Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Md. Shabbar Rashidi

FAT 240 of 2026
IA No: CAN 1 of 2026

Mr. Ravi Swamy
Vs.
Deepika Jaidka and another

With

FAT 241 of 2026
IA No: CAN 1 of 2026

Mr. Ravi Swamy
Vs.
Deepika Jaidka and another

For the appellant : Mr. Dilip Kumar Maiti,
Mr. Uttam Kumar Kamila

Heard on : 13.11.2026

Judgment on : 13.11.2026

Sabyasachi Bhattacharyya, J.:-

1. In view of identical issues being involved, both the appeals are taken up for hearing together.

2. The present appeals have been preferred against the rejection of counter claims filed by the appellant in two suits, under Order VII Rule 11 of the Code of Civil Procedure, on the ground of non-

disclosure of cause of action. The counter claims in each of the appeals were filed in respect of suits filed by the respondents for eviction of the appellant, in which the appellant filed the counter claims seeking a declaration that the defendant/appellant is in "*bona fide* adverse possession" in respect of the suit premises and for consequential reliefs.

3. The learned Trial Judge, after considering the submissions of the parties, came to the conclusion that in view of the admission of the defendant that their father was a tenant in respect of the premises and that the appellant continued in the suit premises after the demise of his father, no cause of action for claiming adverse possession was disclosed.

4. Even on a perusal of the counter claims, which are placed by learned counsel for the appellant in the appeals, we find that the appellant has categorically admitted in paragraph no.7 thereof that after the demise of the original landlord, the property went into the hands of an administrator and as per the request of such administrator, all the tenants/occupiers of the flats of the suit building, including the defendant/appellant and his father, participated and paid equal share of amount for their respective flats after collection from all tenants and co-occupiers in terms of the decision taken in the meeting to clear all the outstanding property tax. In paragraph no.9, the defendant/appellant goes one step further and admits that as the entire suit premises were lying in a dilapidated condition, all the

tenants/co-occupiers, including the present defendant, incurred huge expenses for maintenance of the building including repair, etc.

5. In the very next paragraph, as a continuation thereof, it is pleaded that on March 07, 2009, the father of the defendant, an admitted tenant, died intestate and the defendant occupied the suit flat "in adverse possession" since no one from the side of the legal heirs of the original landlord R.K. Jaidka claimed any rent or "possessional right" from him.

6. Apart from the specific particulars of the starting point of adverse possession as well as from when the possession of the defendant became hostile against the true owner being not disclosed, we find categorical admission in the counter claims that not only the defendant's father but the defendant himself also claimed to be a tenant in respect of the subject properties in both the suits.

7. As per the averments of the counter claims, the defendant was a tenant and continued in possession of the suit flat after the demise of his father, also an admitted tenant. The claim of adverse possession, as mentioned in paragraph no.10 of the counter claims, is entirely premised on the sole allegation that there was no claim of rent or possessional rights from the side of the legal heirs of the original landlord.

8. However, it is the point of induction which is relevant for adjudicating whether the possession of an occupier is adverse to the true owner or not.

9. Once inducted as a tenant, one cannot automatically become an adverse possessor merely because no rent is paid by him or claimed by the landlord from him.

10. Thus, within the four corners of the counter claims, even on a comprehensive and meaningful reading of the same, we do not find any disclosure of cause of action for claiming adverse possession, which is the plinth of the counter claims.

11. Accordingly, the learned Trial Judge was perfectly justified in rejecting the counter claims in each of the suits under Order VII Rule 11 of the Code of Civil Procedure.

12. Thus, there is no use in keeping the present frivolous appeals pending further.

13. Accordingly, FAT 240 of 2026 and FAT 241 of 2026 are dismissed, thereby affirming the impugned judgments and deemed decrees, both dated May 15, 2026, passed by the learned Civil Judge (Senior Division), Eighth Court at Alipore, District: South 24 Parganas in the counter claims arising out of Ejectment Suit No. 30 of 2025 and Ejectment Suit No. 29 of 2025 respectively, affirming the rejection of such counter claims under Order VII Rule 11 of the Code of Civil Procedure.

14. Consequentially, the applications, bearing CAN 1 of 2026 in each of the appeals, stand dismissed as well.

15. There will be no order as to costs.

16. A formal decree in each of the appeals be drawn up accordingly.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Md. Shabbar Rashidi, J.)

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