IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 679 of 2025
Reserved on : 05.08.2026
Decided on : 30.09.2026
Uploaded on : 30.09.2026

The Katohar Khurd Co-operative Agriculture Services Ltd. & Anr.

...Petitioners

Versus

Pardeep Kumar Gautam & Ors. ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1] *Yes.*

For the petitioners	:	Mr. Gurinder Singh Parmar, Advocate.
For the respondents	:	Mr. R.K. Gautam and Mr. Pawan Gautam, Advocates, for respondents No. 1 to 5.

Virender Singh, Judge

Petitioners have filed the present petition, under Article 227 of the Constitution of India, for quashing/ setting aside the order dated 06.09.2025, passed by the Court of learned Civil Judge, Court No. II, Amb, District Una, H.P. (hereinafter referred to as 'the learned trial Court'), in Civil Suit No. 136-1-2024, in case titled as "Pardeep Kumar Gautam & Ors. Versus The

[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

Katohar Khurd Co-operative Agriculture Service Society Ltd. & Ors.".

2. By way of order dated 06.09.2025, the learned trial Court has dismissed the application under Order 7 Rule 11 CPC read with Section 151 CPC and Section 76 of the Himachal Pradesh Cooperative Societies Act, 1968, (hereinafter referred to as 'the Act'), filed by the petitioners-defendants.

3. For the sake of convenience, the parties to the present *lis,* are, hereinafter referred to, in the same manner, as were, referred to, by the learned trial Court.

4. Facts in brief, leading to the filing of the present appeal, before this Court, may be summed up, as under:-

4.1 The plaintiffs have filed a suit for declaration to the effect that the order dated 09.08.2023, vide which, the Nomination Forms of plaintiffs No. 1 and 2 were rejected by defendant No. 2, in an illegal manner and further declaration to the effect that the election dated 25.08.2023, of the Katohar Khurd Cooperative Agriculture Service Society Ltd. Katohar Khurd, Tehsil Amb, District Una, H.P. (hereinafter referred to as 'the Society'), whereby defendants No. 4 to 9 were declared as elected members of

the Society by him in an illegal and unconstitutional manner, as the election dated 25.08.2023 was not conducted by defendants No. 2 and 3, as per the schedule of the election programme in the fair and transparent manner and the whole process of election be declared null and void, being illegal, invalid, unwarranted, wrong, erroneous and not binding upon the plaintiffs and the members of the Society.

4.2 In addition to this, they have also filed suit for mandatory injunction, thereby directing defendant No. 11 to dissolve the Managing Committee of the Society, immediately and to appoint Administrator from the Cooperative Department, to run the day to day functioning of the Society under his supervision till the fresh election of the Society and in the alternative, during the pendency of the case, further permanent prohibitory injunction restraining defendants No. 4 to 10 from functioning the day to day affairs of the Society.

4.3 The suit has been filed on the grounds that the plaintiffs are the members of the Society, created under the statute to provide the facility to the members and poor farmers of villages. The whole area of the CAS Katohar

Khurd is covered under I to VII Wards. Plaintiffs No. 1 and 2 have contested the election of the Society, from Wards No. 4 and 7, and their nomination papers were wrongly rejected in an illegal manner by defendant No. 2, in connivance with defendants No. 4 to 10.

4.4 According to the plaintiffs, the said election dated 25.08.2023, of the Society was assailed by availing the statutory remedy under Section 72 of the Act, by disputing the said election, before defendant No. 11 and the said matter is still pending for final adjudication. The reference of the said election dispute was submitted by the plaintiffs in the office of defendant No. 11, on 27.08.2023. As per Rules 91 of the HP Cooperative Societies Rules, 1971 (hereinafter referred to as 'the Rules'), the said election dispute is to be adjudicated within a period of four months. However, defendant No. 11 has not taken any action, despite repeated requests made by the plaintiffs. The first date of hearing in the election matter was fixed on 20.01.2024, by defendant No. 11, after about six months. Thereafter, defendants No. 1 to 4 sought time to file reply and the proceedings were fixed for 12.02.2024. Nobody on behalf of defendants No. 1 to 4 put appearance on

12.02.2024 and the A.R. Cooperative Societies, Una, has intimated that case is now listed for 11.03.2024.

