

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
(Civil Revisional Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Krishna Rao

C.O. No. 52 of 2026

**The President, GayagangaNavajeevan Rural
Health and Development Society&Anr.**

Vs.

Subhas Singha&Anr.

Mr. IftekarMunshi
Mr. HillolSahaPodder

....For the petitioners.

Mr. Bikramaditya Ghosh
Mr. Yusuf Ali
Mr. Abhilash Mittal
Mr. Mayank Bhandari
Mr. Ved Rai

.... For the opposite parties.

Hearing Concluded On : 20.05.2026

Judgment On : 12.06.2026

Krishna Rao, J.:

1. The petitioners being the defendants of Title Suit No. 89 of 2024 have filed the present revisional application challenging the order passed by the Learned Civil Judge (Senior Division) at Siliguri by an order no.5 dated 13th May, 2025, wherein and where under the Learned Judge has rejected the application filed by the defendants under Order VII, Rule 11 of the Code of Civil Procedure.

2. Mr. IftekarMunshi, Learned Advocate representing the petitioners/ defendants submits that in paragraph 6 of the plaint, the respondents/ plaintiffs have made out a specific case that Madhav Chandra Paul executed three sale deeds bearing nos. 9887 of 2015, 8358 of 2015 and 9889 of 2015, in favour of the defendants society and sold a substantial area of land to the petitioners society under different plots. It is the further case of the respondents that neither JoyswariSingha nor her legal heirs i.e. plaintiffs ever sold any portion of land to Madhav Chandra Paul in respect of R.S. Plot no. 563, corresponding to L.R. Plot no. 757, R.S. Plot no. 353, corresponding to L.R. Plot no. 758, R.S. Plot no. 338, corresponding to L.R. Plot no. 733, 734, 735 and 736, R.S. Plot no. 337, corresponding to L.R. Plot no. 730, 731 and 732 and R.S. Plot no. 339, corresponding to L.R. Plot no. 737, 738 and 739.

3. Mr. Munshi submits that the respondents claim that they are the owners of the following properties:

- (a) The land measuring about 12 decimal under R.S. Plot no. 563, corresponding to LR Plot no. 757, recorded in L.R. Khatian no. 48, corresponding to R.S. Khatian no. 13/1, Mouza – Buraganj, J.L. No. 62, P.S. Khoribari, Dist. Darjeeling.
- (b) The land measuring about 57 decimal under R.S. Plot no. 353, corresponding to L.R. Plot no. 758, recorded in L.R. Khaitan no. 48, corresponding to R.S. Khatian no. 13/1, Mouza – Buraganj, J.L. no. 62, P.S. Khoribari, Dist. Darjeeling.
- (c) The land measuring about 188 decimal under R.S. Plot no. 338, corresponding to L.R. Plot no. 733, 734, 735 and 736, recorded in L.R. khatian no. 48, corresponding to R.S. Khatian no. 13/1, Mouza – Buraganj, J.L. No. 62, P.S. Khoribari, Dist. Darjeeling.
- (d) The land measuring about 122 decimal under R.S. Plot no. 337, corresponding to L.R. Plot no. 730, 731, and 732, recorded in L.R. Khatian no. 48, corresponding to R.S. Khatian no. 13/1, Mouza – Buraganj, J.L. no. 62, P.S. Khoribari, Dist. Darjeeling.
- (e) The land measuring about 72 decimal under R.S. Plot no. 339, corresponding to L.R. Plot no. 737, 738 and 739, recorded in L.R. Khatian no. 48, corresponding to R.S.

Khatian no. 13/1, Mouza – Buraganj, J.L. no. 62, P.S. Khoribari, Dist. Darjeeling.

4. Mr. Munshi submits that in paragraphs 15 and 16 of the plaint, the respondents have made out a case for cause of action for filing of the suit.
5. Mr. Munshi submits that the respondents have prayed for a decree for declaring the respondents as absolute owners of the suit schedule properties and the petitioners have no right, title and interest of the properties. He submits that the respondents have admitted the sale deeds of 2015 executed in favour of the petitioners and without challenging the said deeds and after the period of nine years from the date of registration of the deeds, have filed the suit which is hopelessly time barred.
6. Mr. Munshi submits that once the suit properties have been transferred in the name of the petitioners by way of sale deeds and the respondents have admitted the said deeds, thus the respondents cannot maintain the said suit and is barred by limitation.
7. In support of his case, he has relied upon the judgment in the case of ***T.Arivandandam Vs. T.V. Satyapal and Another*** reported in **(1977) 4 SCC 467** and submits that if the Court on meaningful reading of the plaint finds that it is manifestly vexatious, and meritless, in the sense

of not disclosing a clear right to sue, the Court should exercise its power under Order 7, Rule 11 of the CPC.

