



2023:DHC:8000



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 18th October, 2023**

+ **C.R.P. 300/2023, CM APPL. 54418/2023 & 54419/2023**

AJIT SINGH & ORS.

..... Petitioners

Through: **Mr. Bhuvneshwar Tyagi, Advocate.**

versus

KRISHAN KUMAR

..... Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present petition has been filed under 115 of the Code of Civil Procedure, 1908 ('CPC' hereinafter), praying as follows:

“(i) Allow the Petition and set aside impugned order dated 26.07.2023 passed by the Shri Anuj Aggarwal, Ld ADJ, Dwarka District Court, Delhi in the matter of Kishan Kumar Vs Ajit Singh & Ors CS DJ ADJ 760/2022 whereby the application under order dated VII Rule 11 CPC has been dismissed.

(ii) Pass such other, fuliher orders in the facts and circumstances of the case as this Hon'ble Court may deem just and equitable in favor of the Appellant.”

2. The petitioners (defendant in the original suit) and the respondent (plaintiff in the original suit) are neighbors having property at village Goyla



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Khurd, Delhi bearing plots no. 124 and 125 respectively. The petitioners are residing on the plot no. 124, however, the respondent does not reside at the adjacent plot and the said property is used for parking the vehicle.

3. The parties to the present petition have a rivalry regarding possession of parts of the plot adjacent to each other, thereby leading to registration of cross FIRs against each other under various provisions of the Indian Penal Code, 1860 ('IPC' hereinafter).

4. In 2022, the respondent filed a suit bearing no. 760/2022 seeking permanent and mandatory injunction against the petitioners thereby preventing them from entering the premises of plot no. 125 ('suit property' hereinafter). During the pendency of the said suit, the petitioners preferred an application under Order VII Rule 11 of the CPC, seeking rejection of the plaint on grounds that the suit was filed by the respondent to merely to harass the petitioners and there arise no cause of action.

5. The said application was decided by the learned Court below whereby, and the same was rejected *vide* order dated 26th July, 2023. Aggrieved by the same, the petitioners have preferred the instant petition.

6. The learned counsel appearing on behalf of the petitioner submitted that the learned Court below failed to consider that the suit filed by the respondent is an example of clever drafting and therefore the same has created an illusion of *locus standi* for the respondent.

7. It is submitted that the documents attached along with the plaint prove that the respondent was never in possession of the suit property and suit filed by the respondent is a mere attempt to takeover the said land.



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8. It is also submitted that the plaint filed by the respondent clearly indicates the fact that the respondent was never in possession of the 18 inch land along with the boundary wall and therefore the suit for injunction is not maintainable without having possession of the suit property.

9. It is further submitted that the learned Trial Court failed to consider that the respondent had filed for the order/direction of mandatory injunction in his favor where he had also prayed for directions to stay 500 meters away from the suit property, which is not possible for the petitioners as they reside in the adjacent plot.

10. Therefore, in light of the foregoing submissions, the petitioners pray that the present petition be allowed and relief may be granted, as prayed.

11. Heard the learned Counsel for the petitioner and perused the record.

12. As per the factual matrix, the parties to the suit have had an ongoing rivalry over sharing of the boundaries of their respective properties. The said dispute has led to physical and verbal abuse on multiple occasions where the parties registered cross FIRs against each other under various provisions dealing with mischief, assault, battery Etc in the IPC.

13. The instant civil revision petition has been preferred by the petitioners against the impugned order where the application filed by the petitioners under Order VII Rule 11 was rejected by the learned Court below. Therefore, it is important for this Court to adjudicate the issue as per law of the land.

14. Before delving into merits of the case, it is apposite to explain the nature and scope conferred to this Court under Section 115 of the CPC and



analyze whether this Court is empowered to deal with the issues raised by the petitioner in the instant case. The said provision reads as under:

115. Revision-

[(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

[Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.]

[(2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.]

[(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.]

[Explanation.—In this section, the expression “any case which has been decided” includes any order made,



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or any order deciding an issue, in the course of a suit or other proceeding.]

