defendant setting up a plea that the property in question was agreed to be sold by an agreement and the advance of Rs. 82,50,000/ was paid. The Defendant in course of taking the defense stoutly denied that Respondent/Plaintiff has continued to be the landlord after entering into Agreement to Sell. The suit for specific performance was also filed which of course was contested by the Plaintiff. In the said case, this Court was of the view that deciding such issues requires appreciation of evidence. Mere relationship of landlord and tenant cannot be said to be an unequivocal admission to decree the suit under Order XII Rule 6 of CPC. Resultantly, this Court by setting aside the judgment passed by the High Court remitted the matter back to the Trial Court subject to deposit of the arrears of the rent and the compensation for use of occupation of the suit premises. Such deposit was subject to final outcome of the eviction as well as suit for specific performance.

(emphasis added)

18. In Himani Alloys Ltd. Vs. Tata Steel Ltd., AIR Online 2011 SC

385, the Hon'ble Apex Court has held as under:

10. It is true that a judgment can be given on an "admission" contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear 'admission' which can be acted upon. (See also Uttam Singh Duggal and Co. Ltd. vs. United Bank of India 2000 (7) SCC 120, Karam Kapahi vs. Lal Chand Public Charitable Trust 2010 (4) SCC 753 and Jeevan Diesels and Electricals Ltd. vs. Jasbir Singh Chadha 2010 (6) SCC 601. There is no such admission in this case.

(emphasis added)

19. In view of the above, it emerges without peradventure that to warrant the pronouncement of a judgment on admissions pursuant to Order XII Rule 6 of the Code of Civil Procedure, the admission in question must perforce be explicit, clear, categorical, unambiguous, unequivocal, and unconditional. Moreso, that the plaintiff possesseth no absolute or indefeasible right to demand a judgment in terms of Order XII Rule 6. The provisions of Order XII Rule 6 being purely enabling and directory in nature, the same vest a power of discretion in the Court, a discretion to be invoked solely where the admissions satisfy the rigid criteria hereinbefore adumbrated, and upon a showing that the defendant harboured a clear intention to stand bound thereby.

20. The principles governing the rejection of plaint under Order 7 Rule 11 CPC have been laid down by the Hon'ble Supreme Court in **Church of Christ Charitable Trust and Educational Charitable Society Vs. M/s Ponniamman Education Trust, AIR 2012 SC 3912**, wherein, the Hon'ble Supreme Court of India has observed that the averments made in the written statement are immaterial and it is duty of the court to scrutinize the averments/pleas in the plaint to consider the application for rejection of the plaint under Order 7 Rule 11 CPC.

21. It would also be apposite to refer to the judgment of the Hon'ble Supreme Court of India in **R.K. Roja v. U.S. Rayudu and another, AIR 2016 SCW 3282**. Paragraph 5 of the said judgment, being relevant for the present controversy, is extracted hereunder:

“5. We are afraid that the stand taken by the High Court in the impugned order cannot be appreciated. An application under Order VII Rule 11 of the CPC can be filed at any stage, as held by this Court in *Sopan Sukhdeo Sable and others v. Assistant Charity Commissioner and others..* **“The trial court can exercise the power at any stage of the suit – before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. ...”**. The only restriction is that the consideration of the application for rejection should not be on the basis of the allegations made by the defendant in his written statement or on the basis of the allegations in the application for rejection of the plaint. The court has to consider only the plaint as a whole, and in case, the entire plaint comes under the situations covered by Order VII Rule 11 (a) to (f) of the CPC, the same has to be rejected.”

(emphasis added)

22. The petitioners' plea regarding the lack of necessary ingredients of adverse possession to maintain the counterclaim seeking perfection of title by prescription by respondent No.1, is a pure defence that falls

outside the limited scope of Order VII Rule 11 CPC. In deciding an application under Order VII Rule 11 CPC, the Court must look entirely at the plaint. Though the Court may examine parties under Order X CPC to nip sham litigation in the bud where no real cause of action exists and mirage of cause of action has been created. It cannot exercise powers under Order VII Rule 11CPC where there are serious, disputed questions of material fact. Such factual controversies can only be adjudicated by framing issues and taking evidence on record.

23. So far as the present suit is concerned it is the categorical stand of respondent no.1 that in the year 2004, respondent no.1 and his wife forcefully took the possession of the suit shop as the petitioner did not repay the loan amount. All the respondents including the respondent no.1 in particular have objected the contention of the petitioner that he has made any admission on the basis of which judgment can be passed in favour of the petitioner. Though the respondent no.1 has stated that the suit shop was purchased by the father of the parties through the medium of sale deed in the year 1988 in the name of the petitioner, but simultaneously he has also stated that in the year 2004 he and his wife forcefully occupied the suit property and ever since then it has continued to be in their possession. The suit was instituted in the month of January 2019 and in view of the disputed facts, the suit as well as the counterclaim requires trial.

24. The plea of admission raised by the petitioner is either denied by the respondents or is intermingled with the counterclaim of respondent No. 1 and, as such, can be decided only after a full-fledged trial.

25. This Court is of the considered view that the necessary ingredients for invoking the provisions of Order XII Rule 6 CPC, so as to pass the judgment on the basis of admissions alone, are conspicuously absent in the present case. Equally, the counterclaim preferred by respondent No. 1 cannot be said to be devoid of a cause of action so as to warrant its rejection under Order VII Rule 11 CPC. Where the pleadings disclose disputed questions of fact or the alleged admissions require interpretation or are capable of more than one inference, the matter necessarily has to proceed to trial. In the present case, the rival pleadings raise contentious issues regarding possession and the plea of adverse possession, which require adjudication on the basis of evidence. The rival pleadings disclose substantial disputes relating to title, the character and origin of the possession, the legal effect of the alleged family settlement, and the plea of adverse possession. These issues necessarily require adjudication after the parties are afforded an opportunity to lead evidence.

26. After examining the order impugned, this court finds that the learned Trial Court has rightly exercised its discretion in refusing to pass a judgment on admissions and in declining to reject the counterclaim at the threshold. The view taken by the learned trial Court is found to be in consonance with law and does not suffer from any jurisdictional error, illegality, or perversity warranting interference in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. The petition is devoid of merit and is, accordingly, **dismissed**.

27.The observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression of opinion on the merits of the suit or the counterclaim. The learned trial Court shall decide the suit and the counterclaim, independently, on their own merits, and on the basis of the evidence adduced by the parties, uninfluenced by any observations made in this order.

(Rajnish Oswal)
Judge

Jammu
07.08.2026
Madan Verma-Secy

Whether order is speaking? Yes.
Whether order is reportable? Yes.