8. Mr. Munshi further relied upon the judgment in the case of ***Dahiben Vs. Arvindbhai Kalyanji Bhanusali (Gajra) & Ors.*** reported in **(2020) 7 SCC 366** and submits that the period of limitation prescribed under Articles 58 and 59 of the Limitation Act, 1963, is three years, which commences from the date when the right to sue first accrues. In the present case, the plaintiffs have admitted the deeds of 2015, thus the suit is barred by limitation.
9. Mr. Munshi has relied upon the judgment in the case of ***Uma Devi and Others Vs. Anand Kumar and Others*** reported in **(2025) 5 SCC 198** and submits that the question of limitation generally is mixed question of law and facts, when upon meaningful reading of the plaint, the Court can come to a conclusion that under the given circumstances, after dissecting the vices of clever drafting creating an illusion of cause of action, the suit is hopelessly barred and the plaint can be rejected under Order 7, Rule 11 of the CPC.
10. Mr. Bikramaditya Ghosh, Learned Advocate representing the plaintiffs submits that it is the specific case of the plaintiffs that the portion of land in which the plaintiffs are claiming are described at paragraphs 7 to 11 of the plaint as well as in the schedule of properties. He submits that it is the specific case of the plaintiffs that the properties in which

the plaintiffs are claiming their title are not the part of the sale deeds of the defendants.

11. Mr. Ghosh submits that it is the specific case of the plaintiffs that neither JoyswariSingha nor her legal heirs i.e. the plaintiffs have ever sold any portion of suit schedule properties to Madhav Chandra Paul.
12. Mr. Ghosh submits that the share of the landed properties which the plaintiffs are claiming is no way affected by the sale deed nos. 9887 of 2015, 8358 of 2015 and 9889 of 2015. He submits that it is the specific case of the plaintiffs that the plaintiffs are the rightful owner of the suit schedule properties and the plaintiffs are possessing the suit properties since long and the defendants have no valid documents to occupy the suit schedule properties.
13. Mr. Ghosh submits that the plaintiffs have categorically mentioned about the cause of action. He submits that it is the specific case of the plaintiffs that on 26th June, 2024, the defendants engaged some labourers and tried to encroach upon the land of the plaintiffs to pluck the tea leaves of the tea garden of the plaintiffs and on 27th June, 2024 again entered into the suit properties and tried to pluck tea leaves and when the plaintiffs have objected, they have threatened the plaintiffs.
14. Mr. Ghosh relied upon the judgment in the case of ***Bhupinder Singh Vs. Raman Rai and Others*** reported in ***2026(2) Indian Civil Cases (P&H) 123*** and submits that the application under Order 7, Rule 11 of the Code of Civil Procedure ordinary proceeds on the basis of the plaint

and the documents disclosed in the plaint. The Court while hearing the said application is not conducting a trial. The Court only has to see that whether the plaintiff has disclosed a cause of action and whether the suit is barred by any law.

15. Mr. Ghosh further relied upon the judgment in the case of ***Karam Singh Vs. Amarjit Singh and Others*** reported in **2025 SCC OnLine SC 2240** and submits that at the time of deciding an application under Order 7, Rule 11 of the CPC, the Court is not required to see the defense of the defendant. The Court is only to examine the plaint and documents and is required to see only whether the suit is barred by limitation, any law or discloses any cause of action.