15. On bare perusal of the above provision, it is clear that the High Court can only interfere with the orders of the Subordinate Court if the court has committed illegality or material irregularity in exercise of its jurisdiction. It is imperative to note that under the revisional powers, this Court cannot attack the findings on the facts by the Subordinate Court and can only interfere if any infirmities are found with the exercise of jurisdiction of the Court and not when the courts erroneously decide the cases.

16. The primary object of the revision powers conferred to the High Courts is to prevent subordinate courts from acting arbitrarily, capriciously and illegally while they exercise their jurisdiction. The aspect related to the revision powers given to the High Court has been extensively dealt with by the Hon'ble Supreme Court in a catena of judgments, whereby the Hon'ble Court discussed the meaning and scope of the said provision.

17. In ***Nawab Shaqafath Ali Khan v. Nawab Imdad Jah Bahadur, (2009) 5 SCC 162***, the Hon'ble Supreme Court decided the issue related to the jurisdiction of a Court in a civil revision petition and held that the jurisdictional questions may not arise only when the Courts act wholly without jurisdiction, but can also arise where other jurisdictional errors are committed by the Subordinate Court. The relevant paragraph is reproduced herein:

“10. So far as Section 115 is concerned, the scope and ambit of the revisional jurisdiction under the said section as conferred on the High Court is now well settled by a



series of decisions of this Court. It is obvious that the revisional jurisdiction under Section 115 CPC or for that matter, under the pari materia provision of Section 21 of the Act, is not an appellate jurisdiction and a pure finding of fact reached by the court of appeal could not be interfered with. The court can interfere in revision only when it is satisfied that the findings reached by the court below suffer from any jurisdictional errors. In this connection, we may usefully refer to two decisions of this Court. In the case of Hari Shankar v. Rao Girdhari Lal Chowdhury [AIR 1963 SC 698 : 64 Punj LR 1097] Hidayatullah, J. speaking for two other learned Judges, distinguished revisional jurisdiction under Section 115 CPC with revisional jurisdiction under other Acts which conferred a wider jurisdiction on the High Court. The following observations in para 7 of the Report deserve to be noted in this connection:

“The distinction between an appeal and a revision is a real one. A right of appeal carries with it a right of rehearing on law as well as fact, unless the statute conferring the right of appeal limits the rehearing in some way as, we find, has been done in second appeals arising under the Code of Civil Procedure. The power to hear a revision is generally given to a superior court so that it may satisfy itself that a particular case has been decided according to law. Under Section 115 of the Code of Civil Procedure, the High Court's powers are limited to see whether in a case decided, there has been an assumption of jurisdiction where none existed, or a refusal of jurisdiction where it did, or there has been material irregularity or illegality in the exercise of that jurisdiction. The right there is confined to jurisdiction and jurisdiction alone.”



11. The same view is reiterated in a later decision of this Court in the case of Managing Director (Mig) Hindustan Aeronautics Ltd. v. Ajit Prasad Tarway [(1972) 3 SCC 195] wherein a three-Judge Bench of this Court speaking through Hegde, J. clearly stated that the High Court under Section 115 CPC had no jurisdiction to interfere with the order of the first appellate court based on facts or even involving any error of law. It was next observed that it was not the conclusion of the High Court that the first appellate court had no jurisdiction to make the order that it made. The order of the first appellate court may be right or wrong; may be in accordance with law or may not be in accordance with law; but one thing is clear, that it had jurisdiction to make that order. It was not the case that the first appellate court exercised its jurisdiction either illegally or with material irregularity. That being so, the High Court could not have invoked its jurisdiction under Section 115 of the Civil Procedure Code.”

