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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL REVISION APPLICATION NO. 323 OF 2025**

Kruti Lalitkumar Jain

.....Applicant

Vs.

Mrs. Rajana Shirish Sathe  
Thr. Its Mr. Aman Nandlal Gupta  
and ors

.....Respondents

Mr. Virag Tulzapurkar, Senior Advocate a/w Ms. Krina Gandhi, Mr. Chintan Prasad, Mr. Murlidhar Kumar and Dr Madhubala Shukla i/b Wadia Ghandy and Co. for the applicant  
Mr. S. C. Wakankar a/w Ms. Aishwarya Bapat for respondent no. 1

**CORAM : GAURI GODSE, J.**

**DATE : 7<sup>th</sup> JULY 2025**

**ORDER:**

1. This Civil Revision Application is filed by the defendant no. 1 to challenge the order rejecting her application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('CPC'). The suit is filed by respondent no.1 for an injunction and declaration on the ground of title. The prayer is for a permanent injunction restraining the defendants from disturbing the plaintiff's possession over the

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suit property and restraining the defendants from creating third party interest. Further prayers in the plaint seek a declaration that the sale deed dated 10<sup>th</sup> January 2008, the power of attorney dated 23<sup>rd</sup> January 2008, the development agreement dated 21<sup>st</sup> August 2003 and the power of attorney dated 21<sup>st</sup> August 2003 are illegal and not binding upon the plaintiff. The plaint also contains a prayer for a declaration that the defendants or their predecessors-in-title have no right, title, or interest in the suit property. The suit property is described as an agricultural land bearing Survey No. 47 Hissa No. 8 admeasuring 81 Are. The plaintiff has pleaded that the suit property was purchased by her father, Madanlal Jain, by a registered sale deed dated 26<sup>th</sup> April 1907. Thus, the plaintiff filed the suit on the ground of title through her father.

2. Defendant no. 1 filed an application for rejection of the plaint on the ground that it is barred by limitation and there is no meaningful cause of action. The Trial Court rejected the application under Order VII Rule 11 of CPC on the ground that in the facts of the present case, the issue of limitation would be a mixed question of law and fact. The Trial Court further referred to

the averments in the plaint and held that the grounds raised regarding the authenticity of the document of title, which is written in Modi script, cannot be decided at the stage of the application under Order VII, Rule 11, for rejection of the plaint. Thus, the Trial Court held that the issue regarding the maintainability of the suit on the ground that the plaintiff has not made any prayer for declaration when there is a cloud on the plaintiff's title cannot be a ground to reject the plaint at the threshold.

3. The learned senior counsel for the applicant submits that, upon a plain reading of the plaint, it appears that the plaintiff has claimed ownership through her father based on a registered document dated 26<sup>th</sup> April 1907, which is written in Modi script. He submits that the translation produced by the plaintiff shows that the translation is of two different documents, i.e., the translation of the record of the Registrar, i.e. the index, and the translation of the documents relied upon by the plaintiff would indicate that the translation is of two different documents. He submits that the translation of the record of the Registrar pertains to the sale deed bearing no. 2063 and page no. 2 of the translation, which bears the bearing no. 2063 is a different document from the translation

on page 1. He submits that the first page reflects only one vendor; however, the second page refers to two vendors and one purchaser. He submits that the description of the property and the boundaries described in the translation of the document and the plaint are different, and even on plain reading of the description, it is clear that the document relied upon by the plaintiff is not a title document that would give her any right to sue. He, thus, submits that any document of title does not support the suit filed for injunction and declaration based on title, and thus, there is no meaningful cause of action to file the suit.

4. With reference to the grounds raised on the point that the suit is barred by limitation, learned senior counsel referred to the averments made in the plaint and more particularly the averments from paragraph 4, where the plaintiff pleads that she learnt about various documents in and around 2016. He, thus, submits that as per the plaintiff's pleadings, she learnt about the documents in the year 2016 and thus, the prayers for declaration in a suit filed in 2023 would be barred by limitation. He submits that the cause of action to seek an injunction is a created cause of action to bring

the suit within the limitation. He, thus, submits that for want of any meaningful cause of action and in the absence of any material particulars to support the plaintiff's title and cause of action, the plaint is liable to be rejected at the threshold.

5. Learned counsel for the plaintiff submits that the plaintiff has relied upon the original document, which is in Modi script. He submits that the translation of the document placed on record by the plaintiff is a sale deed dated 26<sup>th</sup> April 1907, as pleaded in the plaint. He submits that the translation refers to the survey numbers as 23/3/4B and 47/8. He submits that the suit is filed for a land admeasuring 81 Are bearing Survey No. 47 Hissa No. 8. He submits that the description of the survey number clearly matches the description in the translated document. He points out the name of the plaintiff's father shown as the purchaser in the document and the names of the vendors as Ganpat Gopal Balwadkar and Gulabchand Sivramseth. Learned counsel for the plaintiff refers to relevant pleadings in the plaint from paragraph 3 onwards to support his submissions that the plaintiff has filed a suit based on title by relying upon the registered sale deed dated

26<sup>th</sup> April 1907 in the name of her deceased father.

