IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

OMP No. 507 of 2026
in Civil Suit No. 03 of 2024
Reserved on: 08.10.2026
Decided on: 02.11.2026
Date of Uploading on Website: 02.11.2026

Keshav Dutt Shreedhar ....Non-applicant/plaintiff

Versus

Nishant Sharma ….Applicant/defendant

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?[1] **Yes.**

For the Non-applicant/plaintiff : Mr. Rajnish Maniktala, Senior Advocate with Mr. Dinkar Bhaskar, Advocate.

For the non-applicant/defendant : Mr. Nishant Sharma, in person.

Sushil Kukreja, Judge

This order shall dispose of an application filed by the applicant/defendant, under Order 7, Rule 11 read with Section 151 CPC for rejection of the plaint. As per the applicant, the plaintiff has suppressed the material facts and has not approached this Court with clean hands. The plaintiff

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

by clever drafting, sought to create an illusory and non-existent cause of action, which is liable to be nipped in the bud. It has been stated that the present suit is nothing but a retaliatory counter-blast to the criminal proceedings instituted by the defendant against the plaintiff. The plaintiff had filed the present suit with mala fide and sole intent to harass, intimidate and coerce. It has further been stated that the documents annexed with the plaint, being inconsistent and destructive of the averments in the plaint, disclose no enforceable right to sue. The plaintiff has deliberately misrepresented his status as a Director, despite having ispo jure ceased to hold office upon non-regularization of his appointment as an Additional Director. It has also been stated that there is no actionable publication alleged disclosure to junior Advocates arising from internal handling of a privileged communication, not intended for third parties and the same does not constitute defamation in law. Lastly, it has been prayed that since there are vague and defective pleading of cause of action, therefore, the plaint is liable to be rejected.

2. Reply to the application has been filed, wherein, contents of the application have been denied and it has been averred that case of the plaintiff is based upon the defamatory e-mail dated 09.10.2023, the details whereof have been given in the plaint. It has been duly stated in the plaint that the said defamatory statement had enough publication and the said statement led to defamation and loss of reputation of the plaintiff, as such, it cannot be said that the plaint does not disclose cause of action. It has further been averred that the ground of concealment of material facts, even though not in existence, is not available as a ground for rejection of the plaint. It has been denied that there is a vague application of the defamatory material. It has further been denied that there is absence of any material particulars in the plaint, rather, the plaint contains all the required pleadings and discloses the cause of action. Rest of the averments made in the application have been denied.

3. I have heard applicant/defendant, who is present in person, learned Senior Counsel appearing on behalf of the

non-applicant/plaintiff and also gone through the material available on record.

4. The applicant/defendant, who is present in person, contended that the suit of the plaintiff is not maintainable, as it does not disclose any cause of action. He further contended that the averments made in the plaint, being inherently deficient and self contradictory, fails to satisfy the statutory requirement under Order VII Rule 11(a) CPC, hence the plaint is liable to be rejected.

5. On the other hand, learned Senior Counsel for the non-applicant/plaintiff contended that the plaint discloses cause of action which accrued to the plaintiff on 09.10.2023 at Shimla, where e-mail was accessed and published, leading to defamation of the plaintiff. He further contended that the present application is misconceived and has been filed just to delay the course of the trial, as it has been filed belatedly when pleadings are complete and case is ready to go for the trial. With these submissions, prayer for dismissal of the application with costs has been made.

6. It is settled law that the power conferred on Civil Courts to reject plaint at the threshold is an extra-ordinary power and, therefore, required to be exercised with great care and circumspection. At this stage, it would be relevant to reproduce Oder 7, Rule 11 of CPC, which reads as under:-

> "*11. **Rejection of plaint- The plaint shall be rejected in the following cases**:-*
> *(a) where it does not disclose a cause of action;*
> *(b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;*
> *(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;*
> *(d) where the suit appears from the statement in the plaint to be barred by any law;*
> *(e) where it is not filed in duplicate;*
> *(f) where the plaintiff fails comply with the provision of Rule 9.*
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> *Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff."*

7. Thus, under Order 7, Rule 11 of CPC, plaint can be rejected on the grounds that the suit is barred by law or it

does not disclose the cause of action or proper court fees has not been paid even after order of the court or where it is not filed in duplicate or where the plaintiff fails to comply with the provision of Rule 9. It is well settled that the Court, at the stage of considering an application under Order 7 Rule, 11 of CPC has to examine only the plaint averments, and the documents filed along with the suit. Other pleas advanced by parties, including the pleadings in the written statement, have no relevance in order to decide the present application in hand. In ***Liverpool & London S.P. & I Association Ltd. v. M.V. Sea Success I and another, (2004) 9 SCC 512,*** while dealing with the law relating to rejection of plaint under Order VII, Rule 11, CPC, the Supreme Court observed as follows:-

> *"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed.*
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> *151. In ascertaining whether the plaint shows a cause of action, the court is not required to make an elaborate enquiry into doubtful or complicated questions of law or fact……..*
>
> *152. So long as the claim discloses some cause of action or raises some questions fit to be decided by a judge, the mere fact that the case is weak and not likely to succeed is no ground for striking it out. The purported failure of the*

pleadings to disclose a cause of action is distinct from the absence of full particulars."