18. The issue regarding scope of the revision powers conferred to the High Court was recently discussed by the Hon’ble Supreme Court in ***Rahimal Bathu v. Ashiyal Beevi*, 2023 SCC OnLine SC 1226**, whereby, the Hon’ble Court extensively dealt with the nature and scope of the said provision. The relevant paragraph of the judgment is reproduced herein:

“20. In Major S.S. Khanna (supra), in a civil suit an issue was framed as to whether the suit was maintainable. The said issue was tried as a preliminary issue. The trial court held the suit not maintainable. Against the order of the trial court, a revision was preferred before the High Court under Section 115 of the CPC. The High Court of Punjab set aside the order and directed that the suit shall



be heard and disposed of according to law. Aggrieved by the order of the High Court, a Special Leave Petition was filed before this Court. Before this Court it was urged : (a) that the order under challenge before the High Court did not amount to “a case which has been decided” within the meaning of Section 115 of the CPC; (b) that the decree which may follow would be subject to an appeal to the High Court therefore, the power of the High Court was, by the express terms of Section 115 of the CPC, excluded; and (c) that the order did not fall within any of the three clauses (a), (b) and (c) of Section 115 of the Code. In that context, this Court observed:

“6.....The validity of the argument turns upon the true meaning of Section 115 of the Code of Civil Procedure, which provides:

“The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit.”

The section consists of two parts, the first prescribes the conditions in which jurisdiction of the High Court arises i.e. there is a case decided by a subordinate Court in which no appeal lies to the High Court, the second sets out the circumstances in which the jurisdiction may be exercised. But the power of the High Court is exercisable in respect of “any case which has been decided”. The



expression “case” is not defined in, the Code, nor in the General Clauses Act. It is undoubtedly not restricted to a litigation in the nature of a suit in a civil court : Balakrishna Udayar v. Vasudeva Aiyar [(1916-17) 44 IA 261]; it includes a proceeding in a civil court in which the jurisdiction of the Court is invoked for the determination of some claim or right legally enforceable. On the question whether an order of a Court which does not finally dispose of the suit or proceeding amounts to a “case which has been decided”, there has arisen a serious conflict of opinion in the High Courts in India and the question has not been directly considered by this Court. One view which is accepted by a majority of the High Courts is that the expression “case” includes an interlocutory proceeding relating to the rights and obligations of the parties, and the expression record of any case includes so much of the proceeding as relates to the order disposing of the interlocutory proceeding. The High Court has therefore power to rectify an order of a Subordinate Court at any stage of a suit or proceeding even if there be another remedy open to the party aggrieved i.e. by reserving his right to file an appeal against the ultimate decision, and making the illegality in the order a ground of that appeal. The other view is that the expression “case” does not include an issue or a part of a suit or proceeding and therefore the order on an issue or a part of a suit or proceeding is not a “case which has been decided”, and the High Court has no power in exercise of its revisional jurisdiction to correct an error in an interlocutory order.

7. An analysis of the cases decided by the High Courts — their number is legion — would serve no useful purpose. In every High Court from time to time opinion has fluctuated. The meaning of the expression “case” must be sought in the nature of the jurisdiction conferred by



Section 115, and the purpose for which the High Courts were invested with it.

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10. The expression “case” is a word of comprehensive import; it Includes civil proceedings other than suits, and is not restricted by anything contained in the section to the entirety of the proceeding in a civil court. To interpret the expression “case” as an entire proceeding only and not a part of a proceeding would be to impose a restriction upon the exercise of powers of superintendence which the jurisdiction to issue writs, and the supervisory jurisdiction are not subject, and may result in certain cases in denying relief to an aggrieved litigant where it is most needed, and may result in the perpetration of gross injustice.

11. It may be observed that the majority view of the High Court of Allahabad in Buddhulal v. Mewa Ram [ILR 43 All 564] founded upon the supposition that even though the word “case” has a wide signification the jurisdiction of the High Court can only be invoked from an order in a suit, where the suit and not a part of it is decided, proceeded upon the fallacy that because the expression “case” includes a suit, in defining the limits of the jurisdiction conferred upon the High Court the expression “suit” should be substituted in the section, when the order sought to be revised is an order passed in a suit. The expression “case” includes a suit, but in ascertaining the limits of the jurisdiction of the High Court, there would be no warrant for equating it with a suit alone.