6. Learned counsel for the plaintiff further submits that the cause of action to file the suit for injunction to protect the plaintiff's possession is pleaded in paragraphs 24 and 25 when the plaintiff's possession was sought to be disturbed in October 2022; hence, the prayer for injunction based on title is well within the limitation. He submits that the issue of limitation cannot be a ground to reject the plaint at the threshold. Learned counsel for the plaintiff relied upon the decision of the Hon'ble Apex Court in the case of *Central Bank of India and anr vs. Prabha Jain and others*<sup>1</sup> and *Vinod Infra Developers Ltd vs. Mahaveer Lunia and ors*<sup>2</sup>. He submits that it is a well-established legal principle that the plaint cannot be rejected partially on the ground that one of the prayers is barred by law. Learned counsel for the plaintiff, therefore, submits that in view of the pleadings in the plaint and the supporting documents, the suit would warrant a trial and the plaintiff would be entitled to lead evidence to support her contentions on title to protect her possession.

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<sup>1</sup> (2025) 4 Supreme Court Cases 38

<sup>2</sup> AIR Online 2025 SC 454

7. I have perused the papers of the Civil Revision Application. I have carefully examined the pleadings and the documents of title relied upon by the plaintiff. The description of the property is pleaded in the plaint paragraph 1. The plaintiff claims title based on a registered sale deed dated 26<sup>th</sup> April 1907, executed in the name of her deceased father. The plaintiff further explains the title document and the mutation entries in the following paragraphs, and also states regarding the dispute in the RTS proceedings. The plaintiff further claims to be in physical possession of the suit property and further claims to have executed a development agreement in respect of the suit property. In paragraphs 24 and 25, the plaintiff claims that defendant no. 1 attempted to dispossess the plaintiff illegally; therefore, she filed a suit for injunction and declaration based on her title. The cause of action pleaded occurred in October 2022 for seeking relief of injunction as well as declaration. The prayers for declaration with regard to the documents of 2003 and 2008 are limited to the challenge that the same would not bind the plaintiff. Considering the cause of action and the source of title pleaded, the suit would warrant a trial, and the plaintiff would be entitled to lead evidence to support

her contentions.

8. The copy of the document in Modi script is produced on record, and the plaintiff claims to be in possession of the original document. The translation of the sale deed refers to Survey No. 47/8, which is described as a suit property. The translation of the document refers to the name of the plaintiff's father, Madanlal Jain as purchaser and Ganpat Gopal Balwadkar and Gulbachand Sivramseth Marwadi as vendors. The document also contains a description of the property. The grounds argued on behalf of defendant no. 1, pointing out a discrepancy in the translation of the document of 1907, cannot be a ground to reject the plaint at the threshold. In the event of any dispute regarding the description of the suit property, it will be considered after examining the evidence. The prayer for injunction based on title is prayed on the ground that the cause of action arose in October 2022. Thus, the prayer for injunction cannot be said to be barred by limitation at this stage. The objection, if any, on the issue of limitation for seeking injunction and the declaration would therefore be a mixed question of law and fact, which can be decided only in a full-



fledged trial.

9. The ground argued on the maintainability of the suit is on the basis that since there is a cloud on the plaintiff's title, she would not be entitled to any injunction without seeking a declaration of her title. Thus, the argument that the plaintiff would not be entitled to the relief of injunction cannot be made a ground to hold that the suit is barred by law, for rejecting the plaint at the threshold under clause (d) of Rule 11 of Order VII of the CPC. In view of the material particulars pleaded on the title and possession, the issue of whether the plaintiff would be or would not be entitled to the relief as claimed cannot be decided at the stage of Order VII Rule 11 of CPC.

10. The Hon'ble Apex Court in the case of ***Central Bank of India*** and ***Vinod Infra Developers Ltd***, held that even if one relief survives, the plaint cannot be rejected under Order VII Rule 11 of the CPC. In view of the cause of action and the reliefs for injunction and declaration prayed in the facts of the present case, the legal principles settled by the Hon'ble Apex Court would squarely support the contentions raised on behalf of the plaintiff. It

is a well-established legal principle that the power to reject a plaint at the threshold under Order VII Rule 11 of the CPC is drastic and has to be carefully exercised by examining the pleadings and the supporting documents of the plaintiff. In the present case, on perusal of the pleadings and the supporting documents, the issue of limitation would be a mixed question of law and facts and cannot be decided at the threshold under Order VII Rule 11 of CPC. The plaintiff would be entitled to lead evidence to support her contentions. Thus, in view of the facts of the present case pleaded by the plaintiff as discussed in the preceding paragraphs, the reasons recorded by the learned Trial Judge for rejecting the application under Order VII Rule 11 of CPC would not warrant any interference by this court. I do not find any illegality or perversity in the reasons recorded in the impugned judgment and order.

11. Hence, for the reasons recorded above, the Civil Revision Application is dismissed.

**[GAURI GODSE, J.]**