8. In the case of ***Saleem Bhai v. State of Maharashtra, AIR 2003 SC 759***, it was held with reference to Order VII, Rule 11 of CPC that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial Court can exercise the power at any stage of the suit before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under Clauses (a) and (d) of Order VII Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

9. In the case of ***Popat and Kotecha Property v. State Bank of India Staff Association, (2005) 7 SCC 510***, it was held as under: -

"20……The real object of Order VII Rule 11 of the Code is to keep out of courts irresponsible law suits…….

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23.Rule 11 of Order VII lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to

> *contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word "shall" is used clearly implying thereby that it casts a duty on the Court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant. In any event, rejection of the plaint under Rule 11 does not preclude the plaintiffs from presenting a fresh plaint in terms of Rule 13."*

10. Thus, the real object of Order VII, Rule 11, CPC is to keep out irresponsible lawsuits from the Courts and it provides for an independent remedy for the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The Supreme Court in ***Sopan Sukhdeo Sable v. Asstt. Charity Commr., (2004) 3 SCC 137,*** held as under:-

> *" 17.... The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by a searching examination of the party, in case the court is prima facie of the view that the suit is an abuse of the process of the court, in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.*
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> *20....Rule 11 of Order 7 lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the*

> *filing of a written statement. Instead, the word —shall‖ is used, clearly implying thereby that it casts a duty on the court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant. In any event, rejection of the plaint under Rule 11 does not preclude the plaintiffs from presenting a fresh plaint in terms of Rule 13."*

11. In ***Azhar Hussain*** v. ***Rajiv Gandhi, AIR 1986 SC 1253,*** the Supreme Court further held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste the judicial time of the Court, in the following words :-

> *"12. ... The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the court readily exercises the power to reject a plaint, if it does not disclose any cause of action……"*

12. Thus, on the conspectus of the settled position of law, it is crystal clear that the power vested in the Court under Order VII, Rule 11 of CPC is to curb abusive or fruitless litigation which is bound to meet a dead fate. Order VII, Rule 11 CPC is a vital procedural safeguard that

prevents the abuse of the legal process and ensures that only legitimate disputes consume judicial time. While the rule acts as a gatekeeper preventing frivolous litigation, courts also exercise caution to ensure that genuine plaintiffs are not unjustly denied their right to seek justice due to hyper-technicalities. The balance lies in a judicious application of the rule, upholding the sanctity of court proceedings while safeguarding access to justice.

13. Applying the law laid down by the Supreme Court in the aforesaid decisions on exercise of powers under Order VII Rule 11 CPC to the facts of the case on hand and the averments in the plaint, this court is of the opinion that the applicant/defendant has not made out a case for rejection of plaint in exercise of power under Order VII Rule 11(a) CPC.

14. The application for rejection of plaint has been filed primarily on the ground that the plaint does not disclose any cause of action. It is a settled law that a cause of action is a bundle of facts which are required to be pleaded and proved for the purpose of obtaining relief claimed in the suit and for the said purpose the material facts and not the evidence are

required to be stated in the plaint. Whether a plaint discloses a cause of action or not is a question of fact and whether a cause of action is disclosed or not is to be found out from a reading of the plaint itself. The veracity of the averments made in the plaint or the chances of the allegations made in the plaint being proved are not relevant while deciding an application under Order 7 Rule 11 of CPC

15. In the case on hand, the plaintiff has specifically averred in the plaint that on 09.10.2023 the defendant sent an e-mail, which was totally false, malicious, without any basis and defamatory. The plaintiff has also reproduced the said e-mail in the plaint. In the plaint it has specifically been averred that said e-email was accessed by junior Advocates in the Office of the plaintiff at Shimla namely, Mr. Sameer Thakur, Ms. Shreya Chauhan and Ms. Sneh Bhimta for the purpose of taking follow up action and they were shocked to read the contents of the e-mail. The wife of the plaintiff, Smt. Sarita Shreedhar, was also shocked to read the allegations levelled by the defendant in the e-mail, not only pertaining to the official business, but also with respect to his personal life.

Smt. Sarita Shreedhar's e-mail account had an automatic filter that forwarded the said e-mail to the son of the plaintiff, Sh. Akshay Shreedhar. She was so much mentally perturbed that she had no other option but to discuss the matter with her sisters and other family members and all of them repeatedly enquired the matter from the plaintiff. It has further been alleged in the plaint that the contents of the e-mail have caused immense mental shock to the plaintiff, who happens to be a reputed lawyer and had earned his name in the profession. It has also been averred in the plaint that cause of action accrued to the plaintiff on 09.10.2023 at Shimla, where e-mail was accessed and published, leading to defamation of plaintiff.

16. Thus, the above stated facts as stated in the plaint, show that the plaintiff has certainly disclosed the cause of action for filing the present suit. Therefore, it cannot be contended that the plaint does not disclose the cause of action at all. Whether the plaintiff will succeed in his suit based on the above cause of action, is totally a different issue, which at this stage, is not for this Court to consider

and decide, as such issue has to be gone into only at the time of trial, by allowing the parties to lead evidence in support of their respective pleadings.

17. Hence, in view of the aforesaid discussion, this Court finds that the plaint in this case in fact discloses the "cause of action" and consequently, the plaint cannot be rejected as sought for by the defendant/applicant in this application as contemplated under Order 7 Rule 11(a) CPC. Accordingly, this application being devoid of any merits deserves dismissal and the same is dismissed. However the parties are left to bear their own costs.

18. The application is disposed of accordingly.

(Sushil Kukreja)
Judge

November 2nd, 2026
(raman)