(Emphasis supplied)

21. After observing as above, in paragraph No. 12, it was observed:



“12. That is not to say that the High Court is obliged to exercise its jurisdiction when a case is decided by a subordinate Court and the conditions in clauses (a), (b), or (c) are satisfied. Exercise of the jurisdiction is discretionary : the High Court is not bound to interfere merely because the conditions are satisfied. The interlocutory character of the order, the existence of another remedy to an aggrieved party by way of an appeal, from the ultimate order or decree in the proceeding or by a suit, and the general equities of the case being served by the order made are all matters to be taken into account in considering whether the High Court, even in cases where the conditions which attract the jurisdiction exist, should exercise its jurisdiction.”

(Emphasis supplied)

22. The law laid down in *Major S.S. Khanna (supra)* by a three-Judge Bench of this Court still holds the field. Thus, it is settled that the expression “case” used in Section 115 of the CPC is of wide amplitude. It includes civil proceedings other than suits, and is not restricted to the entirety of the proceeding in a civil court. In that sense, rejection of a review application would also be a case which has been decided and, therefore, it could be canvassed that as no appeal lies against such an order, the same is amenable to the revisional jurisdiction under Section 115 of the CPC. However, at the same time, it cannot be overlooked that exercise of revisional powers cannot be claimed as of right. It is a discretionary power. The revisional Court is not bound to interfere merely because any of the three conditions, as laid down in Section 115 of the CPC for exercise of such power, is satisfied. Rather, the Court, exercising revisional powers, must bear in mind, *inter alia*, whether it would be appropriate to exercise such power considering the



interlocutory character of the order, the existence of another remedy to an aggrieved party by way of an appeal, from the ultimate order or decree in the proceeding, or by a suit, and the general equities of the case.

23. In Major S.S. Khanna (supra) the order impugned before the revisional court was an order by which the trial court while deciding a preliminary issue held the suit as not maintainable though, the suit itself was not decided. Therefore, there was no appealable decree in existence at the time when the revisional jurisdiction was invoked. Whereas, in the case at hand there was already an appealable decree in existence when the revisional powers were invoked. In fact, the review application sought review of an appealable decree and not just a mere order that might have been passed by the court in the course of a suit. The revision was filed against rejection of that review application. At that stage, when the review application was rejected, the aggrieved party had a right to question the decree of the trial court in an appeal. In these circumstances, the question that needs determination is, whether, against an order of the Subordinate Court rejecting on merits an application for review of an appealable decree, a revision be entertained.

24. In DSR Steel Pvt. Ltd. v. State of Rajasthan, this Court had the occasion to examine different situations which may arise in relation to orders passed in a review petition. While dealing with those situations, it was observed:

“25.1. One of the situations could be where the review application is allowed, the decree or order passed by the court or tribunal is vacated and the appeal/proceedings in which the same is made are reheard and a fresh



decree or order passed in the same. It is manifest that in such a situation the subsequent decree alone is appealable not because it is an order in review but because it is a decree that is passed in a proceeding after the earlier decree passed in the very same proceedings has been vacated by the court hearing the review petition.

25.2. The second situation that one can conceive of is where a court or tribunal makes an order in a review petition by which the review petition is allowed and the decree/order under review is reversed or modified. Such an order shall then be a composite order whereby the court not only vacates the earlier decree or order but simultaneous with such vacation of the earlier decree or order, passes another decree or order or modifies the one made earlier. The decree so vacated reversed or modified is then the decree that is effective for the purposes of a further appeal, if any, maintainable under law.

25.3. The third situation with which we are concerned in the instant case is where the revision petition is filed before the Tribunal but the Tribunal refuses to interfere with the decree or order earlier made. It simply dismisses the review petition. The decree in such a case suffers neither any reversal nor an alteration or modification. It is an order by which the review petition is dismissed thereby affirming the decree or order. In such a contingency there is no question of any merger and anyone aggrieved by the decree or order of the Tribunal or court shall have to challenge within the time stipulated by law, the original decree and not the order dismissing the review petition. Time taken by a party in diligently pursuing the remedy by way of review may in appropriate cases be excluded from consideration while condoning



the delay in the filing of the appeal, but such exclusion or condonation would not imply that there is a merger of the original decree and the order dismissing the review petition.”

