



2026:UHC:3336

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL
CIVIL REVISION No.46 of 2026

Abhishek Jain

.....Revisionist

Versus

M/s Vidhya Pushp Academy

..... Respondent

Presence:-

Mr. Siddharth Jain, learned counsel for the revisionist.

Mr. Shailabh Pandey, learned counsel for the respondent appeared through V.C.

Hon'ble Siddhartha Sah, J. (oral)

The present revision under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") has been preferred by the defendant/revisionist against the order dated 06.03.2026 passed by the learned Civil Judge (Senior Division), Haldwani, District Nainital in Civil Suit No.71 of 2025 titled as "*Vidhya Pushp Academy vs. Abhishek Jain*", by which the Applicant No.15C under Order VII Rule 11 of CPC, filed by the defendant/revisionist was rejected.

2. The relevant facts of the case as stated in this revision leading to filing of this civil revision are as follows:

- (i) A society was founded by the Late Shri Chetan Lal Jain (grand-father), Late Smt. Shanti Devi (grand-mother) & Late Shri Sunil Kumar Jain (father) of



the Revisionist and the respondent in the year 1999.

- (ii) Later after the demise of certain members the father of the Revisionist and respondent (Late Shri Sunil Kumr Jain) became the President, the respondent as the Vice-President, the Revisionist as the Secretary, Smt. Rekha Jain (mother of Revisionist & respondent) as Treasurer, Smt. Anushika Jain (wife of the respondent) as a member, Smt. Shanti Devi Jain (Grandmother of Revisionist & respondent) as member and Smt. Nidhi Jain (wife of Revisionist) as a member.
- (iii) Looking to the conduct of the respondent, the Revisionist, along with other members of the society, with a majority removed the respondent from the said society on 16.10.2025, and therefore, since then, the respondent has not been a part and parcel of the society.
- (iv) Therefore, to further achieve his ulterior motives & illegal gains the respondent filed Civil Suit No. 71 of 2025 seeking permanent injunction restraining the Revisionist from interference in the functioning of the respondent and with additional prayers.
- (v) The Revisionist filed an application no 15C under Order VII Rule 11 on the ground that the



respondent had no authority to file the suit, nor was the suit maintainable as well as being undervalued.

(vi) The respondent filed the reply to the said application on 28.01.2026.

(vii) The trial court i.e. the Civil Judge (Senior Division), Haldwani, District Nainital heard the learned counsel for the parties on the application preferred by the defendant/revisionist under Order VII Rule 11 CPC and after considering the said application and the objections raised on behalf of the plaintiff/respondent against the same rejected the application filed under Order VII Rule 11 CPC vide impugned order dated 06.03.2026.

3. Aggrieved against the said order dated 06.03.2026, the present Civil Revision has been preferred on behalf of the defendant/revisionist. While adverting to the factual narration as made in the affidavit in support of the revision, learned counsel for the defendant/revisionist assailed the impugned order on the premise that the plaintiff through Mr. Akshat Jain never have the authority to institute the suit on behalf of the plaintiff/society for the reason that (1) there was no resolution to institute the suit, (2) Mr. Akshat Jain had already been removed from the plaintiff/society.



4. The next submission made by the learned counsel for the defendant/revisionist is that there was no cause of action with the plaintiff since he had already been removed from the plaintiff/society, hence in the absence of cause of action, his case was covered by the provisions of Order VII Rule 11(a) CPC.

5. He further made submissions that Mr. Akshat Jain had no right to institute the suit against Mr. Abhishek Jain, the defendant/revisionist in private capacity. It was next canvassed by Mr. Siddharth Jain, learned counsel for the defendant/revisionist, his case is covered by the provisions of Order VII Rule 11 (a) CPC for the reasons that Mr. Akshat Jain was not having *locus standi* to file the suit because as per Section 6 of the Societies Registration Act, *'Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion'*. Thus, Mr. Siddharth Jain contends that since Mr. Akshat Jain was neither President/Secretary nor he was duly authorized to institute the suit on behalf of the society, hence, as per provisions of Section 6 of the Societies Registration Act, he had no locus to institute the suit and as such the suit filed without cause of action as well as there would be a bar under the law to institute the suit in terms of provisions of Order VII Rule 11 (d) CPC.