4.5 It is the further case of the plaintiffs that the tenure of the members of the Managing Committee is five years and election as per Act and Rules, was due in the month of March, 2022, but the same was not conducted at the instance of the vested interest of defendants No. 4 to 10, who were co-opted as a member of the Society on 10.09.2021 and 08.12.2021 and they continued to hold the post beyond the statutory period of three months, as prescribed under the provisions of Rule 38(5) of the Rules, at the instance of Managing Committee of the Society. Vide letter dated 30.07.2022, issued by the office of the Worthy A.R.C.S., Una, to the President of the Society, by informing that no approval of the co-opted members by the Managing Committee of the Society had been obtained. By leveling the allegations against defendants No. 4 to 10, that they have interfered in the election programme and they have done various bungling in preparation of voters list deliberately and with mala-fide intentions.

4.6 It is their further case that defendant No. 1 was under obligation and duty bound to prepare the Ward wise

tentative voters list of the members of the Society at the first instance and to circulate the said tentative voters list upon the Notice Board and other various known public places, such as, office of the Gram Panchayat, Mahila Mandal Bhawan, Patwar Khana, School premises, temple situated in the area of the Society, but said compliance has not been done by defendant No. 1. However, on the Notice Board of the Society, the notice was fixed on 16.07.2023, that too, for a short time, as plaintiff No. 1 came to know that his name has wrongly shown in the tentative list at Sr. No. 241, against Ward No. 5 of the Society. Thereafter, plaintiff No. 1 had received a communication dated 18.07.2023, from the Managing Committee in an illegal manner by informing him that his permanent address, as detected from his Adhar Card, is at Delhi, when he opened the shareholder account in the Society and he was requested to supply the permanent address of the area of the Society. Thereafter, plaintiff No. 1 had raised objections against the tentative voters list and submitted the same to defendant No. 1 on 22.07.2023 and copy was forwarded to defendant No. 11 on 18.07.2023.

4.7 In addition to this, the other voters of the Society had also filed objections against the tentative voters list, to defendants No. 1 and 11. On 24.07.2023, defendant No. 11 had issued directions to defendant No. 1, thereby directing her to supply the justified information to Pawan Gautam, Pardeep Gautam, Smt. Rajeshwari Gautam and Smt. Indu Gautam, with respect to their objections against the tentative voters list.

4.8 Thereafter, plaintiff No. 1 had submitted explanation in his reply dated 03.08.2023, by annexing documentary proof, to show that he is a permanent resident of Village Katohar Kalan and having agricultural land in his village, which falls in Ward No. 4, of the Society. Thereafter, plaintiff No. 1 has filled up his nomination form on 05.08.2023, for contesting the election dated 25.08.2023, by presuming that defendant No. 1 might have made the necessary corrections in the tentative voters list of Ward No. 4. The nomination form of plaintiff No. 1 was accepted by defendant No. 2 and the list prepared by him, after scrutiny, was placed on the Notice Board of the Society. On 07.08.2023, plaintiff No. 1 came to know from the list pasted on the Notice Board of the Society that his

nomination form was rejected by defendant No. 2. Similarly, nomination of plaintiff No. 2, from Ward No. 7 was also rejected. Thereafter, plaintiff No. 1 submitted an application on 08.08.2023 to defendant No. 2, with the request to know the ground, upon which, his nomination was rejected. The name of plaintiff No. 1 was wrongly rejected by defendant No. 2, with mala fide intention, at the instance of defendants No. 4 to 10, by observing that name was not found in the voters list, including the documents submitted by plaintiff No. 1, before taking any decision upon the objections.

4.9 Thereafter, by way of joint representation dated 11.08.2023, plaintiffs made representation to defendant No. 11 to conduct proper enquiry himself in the election process of the Society. However, the same has not yet been done. After receiving the representation, defendant No. 11 sought the report from Block Inspector, Cooperative Societies, vide letter dated 31.08.2023, but no report was prepared by the Block Cooperative Inspector.

4.10 Lastly, it has been pleaded that the process of election dated 25.08.2023, was not conducted as per the Rules, by defendants No. 1 and 2 and declaration of result

dated 25.08.2023 by defendant No. 2 is also not sustainable in the eyes of law.

