HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Revision Petition No. 326/2026
CNR: RJHC020728652026 | URN: CR / 547U / 2026

Dr. (Mrs.) Kunj Bala Sharma W/o Dr. Satish Sharma, Aged About 77 Years, 1, Hemlock Way, North Attleboro, Ma, 02760, Usa. Kbsharma35@yahoo.com (Represented Through Constituted Attorney/counsel).

----Petitioner

Versus

1 Amrit Kalash Flat Owners And Welfare And Maintenance Society, Jaipur, Registered Office- Room No. 3, Amrit Kalash, Near Kamal Company, Tonk Road, Jaipur-302018 (Rajasthan), Through Its President, Shri Mohan Lal Sharma, S/o Shri Dashrath Sharma.

2 Smt. Susila Devi W/o Late Shri Heerachand Jain, R/o Munshi Mahal, Ramganj Bazar, Chowkri Ramchandra Ji, Jaipur (Raj.).

3 Shri Abhishek Jain S/o Late Shri Heera Chand Jain, R/o Munshi Mahal, Ramganj Bazar, Chowkri Ramchandra Ji, Jaipur (Raj.).

4 Shri Abhinav Jain S/o Late Shri Heerachand Jain, R/o Munshi Mahal, Ramganj Bazar, Chowkri Ramchandra Ji, Jaipur (Raj.).

5 M/s Kapish Colonizers Private Limited, Through Directors Sangeeta Kumawat And Shri Vishnu Dutt Kumawat, Address C-18, Lalkothi Shopping Complex, Tonk Road, Jaipur-302015.

6 The Collector (Stamps), Jaipur First, District Collectorate, Jaipur-302016.

----Respondents

For Petitioner(s) : Mr. Mahendra Gaur
For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

05/08/2026

1. The present civil revision petition has been filed by the petitioner/defendant No. 5 under Section 115 of the Code of Civil Procedure, 1908 (CPC), assailing the order dated 08.07.2026 passed by the learned Additional Civil Judge and Judicial Magistrate No. 02, Jaipur Metropolitan-I, in Civil Suit No.

124/2026 (CIS No. 190/2026), whereby the application filed by the petitioner under Order 7 Rule 11 read with Section 151 of the CPC, was partly rejected.

2. The facts germane to the present civil revision petition, in brief, are that the plaintiff/respondent instituted a civil suit for declaring two sale deeds dated 16.05.2008 to be null and void. In the plaint, it was averred that from the layout plan approved by the Jaipur Development Authority, as well as the sale deeds for each flat, it is clear that the purchasers/residential flat holders will have an undivided interest in the common area and terrace of the building. However, on 10.02.2025, it came to the knowledge of the plaintiff that the aforesaid common area and terrace had been sold to defendant No. 5 by *Late Heera Chand Jain* and defendant No.4. Therefore, the suit for cancellation and permanent injunction was filed.

3. Upon service, the present petitioner filed an application under Order 7 Rule 11 of the CPC, objecting that the plaint is liable to be rejected under Order 7 Rule 11. The rejection was sought primarily on the ground that the suit is *prima facie* barred by limitation, as it pertains to the cancellation of sale deeds dated 16.05.2008, whereas it was instituted on 24.04.2026. It was further objected that the plaintiff had cleverly drafted the plaint by stating that the cause of action arose on 10.02.2025. It was, therefore, prayed that the plaint be rejected in terms of Order 7 Rule 11 of the CPC.

4. The plaintiff filed a reply to the said application, denying the averments made therein, and prayed that the application filed by the petitioner be dismissed.

5. Thereafter, upon considering the pleadings of the parties and the submissions advanced, the learned Trial Court partly allowed the application qua payment of Court fee in terms of Section 24(b) of the Rajasthan Court Fees and Suits Valuation Act, 1961, however partly dismissed the application filed by the petitioner under Order 7 Rule 11 of the CPC qua rejection of the plaint being barred by law while holding that the objections raised therein involved mixed questions of fact and law, which could not be adjudicated at the threshold. The learned Trial Court further observed that it is a settled principle of law that while deciding an application under Order 7 Rule 11 of the CPC, the Court is required to confine its consideration solely to the averments contained in the plaint.

6. Aggrieved by the aforesaid part rejection, the petitioner has preferred the present revision petition.

7. Assailing the impugned order, the learned counsel for the petitioner submits that the plaintiff instituted the present suit on 24.04.2026 for declaring the sale deeds dated 16.05.2008 to be null and void, i.e., after an inordinate delay of 18 years. Therefore, he contends that the suit is *prima facie* barred by limitation and deserves to be rejected in terms of Order 7 Rule 11(d) of the CPC being barred by law. He further submits that from the averments in the plaint, it is evident that the plaintiff was aware of the fact that an FIR bearing No.69/2023 dated 03.02.2023 was lodged by the petitioner with regard to the subject matter, yet the suit was only filed in the year 2026. He, therefore, prays that the impugned order dated 08.07.2026 may kindly be set aside.

8. Heard learned counsel for the petitioner and perused the plaint as well as the material available on record.

9. It would be apt to reproduce Order 7 Rule 11 CPC, which reads as under:-

> *"**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 written 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 from 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.] "*

10. A bare perusal of the record makes it evident that in the plaint, specifically in paragraph No. 13, the plaintiff has averred that the cause of action for instituting the present suit arose on 10.02.2025. The plaintiff obtained certified copies of the sale deeds on 12.03.2025 and 27.03.2025, and thereafter, instituted the present suit on 24.04.2026 on the ground that the alleged sale of the common area and terrace of the building by defendant No. 4 and *Late Heera Chand Jain* in favour of defendant No.5 is illegal

and contrary to the layout plan approved by the Jaipur Development Authority, as well as the sale deed for each flat, wherein it is clearly mentioned that the purchasers/residential flat holders will have an undivided interest in the common area and terrace of the building.

11. It is well established that while considering an application under Order 7 Rule 11 of CPC, only the averments of the plaint are required to be examined. From a bare perusal of the plaint, it is revealed that the cause of action arose on 10.02.2025 and the suit was filed 24.04.2026. Further, the plaint *prima facie* does not indicate that the plaintiff had prior knowledge of the alleged sale deeds.

12. Therefore, in the present case, the issue of limitation becomes a mixed question of fact and law, the plaint cannot be rejected at such a threshold stage as the same needs to be decided after permitting parties to lead evidence, during the course of trial.

13. The above view is further fortified by the judgment of Hon'ble the Apex Court passed in the matter of ***P. Kumarakurubaran Vs. P. Narayanan & Ors.[1],*** wherein it was held as under:

> *"12.1. However, we are of the considered view that the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable."*

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14. On examining the impugned order, this Court finds that the reasoning assigned by the learned Trial Court for rejecting the application is in consonance with the above mentioned legal position propounded by the Hon'ble Apex Court.

15. In that view of the matter, this Court is of the considered opinion that the impugned order does not suffer from any jurisdictional error, perversity or legal infirmity so as to warrant any interference by this Court under the jurisdiction conferred by Section 115 of the CPC.

16. Accordingly, the present revision petition fails and is hereby dismissed.

17. All other pending application(s), if any, stand disposed of.

(MANEESH SHARMA),J

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