



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.95 OF 2026**

Vikas Oberio and Anr. ... Applicants
versus
Ashok Shah and Ors. ... Respondents

Mr. Yashesh Kamdar with Ms. Nupur Desai i/by IC Legal, for applicants.
Mr. Sameer Bhalekar, for Respondent Nos.1 and 2.
Mr. Ashish Gatagat, for Respondent Nos.4 and 5.

CORAM: N.J.JAMADAR, J.

DATE : 17 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 11 December 2025 passed by the learned Judge, City Civil Court, whereby the Notice of Motion No.2664 of 2021 taken out by the Applicants – Defendants in S.C.Suit No.6900 of 2005, inter alia, to pass a decree on admission in relation to prayer clauses (a) to (d) and reject the prayer in relation to prayer clause (e) under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908, came to be dismissed.
3. Learned Counsel for the Applicants submitted that, there are categorical admissions on behalf of the Defendants in regard to prayer in prayer clauses (a) to (d) and the Defendants are in a position to demonstrate that the prayer, in prayer clause (e), is wholly unsustainable, and, therefore, in

that view of the matter, the trial Court could not have rejected the application for decree on admission under Order XII Rule 6 of the Code, so far as as prayer clauses (a) to (d) and to reject the plaint in relation to prayer clause (e).

4. Learned Judge, City Civil Court, was of the view that, in addition to the prayers against the Petitioners, the Plaintiffs were also seeking relief of permanent injunction against Defendant Nos.4 to 6 and, therefore, the prayers cannot be granted at an interim stage.

5. Ordinarily, a decree on admission is passed at the instance of a party, in whose favour an admission is made either in pleadings or otherwise. In the instant case, the Defendant Nos. 2 and 3, in addition to a decree on admission in regard to prayer clauses (a) to (d), were seeking rejection of the plaint under Order VII Rule 11 of the Code.

6. It is well recognized by a catena of decisions that it is impermissible to dissect the averments in the plaint and reject a part of the plaint by invoking the provisions contained in Order VII Rule 11 of the Code. A profitable reference can be made to a three Judge Bench judgment of the Supreme Court in the case of **D. Ramachandran V/s. R.V.Janakiraman and Ors.**¹ wherein the Supreme Court enunciated the law as under :

“10. On the other hand, Rule 11 of Order VII enjoins the Court to reject the plaint where it does not disclose a cause of action. There is no question of striking out any portion of

1 (1999) 3 SCC 267

the pleading under this rule. The application filed by the first respondent in O.A. No. 36/97 is on the footing that the averments in the election petition did not contain the material facts giving rise to a triable issue or disclosing a cause of action. Laying stress upon the provisions of Order VII, Rule 11 (a), learned senior counsel for the first respondent took us through the entire election petition and submitted that the averments therein do not disclose a cause of action. On a reading of the petition, we do not find it possible to agree with him. The election petition as such does disclose a cause of action which if unrebutted could void the election and the provisions of O.VII R.11(a) C.P.C. can not therefore be invoked in this case. There is no merit in the contention that some of the allegations are bereft of material facts and as such do not disclose a cause of action. It is elementary that under O.VII R.11 (a) C.P.C., the Court can not dissect the pleading into several parts and consider whether each one of them discloses a cause of action. Under the rule, there can not be a partial rejection of the plaint or petition. See Roop Lal Sathi Versus Nachhattar Singh Gill². We are satisfied that the election petition in this case could not have been rejected in limine without a trial." (emphasis supplied)

7. This position has been reiterated in the cases of **Sejal Glass Limited V/s. Navilan Merchants Private Limited³** and **Madhav Prasad Aggarwal and Anr. V/s. Axis Bank Limited and Anr.⁴**.

² (1982) 3 SCC 487

³ (2018) 11 SCC 780

⁴ (2019) 7 SCC 158

8. The aforesaid being the position in law, the learned Judge, City Civil Court was justified in dismissing the Notice of Motion. The Application, therefore, does not deserve to be entertained.
9. The Civil Revision Application, thus, stands dismissed.

(N.J.JAMADAR, J.)