4.11 On the basis of above facts, following relief has been sought by the plaintiffs:-

> *"Keeping in view the aforesaid peculiar facts and circumstances, it is, therefore, respectfully prayed that this Hon'ble Court may kindly be pleased to decree the present suit with special costs and to set aside, annul and cancel the impugned order dated 08.08.2023 and declaration of result dated 25.08.2023, which has not been conducted in accordance with law and whole process of the election was out of the law and further graciously the defendant No. 11 may kindly be directed to dissolve the present Managing Committee of the CAS Katohar Khurd and to appoint Administrators, to run the day to day affairs of the Society till the fresh election of the Society, during the pendency of the present case, in this Hon'ble Court and further the defendants No. 4 to 10 may kindly be restrained from interference in the day to day affairs of the CAS Katohar Khurd, during the pendency of the present case, in the interest of justice and the property interest of the Society."*

5. In the said suit, the defendants have filed an application under Order 7 Rule 11 read with Section 151 of CPC and under Section 76 of the Act, for rejection of the plaint, by citing the provisions of Section 76 of the Act, which, according to the defendants, goes to the very root of the case, as suit is not maintainable.

6. According to the defendants, no notice, as per Section 76 of the Act, was ever served upon them by the Society. In this regard, the defendants have relied upon the decision of this Court, in "***The Jawali, Harijan***

Cooperative Agricultural Society Vs Maghu etc., AIR 1992 Himachal Pradesh 34", wherein, according to them, it has been held that in case, no notice has been served, as required under Section 76 of the Act, the suit is barred and plaint is liable to be rejected, under Order 7 Rule 11 of CPC.

7. In addition to this, they have also sought the rejection of the plaint, on the ground, that as per Section 72 of the Act, if any dispute touching the constitution, management or the business of a cooperative society arises, then such dispute shall be referred to the Registrar for decision and no court shall have the jurisdiction to entertain any suit or other proceedings in respect of such dispute.

8. It is their further case that plaintiffs have already filed a reference petition under Section 72 of the Act, on the same cause of action, between the parties to the lis. Reasserting the bar, as created by Section 72 of the Act, a prayer has been made to reject the plaint.

9. This application has been contested by the plaintiffs, by filing the reply, in which, they have taken the preliminary objections that the application is not

maintainable, as the same does not fulfill the ingredients, and the application lacks complete information.

10. On merits, the application has been contested on the ground that in para 15 of the plaint, it is the case of the plaintiffs that they had issued a legal notice dated 16.03.2024, before filing of the present suit. Those notices have been refused by defendants No. 2 to 7, as per the postal receipt and as such, the plea taken by them, for non-compliance of Section 76 of the Act is liable to be rejected.

11. The application has also been contested on the ground that the reference under Section 72 of the Act, was made within the stipulated period and same is still pending adjudication, for 26.04.2025, whereas, it has been mandated by Rule 91(2) of the Rules, that the said election dispute is required to be adjudicated within a period of four months. The cause of action of the present suit, as well as, the proceedings under Section 72 of the Act, are stated to be based upon different cause of action.

12. The defendants filed rejoinder to the said reply, denying the stand, as taken in the reply.

13. The said application has been dismissed by the learned trial Court, vide order dated 06.09.2025.

14. Defendants No. 1 and 4, are before this Court under Article 227 of the Constitution of India. The scope of interference, in the order passed by the learned trial Court, that too, under Article 227 of the Constitution of India, is very limited. The scope of interference under Article 227 of the Constitution of India, has elaborately been discussed by the Hon'ble Supreme Court in "**K. Valarmathi & Ors. Versus Kumaresan, 2025 INSC 606**". Relevant para 9 of the judgment, is reproduced, as under:

> *"Essence of the power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the court which it seeks to supervise. Nor can it be invoked to supplant a statutory legal remedy under the Civil Procedure Code, 1908. For example, existence of appellate remedy under Section 96 of the Code operates as a near total bar to exercise of supervisory jurisdiction under Article 227."*

15. In a recent decision in "**Nandi Infrastructure Corridor Enterprises Ltd. & Anr. Versus B. Gurappa Naidu & Ors., 2026 INSC 434**", the scope of interference has again been explained by the Hon'ble Supreme Court. Relevant paragraph 35 of the judgment, is reproduced, as under:-

> *"35. In short, the principles laid down in the above matters is as follows:*
> *a) The power of superintendence under Article 227 is not to be exercised unless there has been an (a) unwarranted assumption of jurisdiction, not vested in Court or tribunal, or (b) gross abuse of jurisdiction or (c) an unjustifiable refusal to exercise jurisdiction vested in Courts or tribunals.*
> *b) It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record.*
> *c) The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal."*

16. Being guided by the above decisions, now this Court would proceed further to determine the fact, whether the order passed by the learned trial Court, rejecting the application under Order 7 Rule 11 CPC, vide order dated 06.09.2025, does require any interference, by this Court.