16. Dharmakanta Singh was the recorded owner of the land of the following landed properties:

<i>L.R. Plot</i>	<i>R.S. Plot</i>	<i>Area recorded in the name of Dharmakanta Singh</i>
870	407	0.46
845	401	1.48
846	400	1.03
853	379	0.28
754	340	0.35
900	408	0.86
893	364	0.72
751	346	0.65
757	563	0.36

864	406	0.02
852	378	0.28
854	380	0.12
758	353	0.86
736	338	0.70
855	382	0.20
896	389	0.22
756	342	0.81
895	367	0.07
891	390	0.67
899	366	0.28
740	339	1.06
741	344	1.40
752	345	0.42
764	331	0.09
730	337	0.28
897	388	0.06
892	392	1.32
755	341	0.25
898	368	0.10
862	404	0.25
863	405	0.23
858	381	0.05
731	337	0.09
735	338	0.28
733	338	0.99
753	343	1.55
848	567	0.03

- 17.** After the death of Dharmakanta Singh, the aforesaid landed properties devolved upon his sole daughter JoyswariSingha. JoyswariSingha by way of two registered sale deedsbearing nos. 5294 of 1974 and 5295 of 1974, sold and transferred an area of 11.33 acres of land out of total area 18.17 acres to Subal Chandra Paul and Kalpana Rani Paul. Subal Chandra Paul and Kalpana Rani Paul have executed two deeds being Nos. 43 of 1985 and 44 of 1985 to Madhav Chandra Paul and Shanti Ranjan Paul. Madhav Chandra Paul executed three sale deeds bearing nos. 9887 of 2015, 8358 of 2015 and 9889 of 2015 in favour of the defendant society.
- 18.** The case made out by the plaintiff in the suit that neither JoyswariSingha nor the plaintiffs being the legal heirs of JoyswariSingha ever sold any properties to Madhav Chandra Paul with respect to the properties mentioned in Schedule A to E or the properties mentioned in paragraphs 7 to 11 of the plaint.
- 19.** The plaintiffs have disclosed the copies of the deed nos. 5294 of 1974, 5295 of 1974, 43 of 1985, 44 of 1985, 9887 of 2015, 8358 of 2015 and 9889 of 2015 by way of supplementary affidavit.
- 20.** In paragraph 7 as well as Schedule A of the plaint, the plaintiffs are claiming an area of about 12 decimal under R.S.Plot No. 563, corresponding to L.R.Plot No. 757 recorded in L.R.Khatian No.48, corresponding to R.S.Khatian No. 13/1, Mouza- Buraganj, J.L.No. 62, P.S.Khoribari, District- Darjeeling.

As per details provided by the plaintiffs with respect to L.R.Plot No. 757 and R.S.Plot No. 563, the total area of the land is 0.36 Acres. The deed disclosed by the plaintiffs being deed No. 8358 of 2015 executed between the defendant society being the purchaser and Madav Chandra Paul and Aviraj Paul, being the sellers wherein the defendant society has purchased the total land measuring an area of 0.36 acres, thus there is no such remaining area of 12 decimal under the said plots which the plaintiff is claiming in the present suit.

- 21.** In paragraph 8 as well as in Schedule Property-B, the plaintiffs are claiming about 57 decimal under R.S. Plot no. 353, corresponding to L.R. Plot no. 758, recorded in L.R. Khatian no. 48, corresponding to R.S. Khatian No. 13/1, Mouza – Buraganj, J.L. No. 62, P.S. Khoribari, Dist. Darjeeling.

As per details provided by the plaintiffs with respect to L.R.Plot No. 758 and R.S.Plot No. 353, the total area of the land is 0.86 Acres. As per Deed No. 8358 of 2015, the defendant society has purchased the total area of land is 1.71 Acres, thus there is no such remaining area of 57 decimal in the said plots which the plaintiffs are claiming.

- 22.** In paragraph 9 as well as in Schedule Property-C, the plaintiffs are claiming 188 decimal under R.S. Plot no. 338, corresponding to L.R. Plot no. 733, 734, 735 and 736, recorded in L.R. khatian no. 48, corresponding to R.S. Khatian no. 13/1, Mouza – Buraganj, J.L. No. 62, P.S. Khoribari, Dist. Darjeeling. The details provided by the plaintiffs with respect to the landed properties in paragraph 2 of the plaint,

details of R.S. Plot no. 338, corresponding to L.R. Plot no. 733, 735 and 736, recorded in L.R. khatian No. 48, corresponding to R.S. Khatian no. 13/1, Mouza – Buraganj, J.L. No. 62, P.S. Khoribari, Dist. Darjeeling is not mentioned.