6. *Per contra*, Mr. Shailabh Pandey, Advocate, who is appearing on behalf of the plaintiff/respondent (through V.C.) has contended that since the time of his father was alive in the year 2013, Mr. Akshat Jain, who has instituted the suit, had been litigating on behalf of the society.

7. Learned counsel appearing on behalf of the plaintiff/respondent has taken the Court through the pleadings raised in paragraph no.5 of the plaint and has stated that at the time of foundation of the plaintiff society, Mr. Akshat Jain was the Vice President.

8. Learned counsel appearing on behalf of the plaintiff/respondent has also drawn the attention of the Court to paragraph no.6 of the plaint, which reads as under:-

“6. That on account of the time to time demise of the members of the society and also on account of Shri Sanjay Jain, now at present the society is being run on the following nomenclature:

a) Vacant, President.

b) Shri Akshat Jain, Vice President (Acting President in absence of the President).

c) Shri Abhishek Jain, Secretary.

d) Smt. Rekha Jain, Treasurer.

e) Smt. Anushika Jain, Member.

f) Smt. Nidhi Jain, Member.”

A perusal of paragraph no.6 shows that the capacity of Mr. Akshat Jain is acting President in the absence of President.



9. Learned counsel appearing on behalf of the plaintiff/respondent has also drawn the attention of the Court to pleadings as raised in paragraph no.9 of the plaint, which reads as under:-

“9. That immediately after the demise of their father the defendant in a very clever manner conducted the elections of the Plaintiff/society without passing any agenda and without informing all the members on 20-01-2022, i.e. within around one week of the demise of Shri Sunil Kumar Jain. Against the said act of the Defendant the Plaintiff through its Vice President filed one complaint to the Deputy Registrar of Firms, Societies and Chits, Haldwani. Thereafter the Deputy Registrar of Firms, Societies and Chits, Haldwani forwarded the said complaint against the Defendant to the Sub-Divisional Magistrate, Haldwani which is pending consideration. Apart from the said complaint the Plaintiff has time to time made various other complaints against the illegal acts of the Defendant before the concerned offices.”

10. Learned counsel for the plaintiff/respondent, thus, contends that with reference to paragraph no.9 of the plaint, the contentions regarding formation of the new body is already under challenge before the concerned competent Offices.

11. Learned counsel appearing on behalf of the plaintiff/respondent also made the submission that the



2026:UHC:3336

defendant/revisionist herein has been acting against the interest of the society. Drawing the attention of the Court to paragraph no.19 of the plaint, the learned counsel for the plaintiff/respondent submits that the plaintiff/respondent through its Vice President had filed a writ petition before this Court being Writ Petition (M/S) No.2907 of 2024, titled as "*Vidhya Pushp Academy society vs. State of Uttarakhand & Others*" and while making a reference to para 19 of the plaint, submits that when the earlier writ petition was filed, the defendant/revisionist never raised any objection as to the tenability of the writ petition on behalf of the Vice President i.e. Mr. Akshat Jain. In fact, in the earlier writ petition, a compromise was entered into between the parties; pursuance of the same, the writ petition was withdrawn.

12. On a query made to the learned counsel for the defendant/revisionist Mr. Siddharth Jain, he fairly submits that in the earlier round of litigation in the aforesaid writ petition, no objection was taken as to the tenability of the writ petition at the behest of Vice President Mr. Akshat Jain.