17. The learned trial Court has negated the plea, as taken in the application, by holding that as per the documents annexed with the plaint, compliance of Section 76 of the Act has been done.

18. At the time of deciding the application under Order 7 Rule 11 CPC, only the averments as made in the plaint, as well as, the accompanying documents are to be

taken into consideration. The defence raised by the defendants is not liable to be taken into consideration, as held by Hon'ble Supreme Court in a recent decision, in case titled as ***Karam Singh Versus Amarjit Singh & Ors., 2025 (4) Recent Civil Reports 747***. Relevant para 15 of the judgment, is reproduced, as under:-

> *"15. Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles governing rejection of a plaint under Order 7 Rule 11 of CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear that while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be considered to find out whether the suit is barred by law. At this stage, the defense is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint.*
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> > *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 form 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."*

19. Even otherwise, at the time of deciding the application under Order 7 Rule 11 CPC, evidence or merits of the controversy could be examined, as held by the Hon'ble Supreme Court in a case titled as ***Eldeco Housing and Industries Ltd. Versus Ashok Vidyarthi & Ors., 2023 LiveLaw (SC) 1033***. Relevant para 26 of the judgment, is reproduced, as under:-

> *"26.* However, the fact remains that all the aforesaid documents, referred to by the respondent in support of his plea for rejection of the plaint, cannot be considered at this stage as these are not part of the record with the Court filed along with the plaint. This is the stand taken by the respondent-defendant in the application filed under Order VII Rule 11 C.P.C. As noticed above, no amount of evidence or merits of the controversy can be examined at the stage of decision of the application under Order VII Rule 11 C.P.C. Hence, in our view, the impugned order of the High Court passed in the Review Application deserves to be set aside. Ordered accordingly."

20. The rejection of the plaint has also been sought in the present case, on account of Section 72 of the Act. The specific case of the plaintiffs is that the competent authority is required to decide the said issue within a prescribed period, which as per the averments, as made in the plaint, has not been done. In such situation, the said

contention, has rightly been rejected by the learned trial Court.

21. In the present case, plaintiffs have sought a decree for declaration, to declare the result dated 25.08.2025, as null and void and also sought the relief to dissolve the present Managing Committee and to appoint an Administrator, to run day to day affairs of the Society and the partial rejection of the plaint is prohibited under the law, as held in ***Central Bank of India & Ors. Versus Prabha Jain & Ors., 2025 INSC 95***. Relevant para 24 & 25 of the judgment, are reproduced, as under:-

> *"24. Even if we would have been persuaded to take the view that the third relief is barred by Section 17(3) of the SARFAESI Act, still the plaint must survive because there cannot be a partial rejection of the plaint under Order VII, Rule 11 of the CPC. Hence, even if one relief survives, the plaint cannot be rejected under Order VII, Rule 11 of the CPC. In the case on hand, the first and second reliefs as prayed for are clearly not barred by Section 34 of the SARFAESI ACT and are within the civil court's jurisdiction. Hence, the plaint cannot be rejected under Order VII Rule 11 of the CPC.*
> *25. If the civil court is of the view that one relief (say relief A) is not barred by law but is of the view that Relief B is barred by law, the civil court must not make any observations to the effect that relief B is barred by law and must leave that issue undecided in an Order VII, Rule 11 application. This is because if the civil court cannot reject a plaint partially, then by the same logic, it ought not to make any adverse observations against relief B."*

22. Even otherwise, considering the stand of the plaintiffs, in the plaint right from challenging their

nomination form, declaring the result as null and void, prayer for issuing the mandatory injunction and permanent prohibitory injunction, the suit cannot be rejected, under Order 7 Rule 11 CPC.

23. Considering all these facts, this Court is of the view that the learned trial Court has rightly considered the stand taken by the parties and hence, the conclusion regarding the rejection of the application under Order 7 Rule 11 CPC, does not require any interference by this Court. Consequently, the petition is dismissed.

24. Any of the observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined, only to the disposal of the present petition.

25. Pending application(s), if any, shall also stand(s) disposed of.

26. Record be sent back, forthwith.

(Virender Singh)
Judge

30th September, 2026
(*Pramod Kumar*)