As per Deed No. 9889 of 2015, the defendant society has purchased the total area being 0.80 Acres in R.S.Plot No. 338 and L.R.Plot No. 734. Thus there is no such remaining area left in the said land. The defendant has also purchased total land measuring an area of 0.62 acres in R.S.Plot No. 338, L.R. Plot No. 735 in the said deed and there is no further land left. By way of Deed no. 9887 of 2015, the defendants have purchased the land being R.S. No. 338 and L.R. No. 736, total area 0.40 acres and there is no such land left. The plaintiffs are claiming some area in R.S.Plot No. 338, L.R.No. 733 and the said land is not appearing in the deeds disclosed by the plaintiffs.

- 23.** In paragraph 10 as well as in Schedule of Property-D, the plaintiffs are claiming the land measuring about 122 decimal under R.S. Plot no. 337, corresponding to L.R. Plot no. 730, 731, and 732, recorded in L.R. Khatian no. 48, corresponding to R.S. Khatian no. 13/1, Mouza-Buraganj, J.L. no. 62, P.S. Khoribari, Dist. Darjeeling.

As per deed no. 9889 of 2015, the defendants have purchased the R.S. No. 337, L.R. No.730 total area 0.42 Acres out of total area 0.83 Acres, R.S. No. 337, L.R. No. 731 total area 0.20 acres out of total area 0.28 acres and R.S. No. 337, L.R. No.732 total area 2.53 acres and there is no such remaining area left. This Court finds that in R.S. No.

337, L.R. No. 730, the defendants have purchased an area of 0.42 Acres out of total area 0.83 Acres, thus there is remaining land of 0.41 acres and in R.S. No. 337, L.R. No. 731, the defendants have purchased an area of 0.20 acres out of total area 0.28, thus there is remaining land of 0.08 acres.

24. In paragraph 11 of the plaint as well as in Schedule Property-E, the plaintiffs are claiming the land measuring about 72 decimal under R.S. Plot no. 339, corresponding to L.R. Plot no. 737, 738 and 739, recorded in L.R. Khatian no. 48, corresponding to R.S. Khatian no. 13/1, Mouza- Buraganj, J.L. no. 62, P.S. Khoribari, Dist. Darjeeling. As per deed no.9887 of 2015, the defendants have purchased R.S.No. 339,L.R.No.738 measuring total area of 0.32 acres and R.S.No. 339,L.R.No. 739 measuring total area of 0.69 acres and there is no such land left but the R.S.Plot No. 339,L.R.Plot No. 737 is not included in any of the deeds.

25. The defendants have filed the present application for rejection of plaint on the ground of limitation that the deeds have been registered in the year 2015 wherein the defendants have purchased the suit properties and the plaintiffs have not challenged the said deeds and the plaintiffs have with the clever drafting shown the cause of action. The deeds on the basis of which the defendants have purchased the properties, in the said deeds R.S.Plot No. 338 corresponding to L.R.Plot No. 733 and R.S.Plot No. 339, corresponding to L.R.Plot No. 737 is not included.

- 26.** As per deed no. 9889 of 2015, the defendants have purchased the R.S.No. 337, corresponding to L.R.No.730 total area 0.42 Acres out of total area 0.83 Acres, R.S. No. 337 corresponding to L.R.No. 731 total area 0.20 acres out of total area 0.28 acres, thus in L.R.Plot No. 730, there is an area of 0.41 acres and L.R.Plot No.731, there is an area of 0.08 acres which are not included in the sale deeds by which the defendants have purchased the landed properties.
- 27.** In an application under Order 7, Rule 11, this Court cannot decide whether the plaintiff is having any right, title or interest over the properties which are not included in the deeds. As regard to the disclosure of cause of action, the plaintiffs in paragraphs 15 and 16 categorically mentioned that on 26th June, 2024 and 27th June, 2024, the defendants' labourers attempted to enter into the suit property which the plaintiffs are claiming and have also threatened the plaintiffs. It is also the case of the plaintiffs that the plaintiffs are in occupation of the properties.
- 28.** Considering the above, this Court finds that the claims made by the plaintiffs are to be decided only after adducing evidence by the parties and thus this Court did not find any illegality in the impugned order passed by the Learned Civil Judge (Senior Division), Siliguri by an order no.5 dated 13th May, 2025 in Title Suit No. 89 of 2024 and the said order is affirmed.

29. C.O.No. 52 of 2026 is dismissed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)