13. Learned counsel for the plaintiff/respondent drew the attention of the Court to the objections filed on behalf of the plaintiff/respondent against the application under Order VII Rule 11 CPC and with reference to the said objections, he pointed out para 'B' of the said objections, which reads as under:-



2026:UHC:3336

“B. That the present application filed by the Defendant is a misuse and abuse of the process of law and the same has been filed with the sole aim of wasting the precious time of this Hon'ble Court and is part of the delaying tactics of the Defendant, who is fully aware of this material fact that since the year 2013 all the cases on behalf of and in the name of the Plaintiff society have been filed through its Vice Chairman and no such objections have been till date raised by the Defendant or any other member of the Plaintiff society nor the authorization of the Vice Chairman has been denied by any authority/Court/Tribunal. The same is sufficient to prove that it is the Vice Chairman who has been verbally nominated as well as authorized by its members since year 2013 to always institute and defend any case in the name of the Plaintiff society. Now when the anomalies and illegalities of the defendant are brought to the kind notice of this Hon'ble Court then the defendant in a very clever manner is taking such vague and concocted plea with the sole aim of misleading this Hon'ble Court. On account of the said facts defendant is estopped from making such a submission.”

14. Learned counsel for the plaintiff/respondent has further submitted that that by virtue of application under Order VII Rule 11 CPC, the defendant/revisionist is trying to raise disputed questions of fact, which cannot be raised through an application under Order VII Rule 11 CPC.



15. Learned counsel for the plaintiff/respondent has drawn the attention of the court to para 8 of the impugned order and made a submission that the contentions raised on behalf of the defendant/revisionist have already been considered and negated by virtue of the impugned order dated 06.03.2026. Para 8 of the impugned order is being extracted herein below for ready reference:-

“8. The objection regarding the authority of Mr. Akshat Jain to institute the suit on behalf of the plaintiff society involves disputed questions of fact which require evidence and therefore cannot be decided at this stage. Similarly, the alleged bar under the Societies Registration Act, 1860 or the Specific Relief Act, 1963 cannot be determined merely on the basis of the application filed by the defendant.”

16. After hearing the learned counsel for the parties at length and perusal of the record, it is evident that the application under Order VII Rule 11 CPC has been filed on behalf of the defendant/revisionist with the following contentions:-

“1. That the plaintiff has filed the present suit for declaration and injunction before the Hon'ble court, on a purely illusory cause of action. On a meaningful and not formal reading of the plaint, it is clear that no cause of action in any manner arises to the plaintiff to file the present suit. The plaint has been malafidely and vexatiously filed with ulterior motives.

2. That the suit has been filed by 'Vidhya Pushp Academy' through Akshat Jain, whereas infact said



person has no authority to file the suit on behalf of the plaintiff society, no resolution or authority has been mentioned by the said person as such suit is liable to be rejected on this score alone, as having been filed by an unauthorized person and in violation of the provisions of Societies Registration Act.

3. That the suit is barred by provision of the Societies Registration Act and Specific Relief Act and the plaint is liable to be rejected.

4. That the present suit is undervalued and improper court fees have been paid, as such too the plaint is liable to be rejected.”

17. From perusal of the impugned order dated 06.03.2026, it is clear that the trial court has considered that the application has been filed by the defendant under Order VII Rule 11 CPC on the ground that the plaint does not disclose any cause of action, and the suit has been filed by Vidya Pushp Academy through Mr. Akshat Jain, who has no authority to institute the suit and the suit is barred under the provisions of the Societies Registration Act, 1860 and the Specific Relief Act, 1963 and that the suit has been undervalued and insufficient court fee has been paid.

18. The trial court then observed that it is well settled while deciding an application under Order VII Rule 11 CPC, that only the averments made in the plaint and the documents filed along with the plaint are required to be considered. The defence of the defendant/revisionist cannot be looked into at this stage.



