

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 189 OF 2026

Verandra Engineering Entrepreneurs Through Its ..Applicant
Proprietor Verandra Bakshi
Versus
Godrej and Boyce Mfg Co Ltd ...Respondent

WITH
INTERIM APPLICATION NO. 2353 OF 2026
IN
CIVIL REVISION APPLICATION NO. 189 OF 2026

Mr. Nikhilesh Pote, i/b Akhilesh K Dubey, for the Applicant.
Mr. Omkar Bade, for the Respondent.

CORAM: N. J. JAMADAR, J.
DATE : 30th MARCH 2026

ORAL ORDER:

1. Heard the learned Counsel for the Applicant.
2. The challenge in this Application is to an order passed by the learned Civil Judge, Senior Division, Bhiwandi, whereby an Application preferred by the Applicant-Defendant No.2 to reject the Plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (“the Code”), came to be rejected.

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3. Mr. Pote, the learned Counsel for the Applicant, submitted that there was no privity contract between the Plaintiff and Applicant-Defendant No.2. Though the pre-institution mediation under Section 12A of the Commercial Courts Act, 2015, was resorted to, yet, the Applicant was not served with notice of pre-institution mediation. Even the settlement agreement arrived at in the pre-institution mediation was between the Plaintiff and Defendant No.1 only. Yet, the learned Civil Judge rejected the Application for rejection of the Plaint qua the Applicant.

4. I have perused the averments in the Plaint. In paragraph 9 of the Plaint, there is a reference to a communication addressed on behalf of the Applicant-Defendant No.2 acknowledging the liability. The learned Civil Judge has referred to the said averments in paragraph 9 and communication dated 27th June 2019; which was tendered for the perusal of this Court by the learned Counsel for the Applicant. The said communication records that the dues payable by the Plaintiff to the Defendant No.2 would be adjusted against the recovery of NV Engineering's (Defendant No.1) dues against sales invoices raised by the Plaintiff for the supply of material. The learned Civil Judge was thus justified in declining to reject the Plaint.

5. The learned Counsel for the Applicant would urge that there are e-mail communications which indicate that the Defendant No.2 did not

owe any liability to the Plaintiff. All these are matters of merit, which warrant adjudication at the trial.

6. In any event, in view of the well-recognized position in law that a Plaintiff cannot be rejected in part qua one of the Defendants or in respect of one of the properties, the prayer for rejection of the Plaintiff qua Defendant No.2, could not have been even otherwise countenanced.

7. A useful reference, in this context, can be made to a judgment of the Supreme Court in the case of *Sejal Glass Limited vs Navilan Merchants Private Limited*¹, wherein after adverting to the various judgments of the High Courts, it was enunciated that if the plaintiff survives against certain defendant and/or properties, Order VII Rule 11(d) will have no application at all, and the suit as a whole must then proceed to trial.

8. This position was reiterated by the Supreme Court in the case of *Madhav Prasad Aggarwal and another vs. Axis Bank Limited and another*². The observations of the Supreme Court in paragraphs 10 and 12 are of material significance; they read as under:

“10. We do not deem it necessary to elaborate on all other arguments as we are inclined to accept the objection of the appellant(s) that the relief of rejection of plaintiff in exercise of powers under Order 7 Rule 11(d) of CPC cannot be pursued only in respect of one of the defendant(s). In other words, the plaintiff has to be rejected as a whole or not at all, in exercise of

1 (2018) 11 Supreme Court Cases 780.

2 (2019) 7 Supreme Court Cases 158.

power Order 7 Rule 11 (d) of CPC. Indeed, the learned Single Judge rejected this objection raised by the appellant(s) by relying on the decision of the Division Bench of the same High Court. However, we find that the decision of this Court in the case of *Sejal Glass Limited* (supra) is directly on the point. In that case, an application was filed by the defendant(s) under Order 7 Rule 11(d) CPC stating that the plaint disclosed no cause of action. The civil court held that the plaint is to be bifurcated as it did not disclose any cause of action against the Director's defendant(s) 2 to 4 therein. On that basis, the High Court had opined that the suit can continue against Defendant No.1 company alone. The question considered by this Court was whether such a course is open to the civil court in exercise of powers under Order 7 Rule 11(d) CPC. The Court answered the said question in the negative by adverting to several decisions on the point which had consistently held that the plaint can either be rejected as a whole or not at all. The Court held that it is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendant(s) and continue the same against the others. In no uncertain terms the Court has held that if the plaint survives against certain defendant(s) and/or properties, Order 7 Rule 11(d) of CPC will have no application at all, and the suit as a whole must then proceed to trial.

12. Indubitably, the plaint can and must be rejected in exercise of powers under Order 7 Rule 11(d) CPC on account of non-compliance with mandatory requirements or being replete with any institutional deficiency at the time of presentation of the plaint, ascribable to clauses (a) to (f) of Rule 11 of Order 7 CPC. In other words, the plaint as presented must proceed as a whole or can be rejected as a whole but not in part. In that

sense, the relief claimed by respondent No.1 in the notice of motion(s) which commended to the High Court, is clearly a jurisdictional error. The fact that one or some of the reliefs claimed against respondent No.1 in the suit concerned is barred by Section 34 of 2002 Act or otherwise, such objection can be raised by invoking other remedies including under Order 6 Rule 16 of CPC at the appropriate stage. That can be considered by the Court on its own merits and in accordance with law. Although, the High Court has examined those matters in the impugned judgment the same, in our opinion, should stand effaced and we order accordingly.”

(emphasis supplied)

9. Thus, there is no substance in this Application.
10. The Revision Application stands dismissed.
11. In view of the dismissal of the Revision Application, Interim Application stands disposed.

[N. J. JAMADAR, J.]