(Emphasis supplied)

25. What is clear from the above observations is, that where the review is allowed and the decree/order under review is reversed or modified, such an order shall then be a composite order whereby the court not only vacates the earlier decree or order but simultaneous with such vacation of the earlier decree or order, passes another decree or order or modifies the one made earlier. The decree so vacated, reversed or modified is then the decree that is effective for the purposes of a further appeal, if any, maintainable under law. But where the review petition is dismissed, there is no question of any merger and anyone aggrieved by the decree or order of the Tribunal or Court shall have to challenge within the time stipulated by law, the original decree and not the order dismissing the review petition. Time taken by a party in diligently pursuing the remedy by way of review may in appropriate cases be excluded from consideration while condoning the delay in the filing of the appeal, but such exclusion or condonation would not imply that there is a merger of the original decree and the order dismissing the review petition.

26. Apart from above, there is another reason also for a revisional court not to entertain a revision against an order rejecting on merits an application for review of an appealable decree, which is, if the revisional court sets aside or modifies or alters a trial court's decree, the decree of the trial court would merge in the one passed by the revisional court. In consequence, the right of the party aggrieved by the trial court's decree to file an



appeal would get affected. Further, there may be a case where a person is aggrieved by a finding of the trial court on any issue, even though the trial court's decree may be in its favour. In that scenario, if there is an appeal by a party aggrieved by the decree, that person would have a right to take an objection against the adverse finding with the aid of the provisions of Order XLI, Rule 22 of the CPC, but in the event of there being no appeal against the decree, such a person would lose its right to take an objection, under Order XLI, Rule 22 of the CPC, against that adverse finding.

27. No doubt revisional powers may be available on limited grounds, primarily to correct jurisdictional errors, but still it is a part of the general appellate jurisdiction of the High Court as a superior court. In Shankar Ramchandra (supra), this Court observed:

“6. Now when the aid of the High Court is invoked on the revisional side it is done because it is a superior court and it can interfere for the purpose of rectifying the error of the court below. Section 115 of the Code of Civil Procedure circumscribes the limits of that jurisdiction but the jurisdiction which is being exercised is a part of the general appellate jurisdiction of the High Court as a superior court. It is only one of the modes of exercising power conferred by the statute; basically and fundamentally it is the appellate jurisdiction of the High Court which is being invoked and exercised in a wider and larger sense. We do not, therefore, consider that the principle of merger of orders of inferior courts in those of superior Courts would be affected or would become inapplicable by making a distinction between a petition for revision and an appeal.”

19. On perusal of the aforesaid judicial dicta, it is evident that the revision



powers of the High Court are limited to the question of jurisdiction, whereby, the decision of the subordinate Court on the questions of law and fact not touching its jurisdiction can be termed final.

20. The aforesaid decisions given by the Hon'ble Court also clarifies that the assumption of jurisdiction by the subordinate Court, not permitted under the law, can be interfered by the High Court under the revisional powers conferred by Section 115 of the CPC.

21. In the instant revision petition, the petitioner has raised the issue of non-disclosure of the cause of action in the plaint filed by the respondent no.1 and had filed the application under Order VII Rule 11 of the CPC for dismissal of suit on the said ground. Therefore, it is imperative to discuss the said aspect related to a suit.

22. The rule regarding allowance of Order VII Rule 11 of the CPC is clear where the Court needs to refer to the plaint and the said suit can be rejected if the ingredients of rejection of the suit are made out in the plaint itself.

23. As per settled principle of law, in a suit, a party needs to establish a cause of action in his favor for successful admission and adjudication of the dispute. The term 'cause of action' consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which, taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise.

24. The expression 'cause of action' has acquired a judicially settled



meaning. In the restricted sense ‘cause of action’ means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it refers to the conditions which are necessary to maintain the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court.

