

11. 09.02.2026  
Court No.6  
(Tanmoy)

**IN THE HIGH COURT AT CALCUTTA  
CIVIL REVISIONAL JURISDICTION**

**CO/4114/2025**

**NABA KUMAR DAS AND ANR.  
VS  
SMT. RUMA BHATTACHARYA AND ORS.**

Mrs. Sreemayi Mitra  
Mr. Jaydip Basu  
Mrs. Sanjukta Samanta

...for the petitioners

Mr. Sukumar Bhattacharyya  
Ms. Oindrila Chatterjee  
Ms. Subhangi Bhattacharya

...for the opposite party nos.1-3.

**1.** The petitioners are aggrieved by an order dated August 12, 2025, passed by the learned Civil Judge (Junior Division), 2<sup>nd</sup> Court, Sealdah.

**2.** By the order impugned, the learned Trial Court rejected an application under Order VII, Rule 11 of the Civil Procedure Code, 1908. It is stated that, the right, title and interest of the parties have been finally adjudicated in the probate suit. The Civil Court could not go beyond the probate that was granted, by reconsidering the issues which were settled. A second suit is not maintainable in law. The plaintiffs did not have any say in respect of the suit property, after the grant of probate and the plaint should be rejected.

**3.** It is further urged by learned Advocate for the petitioners that the application under Order VII, Rule 11 of the Civil Procedure Code, 1908 was rejected without any reasons.

**4.** The application was filed by the petitioners for rejection of the plaint on the ground that the cause of action was illusory. The defendants craved leave to furnish some documents from which it would be evident that the plaintiffs did not have any cause of action to file the instant suit. Prayer was made for rejection of the plaint should be under Order VII, Rule 11(a) of the Civil Procedure Code, 1908.

**5.** The averments made in the said application are quoted below :

*“1) That the instant suit has been filed by the plaintiffs claiming right title & interest in the suit property standing on the foot of several documents as mentioned in the plaint.*

*2) That the from the annexure 1&2 relied upon it will be evident that the plaintiffs have no right title & interest in the suit property & the defendant crave leave to agitate on those two documents where from it will be evident that the plaintiffs have got no cause of action to file the instant suit & on the contrary the plaintiffs have raised illusory cause of action which is barred under order 7 rule 11 of C.P.C & therefore the plaint is liable to be rejected for want of definite cause of action.”*

**6.** The suit has been filed for a declaration that the right, title and interest in respect of the estate of late Kamala Bala Das shall vest upon the plaintiffs. That the development agreement and the power of attorney executed by the defendant nos. 1 and 2

were not binding on the plaintiffs, that the registered development agreement and the power of attorney were executed in collusion with the defendant no.3. A decree for permanent injunction restraining the defendants from giving effect to the registered development agreement and the power of attorney was also prayed for.

**7.** Paragraph 22 of the plaint states that the defendant nos. 1 and 2 with the support and consent of the defendant no.3 were violating the intention of the testatrix, as expressed in the last Will and Testament. The intention of the testatrix in the Will dated January 13, 1999 was that no part of 'A' and 'B' Scheduled property could be transferred or alienated to any third party. The execution of a development agreement and the power of attorney without consent of any of the legatees, for the purpose of construction of the multi-storeyed building in the schedule property, which was part of the schedule of the Will, was void, contrary to the Will and collusive. These were the allegations in the plaint and the cause of action was pleaded accordingly.

**8.** Cause of action is a bundle of facts. While considering an application under Order VII, Rule 11 of the Civil Procedure Code, 1908, the Court has to only examine the averments made in the plaint. In

my view, the plaint read as a whole discloses a cause of action. The petitioners sought for rejection of the plaint on the ground that the same did not disclose any cause of action. The petitioners wanted to disclose some documents in support of their contentions. However, such documents cannot be looked into by the Court while deciding whether the plaint should be rejected or not, under any of the grounds stated in Order VII, Rule 11 of the Civil Procedure Code, 1908. The averments made in the plaint are to be taken as true and correct.

**9.** Under such circumstances, I do not find any illegality in the order impugned.

**10.** The revisional application is dismissed.

**11.** Suit shall be expedited.

**12.** Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(SHAMPA SARKAR, J.)**