19. After considering all the contentions raised in the application under Order VII Rule 11 CPC, the trial court came to the conclusion that the objection regarding authority of Mr. Akshat Jain to institute the suit on behalf of the plaintiff society was disputed question of facts which required evidence and therefore cannot be decided at this stage. Also, the alleged bar under Societies Registration Act or Specific Relief Act cannot be determined merely on the basis of application filed by the defendant. As also the objections regarding valuation and court fees is concerned, the plaint can be rejected on this ground only when the court directs the plaintiff to correct the valuation or to make the deficient court fees and the plaintiff fails to comply with such directions. In the present case, no such direction has been issued by the court. Thus, on the aforesaid grounds, and after considering the provisions of Order VII Rule 11 CPC, the trial court came to the conclusion that no ground is made out for rejection of the plaint and proceeded to reject the application under Order VII Rule 11 CPC. At the outset, it needs to be mentioned that the present revision has been preferred under Section 115 CPC. Neither in any of the grounds nor while assailing the impugned order the counsel for the defendant/revisionist could point out any jurisdictional error, which may warrant interference under section 115 of CPC.

20. Moreover, it is settled law by the Hon'ble Supreme Court in the case of '*Saleem Bhai and others vs. State of Maharashtra and others*', reported in (2003) 1 SCC 557, for



the purposes of deciding an application under clauses 'a' and 'd' of Order VII Rule 11 of CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

21. Reference is also made to the judgment of the Hon'ble Supreme Court in the case of '*Kamala & Ors. vs. K.T. Eshwara SA & Ors.*' reported in (2008) 12 SCC 661, wherein the Hon'ble Supreme Court in paragraph nos.21 and 22 has held as under:-

"21. Order 7 Rule 11(d) of the Code has limited application. It must be shown that the suit is barred under any law. Such a conclusion must be drawn from the averments made in the plaint. Different clauses in Order 7 Rule 11, in our opinion, should not be mixed up. Whereas in a given case, an application for rejection of the plaint may be filed on more than one ground specified in various sub-clauses thereof, a clear finding to that effect must be arrived at. What would be relevant for invoking clause (d) of Order 7 Rule 11 of the Code are the averments made in the plaint. For that purpose, there cannot be any addition or subtraction. Absence of jurisdiction on the part of a court can be invoked at different stages and under different provisions of the Code. Order 7 Rule 11 of the Code is one, Order 14 Rule 2 is another.

22. For the purpose of invoking Order 7 Rule 11(d) of the Code, no amount of evidence can be looked into. The



issues on merit of the matter which may arise between the parties would not be within the realm of the court at that stage. All issues shall not be the subject-matter of an order under the said provision.”

Therefore, from the aforesaid judgment and the settled position of law, it is clear that for the purpose of rejection of a plaint under Order VII Rule 11 CPC, it must be demonstrated that the suit is barred by law on the face of the plaint itself. In the present case, insofar as the reliance placed on Section 6 of the Societies Registration Act, 1860 is concerned, the same does not, *ex facie*, establish that the suit is barred by any provision of law.

22. So far as the contentions raised in the application under Order VII Rule 11 CPC regarding undervaluation of the suit and payment of improper court fees are concerned, the same have already been rightly dealt with by the learned trial court, holding that unless a direction is issued to the plaintiff to correct the valuation or to make good the deficient court fees and there is failure to comply with such direction, the plaint cannot be rejected on this ground.

23. A recent judgment of the Hon’ble Supreme Court in the case of ‘*Marg Limited vs. Sushil Lalwani & Ors.*’, reported in 2026 SCC OnLine SC 647, is also relevant in the present context. Paragraphs 33, 34 and 35 of the said judgment read as under:-



“33. A plain and conjoint reading of clauses (b) and (c) of Order VII Rule 11 of the Code makes it abundantly clear that the power to reject a plaint on the grounds enumerated therein, is not to be exercised in the first instance, without affording an opportunity to the plaintiff. The statutory scheme contemplates a two-step process. Firstly, the Court must form an opinion that the relief claimed is undervalued or that the court fee paid is insufficient. Secondly, upon such determination, the Court is obligated to require the plaintiff to correct the valuation and/or supply the requisite court fee within a time to be fixed by it. It is only upon failure of the plaintiff to comply with such direction within the stipulated time, that the consequences of rejection of the plaint can ensue. Thus, the rejection of a plaint under Order VII Rule 11(b) or (c) is not automatic upon a finding of undervaluation or deficit court fee; rather, it is conditional upon non-compliance with the opportunity so granted by the Court.

