

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.251 of 2017**

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1. Kumar Amaresh Chandra Tripathi, son of Sri Chandrakant Tripathi,
resident of Village+Post- Kayam Nagar, P.S.- Koelwar, District- Bhojpur.
..... Appellant/s

Versus

1. The State of Bihar through the District Collector, Bhojpur, Ara.
2. The Bihar School Examination Board (Higher Secondary) Budhmarg,
Patna through its Secretary B.S.E.B (H.S), Patna.
3. Dr. Ram Bahadur Sharma for Principal S.B. College, Ara, null resident
of Muhalla- Maharaj Hata, Ara.
4. The Chairman Bihar School Examination Board (Higher Secondary)
Budhmarg, Patna.
5. The Allahabad Bank, Brancg Mahabir Tola, Ara through its Branch
Manager.
6. Hare Krishna Upadhyay, son of Late Sridhar Narayan Upadhyay, resident
of Muhalla- C.K. Road, M.P. Bag, Ara, P.S.- Ara Town, District- Bhojpur.
7. Sanjay Gandhi Inter College Ara, Jamira Road, Dharahara, Ara, Bhojpur
through its Principal namely Sameshwar Prasad Singh.
..... Respondent/s

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Appearance :

For the Appellant/s : Mr. Maya Shankar Mishra
For the Respondent/s : Mr. Smt. Binita Singh- Sc28

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**
ORAL ORDER

2 16-02-2017 Heard learned counsel for the petitioner and learned
counsel for the State and also the learned counsel for Bihar School
Examination Board.

Perused the impugned order dated 01.12.2016 passed
by the learned 4th Sub-Judge Bhojpur Ara in Title Suit No. 111 of
2016 whereby, the learned court below rejected the application
filed by the defendant no. 6 under Order VII Rule 11 C.P.C.
praying for rejection of the plaint on the ground that in the plaint
nowhere the plaintiff had disclosed the cause of action.

It appears that the plaintiff-respondent filed the aforesaid



suit for declaration that Sanjay Gandhi Inter College is run by the private trust and the state authority or the Bihar School Examination Board have no authority to constitute Ad-hoc committee/managing committee to run the college. The defendant-petitioner filed contesting written statement alleging that the plaintiff has got no locus-standi to maintain the suit and that in fact the college is never run by the private trust. It is run by the governing body constituted by the State authority according to the enactment. The defendant no. 6 then filed an application under. The court below by the impugned order has rejected this application filed by the defendant-petitioner. Order VII Rule 11(a) CPC.

This application under Order VII Rule 11 CPC is Annexure-2 to this civil miscellaneous application. The ground taken by the petitioner is that in the plaint no cause of action for filing the suit has been mentioned and according to law if no cause of action has been disclosed then the suit will be rejected. In my opinion, this is not a ground for rejection of the plaint under Order VII Rule 11 (a) CPC. Order VII Rule 11 Clause (a) CPC provides that; where plaint does not disclose a cause of action, the plaint shall be rejected. It is settled principle of law that cause of action is bundle of facts on the basis of which the plaintiff prays for



relief. The Hon'ble Supreme Court in the case of **2004 (9) SC 512 Liverpool & London S.P. & I Asson Vs. M.V. Sea Success I & Anr** has held that :

“ A cause of action is a bundle of facts which are required to be pleaded and proved for the purpose of obtaining relief claimed in the suit. For the aforementioned purpose, the material facts are required to be stated but not the evidence except in certain cases. The test is as to whether if the averments made in the plaint are taken to be correct in its entirety, a decree would be passed. In ascertaining whether the plaint shows a cause of action, the court is not required to make an elaborate enquiry into doubtful or complicated questions of law or fact. So long as the claim disclosed some cause of action or raises some questions fit to be decided by a judge, the mere fact that the case is weak and not likely to succeed is not ground for striking it out.”

Again in **2015 vol. 8 SC 331 P.V. Guru Raj Reddy & Anr. Vs. P. Neeradha Reddy & Ors** the Supreme Court in para 5 has held as:



“Rejection of the plaint under Order VII Rule 11 of the CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order VII rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that has to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order VI rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial.”

In the above settled proposition of law, the learned court below has rightly rejected the application under Order VII rule 11 CPC and thus, I find no reason in exercise of supervisory jurisdiction.

Accordingly, this civil application is dismissed.

(Mungeshwar Sahoo, J)

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