25. Hence, the only consideration before this Court under revision is to determine whether the impugned order needs any interference or not. Therefore, it is pertinent to peruse the impugned order and determine its legality. The impugned order is reproduced herein:

“The case of plaintiff in nutshell is that he is owner and in physical possession of built up plot in Khasra No. 125, measuring 66.25 sq. yards in laldora situated in village Goyla Khurd, Delhi-71 (suit property). As per plaintiff, defendant No. 2 to 4 are sons of defendant No. 1, defendant No. 5 is wife of defendant No. 1, defendant No. 6 to 8 are daughter in law of defendant No. 1 and defendant No. 9 and 10 are his grand daughters.

As per plaintiff, on 17.04.2022, the defendant No. 1 and 2 had broken the cemented sheet, bricks and other materials of the suit property, that on 21.05.2022, the defendants tried to dig the wall of suit property and attempted to start illegal construction thereon. It is further averred that on 30.05.2022, when plaintiff reached at suit property, he saw defendants breaking the boundary wall. The averments regarding defendants digging the suit property on 28.6.2022 and 29.06.2022 have also been made. On these averments, plaintiff has



filed the present suit seeking a decree of permanent injunction and mandatory injunction against the defendants.

Defendant No. 1 has filed the present application under Order VII Rule 11 CPC seeking rejection of the plaint on the ground that the suit of plaintiff for relief of injunction simplicitor is not maintainable as plaintiff did not have possession of suit property and his title is also under cloud.

Ld. Counsel for defendant No. 1 has argued on the line of grounds taken in the instant application. It is argued that as per annexure P11 and P6, filed by plaintiff, defendant Ajeet Singh has to give 18 inch land to plaintiff meaning thereby plaintiff did not have possession of said 18 inch which is the only bone of contention between parties and therefore the present suit without seeking relief of possession is not maintainable. Ld. Counsel has relied upon judgment of A. Sudhakar Vs. P. Buchireddy Civil Appeal No. 6191 of 2001 in support of his contention.

Per contra, Ld. Counsel for plaintiff has argued for dismissal of instant application.

I have heard the rival contentions and perused the record. In my considered view that the facts averred in the plaint disclose sufficient cause of action and therefore, the suit of plaintiff seeking relief of injunction is maintainable. Plaintiff has clearly averred that he is in possession of suit property and defendants are trying to dig the wall of the same. The annexures P6 and P11 nowhere suggest that plaintiff is not in possession of the suit property and rather same mention about some 18 inches of land only alongwith the boundary wall.

Therefore, in view of the above, the application filed by defendant No. 1 seeking rejection of plaint stands dismissed."

26. On perusal of the above paragraphs of the impugned order it is clear



that the learned Trial Court had referred to the plaint filed by the respondent no. 1, and rejected the application after due satisfaction of cause of action in favor of the respondent.

27. As per paragraph 3 and 4 of the plaint, the said plot has been divided into two parts and the part of land belonging to the respondent is in his physical possession. The paragraph 7 of the plaint also suggests that the petitioners have tried to intimidate the respondent by damaging the existing structure thereby leading to dispute between the parties and raising cause of action to file the suit.

28. The underlying object of Order VII Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

29. It is well settled that the Court, while deciding such an application must have due regard only to the statements in the plaint. Whether the suit is barred by any law must be determined from the statements in the plaint and it is not open to decide the issue on the basis of any other material including the written statement in the case. Therefore, the rejection of plaint on the ground that there is no cause of action should be established, otherwise, the suit cannot be rejected.

30. In the instant case, the ingredients necessary to determine cause of action are well established as the plaint filed by the respondent clearly suggests dispute between the parties regarding possession of some part of



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the land adjacent to the each other's property.

31. Therefore, keeping in view the facts, circumstances, the arguments advanced as well as the contentions raised and also the scope of revision powers settled by law and reiterated by the Hon'ble Supreme Court, this Court is not inclined to allow the instant petition. There is no error in the impugned order, dated 26th July, 2023, that warrants interference by this Court in exercise of its revision powers under Section 115 of the CPC.

32. Accordingly, the instant petition stands dismissed.

33. Pending applications, if any, also stands dismissed.

34. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

OCTOBER 18, 2023

pa/av/ds