

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Supratim Bhattacharya

FAT No. 551 of 2025
+
CAN 1 of 2025

Tapas Kumar Paul
-VS-
Sukanta Karmakar and another

For the appellant : Mr. Pinaki Ranjan Mitra,
Mr. Snehasish Bala,
Mrs. Namita Basu, Advs.

For the respondents : Mr. Kallol Basu,
Mr. F. R. Molla,
Mr. Tapas Kumare Dey,
Mr. Samik Sarkar,
Ms. Sahana Aktar, Advs.

Heard on : June 24, 2026.

Judgment on : June 24, 2026.

Sabyasachi Bhattacharyya, J.:

1. The ambit of the appeal is short.

2. The learned trial Judge dismissed a suit filed by the present appellant principally for damages on the ground of defamation.
3. Learned counsel for the appellant, although in principle agreeing that the suit was filed in a Court not having territorial jurisdiction, contends that instead of rejecting the plaint on such ground, the appropriate course of action for the learned trial Judge would have been to return the plaint, to be presented before the appropriate Court having jurisdiction.
4. Learned counsel appearing for the respondents submits that no cause of action for the suit was disclosed against the defendants in the plaint.
5. Furthermore, it is argued that on a composite reading of the plaint, it would appear that the bundle of facts leading to the relief claimed is not found.
6. However, from a plain and composite reading of the plaint, we find that in paragraph no. 14 thereof, read with the other paragraphs, a cause of action was disclosed for filing the suit, whatever might be the quality of the cause of action, which is not the subject matter of consideration under Order VII Rule 11 of the Code of Civil Procedure.

7. It is well-settled that the argument that there is “no cause of action” can only be advanced and adjudicated at the final hearing of the suit and not at the Order VII Rule 11 stage.
8. The said provision only contemplates a situation where no cause of action is “disclosed”.
9. Hence, since we find that cause of action for filing the suit was sufficiently disclosed in the plaint, it is beyond the charter of the Court to enter into a qualitative assessment of such cause of action, which is the subject matter of the trial on evidence.
10. Moreover, the ground of non-disclosure of cause of action was neither taken in the application under Order VII Rule 11 of the Code nor argued before the learned trial Judge and, as such, cannot be permitted to be urged for the first time at the appellate stage.
11. In so far as territorial jurisdiction is concerned, we find from the impugned order/deemed decree that the learned trial Judge was justified in finding that it did not have territorial jurisdiction to entertain and decide the suit, which is also admitted by the plaintiff/appellant.
12. As such, the appropriate course of action for the learned trial Judge would be, instead of rejecting the plaint outright, to

return it within the contemplation of Order VII Rule 10 of the Code of Civil Procedure, to be presented before the competent Court having territorial jurisdiction.

13. We also take note of the established position of law that the caption in an application cannot deter the Court from moulding the prayers and grant appropriate relief, if the Court otherwise has the power under any provision of law to grant such relief.
14. Taking into consideration such aspect of the matter, this Court is of the opinion that the learned trial Judge ought to have returned the plaint under Order VII Rule 10 of the Code by exercising his jurisdiction under the said provision instead of rejecting the plaint outright.
15. Accordingly, FAT No. 551 of 2025 is allowed in part, thereby modifying the impugned judgment and order (deemed decree) dated July 1, 2025 passed by the learned Civil Judge (Senior Division), Uluberia, District- Howrah, in Money Suit No. 6 of 2020 to the extent that the plaint of the said suit shall be returned to the plaintiff/appellant, to be presented before the competent Court having jurisdiction.
16. CAN 1 of 2025 is accordingly disposed of as well.
17. There will be no order as to costs.

18. Urgent photostat certified copies of this judgment, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)