



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-6065-2025

DECIDED ON: 30.10.2025

KAWARJIT AND ANOTHER

.....PETITIONERS

VERSUS

MISS ALISHA MALIK AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Raj Kumar Bhatia, Advocate and
Mr. Nitish Bhatia, Advocate
for the petitioners.

MANDEEP PANNU, J

1. The present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 21.08.2025 passed by the learned Additional Civil Judge (Senior Division), Hisar, whereby the application moved by the petitioners–defendants under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) for rejection of plaint has been dismissed.

2. Brief facts giving rise to the present petition are that respondent No. 1–plaintiff filed a suit for possession by way of specific performance of an agreement to sell dated 01.02.2021 executed in respect of a double-storey house. As per the plaint, defendant No. 1 (for herself and on behalf of defendant No. 2) agreed to sell the said property to the plaintiff for a total sale consideration of ₹1,23,00,000/–. Out of the said amount, ₹5,00,000/– was paid at the time of agreement, ₹10,84,341/– was deposited with the

concerned department (defendant No. 3), and another ₹5,00,000/- was paid to defendant No. 1 on 19.05.2021.

3. The plaintiff further sought a decree of mandatory injunction directing defendants No. 1 and 2 to execute the sale deed in her favour after obtaining the requisite transfer permission from defendant No. 3, and a permanent injunction restraining the defendants from creating third-party rights in the suit property.

4. The petitioners-defendants moved an application under Order VII Rule 11 CPC, praying for rejection of the plaint on the ground that the alleged transaction was *benami*, illegal, and barred by law. It was contended that an act prohibited by law cannot be validated through a civil suit; that the plaint contains false averments and a defective verification; and that the plaintiff had neither pleaded nor shown her readiness and willingness to perform her part of the contract. The defendants also relied upon a judgment of the Hon'ble Supreme Court in Civil Appeal Nos. 5819-5822 of 2021, to argue that where the relief claimed is *ex facie* untenable, the plaint should be rejected at the threshold.

5. The learned trial Court, after hearing both sides, held that the contentions raised in the application pertain to the merits of the case, which cannot be adjudicated without evidence. It was observed that the grounds urged related to the alleged non-payment of sale consideration, readiness and willingness of the plaintiff, and nature of transaction issues that necessarily require adjudication after trial. Consequently, the application was dismissed *vide* impugned order dated 21.08.2025.

6. Aggrieved from the above-said impugned order, the defendants have preferred the present revision petition.

7. Learned counsel for the petitioners has reiterated the submissions raised before the trial Court and argued that the impugned order suffers from patent illegality. It is urged that the suit is barred by law, as the transaction is *benami* in nature and the relief of specific performance, being discretionary and equitable, cannot be claimed by a party who has not pleaded or proved readiness and willingness to perform her part. It is contended that absence of such pleadings in the plaint renders it liable to rejection under Order VII Rule 11(a) and (d) CPC.

8. The matter being limited in scope and involving a short question of law, no notice was considered necessary to be issued to the respondents.

9. I have considered the submissions advanced by the learned counsel for the petitioners and carefully perused the record.

10. The scope of Order VII Rule 11 CPC is well-settled. It provides for rejection of a plaint in the following circumstances:

- (i). Where it does not disclose a cause of action;
- (ii). Where the relief claimed is undervalued and the plaintiff fails to correct it;
- (iii). Where the plaint is insufficiently stamped and the deficiency is not cured;
- (iv). Where the suit appears from the statement in the plaint to be barred by any law;
- (v). Where the plaint is not filed in duplicate; and
- (vi). Where the plaintiff fails to comply with provisions of Rule 9 CPC.

11. It is trite law that while considering an application under Order VII Rule 11 CPC, the Court must confine itself only to the averments in the

plaint and not to the defence raised by the defendant. The truth or falsity of the allegations or the tenability of the claim cannot be examined at this stage.

12. In the present case, the grounds urged by the petitioners are that the transaction is *benami*, that the plaintiff was not ready and willing to perform her part, and that the relief of specific performance is discretionary, all relate to matters of evidence and factual determination. None of these aspects can be conclusively inferred merely from the plaint itself.

13. A bare perusal of the plaint shows that the plaintiff has specifically pleaded execution of the agreement, payment of substantial consideration, and willingness to perform the remaining obligations. Whether such pleadings are truthful or whether the plaintiff ultimately proves readiness and willingness are questions of fact, not grounds for rejection of plaint.

14. The contention regarding *benami* nature of the transaction also involves factual investigation. It cannot be said from the plaint alone that the suit is barred by the Prohibition of Benami Property Transactions Act, 1988, particularly in the absence of any clear averment suggesting that the transaction was held for the benefit of another person contrary to law.

15. Therefore, the learned trial Court has rightly held that the objections raised by the defendants go to the merits of the controversy and not to the maintainability of the plaint within the ambit of Order VII Rule 11 CPC.

16. In view of the above discussion, this Court finds no error, illegality, or material irregularity in the impugned order passed by the learned Additional Civil Judge (Senior Division), Hisar. The trial Court has

rightly observed that the grounds taken by the petitioners are not such as to warrant rejection of the plaint at the threshold and can be adjudicated only after evidence is led by both sides.

17. The contentions raised by the petitioners are without any merit and do not fall within the limited parameters of Order VII Rule 11 CPC. The plaint cannot be rejected on the basis of disputed questions of fact or on presumptions about the outcome of trial.

18. Accordingly, the civil revision petition is dismissed being devoid of merit.

19. All pending miscellaneous application(s), if any, stands disposed of.

30.10.2025

Poonam Negi

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No