34. Moreover, it is pertinent to note that the High Court has merely recorded a conclusion that the suit is undervalued, without undertaking the necessary exercise of determining what, in its view, would constitute the proper valuation of the suit or the court fee payable in accordance with law. In the absence of such a finding, the direction, if any, to correct the valuation could not have been meaningfully complied with by the plaintiff. The failure to record such a determination further vitiates the impugned order. In the present case,



even assuming that the relief sought by the appellant was undervalued and that the court fee paid was deficient, the High Court, instead of directing the appellant to correct the valuation and make good the deficit court fee, proceeded to reject the plaint outrightly. Such a course of action is clearly contrary to the express mandate of the provision.

35. The requirement to grant an opportunity is not a mere procedural formality, but a substantive safeguard intended to ensure that a litigant is not non-suited on a curable defect. The deficiency in valuation or court fee does not, by itself, render the suit non-maintainable at the threshold. It is a defect which is capable of being remedied, and the law expressly provides a mechanism for such rectification. The High Court, in overlooking this statutory requirement, has effectively denied the appellant an opportunity to cure the defect, thereby defeating the very object underlying clauses (b) and (c) of Order VII Rule 11. The impugned order, to this extent, therefore, suffers from a manifest error of law. Accordingly, the proper course would be to set aside the rejection of the plaint on this ground and to direct the trial court to afford the appellant an opportunity to correct the valuation of the suit and to pay the requisite court fee within such time as may be fixed, in accordance with law.”

24. A perusal of the impugned order reflects that the learned trial court has duly considered all the facts and



circumstances of the case, and after considering the contentions raised in the application under Order VII Rule 11 CPC as well as the objections filed in response thereto, has rightly come to the conclusion that the said application deserves to be rejected. Cogent and sufficient reasons have been assigned for rejecting the application.

25. In the case of '*Marg Limited*' (*supra*), the Hon'ble Supreme Court has categorically held that deficiency in valuation or court fees does not, by itself, render the suit non-maintainable at the threshold stage. Thus, on this count as well, the application under Order VII Rule 11 CPC filed by the defendant/revisionist was not tenable, inasmuch as the defendant/revisionist has failed to demonstrate that the suit is barred by any law at this stage. Further, no jurisdictional error has been pointed out by the defendant/revisionist in the impugned order passed by the learned trial court so as to warrant interference under Section 115 CPC. Hence, there is no scope for interference in the present revision.

26. At this stage, learned counsel for the defendant/revisionist makes a humble prayer that in the event the defendant/revisionist raises a plea in the written statement regarding bar of the suit, the same may be considered as a preliminary issue and be decided prior to the framing of other issues.



2026:UHC:3336

27. To it, learned counsel for the plaintiff/respondent has no objection. However, he makes a humble request that, in the event such liberty is granted by the Court, the preliminary issue regarding tenability be directed to be decided within a time-bound period.

28. In view of the above, it is directed that in case the defendant/revisionist files his written statement and raises a plea regarding tenability, a preliminary issue to that effect shall be framed. The said preliminary issue shall be decided within a period of two months from the date of its framing.

29. Subject to the above, the present revision fails and is hereby dismissed.

30. Any observation made during the course of adjudication of the present revision shall have no bearing on the adjudication of the preliminary issue.

(Siddhartha Sah, J.)
02.05.2026

Akash

AKASH

Digitally signed by Akash
DN: cn=Akash, o=AKASH, email=akash@akash.com
Date: 2026.05.02 12:00:00 +05'30'