



C.R.P.(MD)No.3715 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.3715 of 2025

and

C.M.P.(MD)No.19581 of 2025

S.Madasamy

... Petitioner

-VS.-

K.A.Kumaresan

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal, dated 14.11.2025 made in I.A.No.2 of 2025 in O.S.No.185 of 2025 on the file of Principal Subordinate Court, Nagercoil.

For Petitioner :Mr.Raguvaran Gopalan
For Respondent :Mr.C.T.Perumal



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ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned Principal Subordinate Judge, Nagercoil, in I.A.No.2 of 2025 in O.S.No.185 of 2025, dated 14.11.2025.

2.Heard Mr.Raguvaran Gopalan, learned Counsel for the Revision Petitioner and Mr.C.T.Perumal, learned Counsel for the respondent.

3.The respondent herein, as plaintiff, has filed a suit for declaration and injunction in O.S.No.185 of 2025 before the Principal Subordinate Court, Nagercoil, against the petitioner herein. During the pendency of the suit, the petitioner/defendant has filed an application in I.A.No.2 of 2023 under Order VII Rule (d) CPC to reject the plaint claiming title by way of a sale deed of the year 1991 and that the suit cannot be maintainable on the ground of limitation. The trial Court, vide impugned order, dated 14.11.2025, had dismissed the said application on the ground that the grounds raised by the petitioner can be decided only at the time of trial and the grounds are all triable in nature.



Challenging the same, the present Civil Revision Petition has been filed.

4.The learned Counsel for the revision petitioner submitted that the revision petitioner is the subsequent purchaser from his predecessor-in-title by name, one A.Natarajan Pillai, who is the brother of the plaintiff. Both the brothers have derived their shares pursuant to a Will, dated 18.01.1965 by their father, K.Arunachalam Pillai. The defendant later purchased the suit schedule property from the brother of the plaintiff, A.Natarajan Pillai. In the plaint, there is a variation with regard to the description and more over, when the property was purchased by the revision petitioner, who had carried a clear title, in the year 1991, the suit filed after a lapse of 34 years is not maintainable and is barred by law of limitation. He also submitted that the trial Court without even considering the averments made in the application filed to reject the plaint, has erroneously dismissed the said application, which needs interference of this Court.

5.In support of his contention, the learned Counsel for the petitioner relied upon the following judgments:



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(1)The judgment of the Hon'ble Supreme Court reported in **(2024) 15 SCC 675**, in the case of ***Shri Mukund Bhavan Trust and others – vs- Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and another***, wherein, the Hon'ble Supreme Court has held as follows:

“40.At this juncture, we wish to observe that we are not unmindful of the position of law that limitation is a mixed question of fact and law and the question of rejecting the plaint on that score has to be decided after weighing the evidence on record. However, in cases like this, where it is glaring from the plaint averments that the suit is hopelessly barred by limitation, the courts should not be hesitant in granting the relief and drive the parties back to the trial court. We again place it on record that this is not a case where any forgery or fabrication is committed which had recently come to the knowledge of the plaintiff. Rather, the plaintiff and his predecessors did not take any steps to assert their title and rights in time. The alleged cause of action is also found to be creation of fiction.

41.However, the trial court erroneously dismissed the application filed by the appellants under Order 7 Rule 11(d)CPC. The High Court also erred in affirming the same, keeping the question of limitation open to be considered by the trial court after considering the evidence along with other issues, without deciding the core issue on the basis of the averments made by Respondent 1 in the plaint as mandated by Order 7 Rule 11(d)CPC. The spirit and intention of Order 7 Rule 11(d)CPC is only for the courts to nip at its bud when any litigation ex facie appears to be a clear abuse of process. The courts by being reluctant only cause more harm to the defendants by forcing them to undergo the ordeal of leading evidence. Therefore, we hold that the plaint is liable to be rejected at the threshold.”

(2)The judgment of the Hon'ble Supreme Court reported in **(2025) 5**



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SCC 198, in the case of ***Uma Devi and others vs Anand Kumar and others***,

wherein, the Hon'ble Supreme Court has held as follows:

“13. A registered document provides a complete account of a transaction to any party interested in the property. This Court in Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana [Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656 : (2012) 1 SCC (Civ) 351 : (2012) 169 Comp Cas 133 : (2012) 340 ITR 1] held as under : (SCC pp. 664-65, para 15)

“15. ... ‘17. ... Registration of a document [when it is required by law to be, and has been effected by a registered instrument] [Ed. : Section 3 Explanation I TPA, reads as follows: “S. 3 Expln. I—Where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration....”(emphasis supplied)]] gives notice to the world that such a document has been executed.

18. Registration provides safety and security to transactions relating to immovable property, even if the document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents. Registration provides information to people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the person(s) presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title



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to the property may be affected and secure extracts/copies duly certified.’ [Ed. : As observed in Suraj Lamp & Industries (P) Ltd. (1) v. State of Haryana, (2009) 7 SCC 363, pp. 367-68, paras 17-18.]

14. Applying this settled principle of law, it can safely be assumed that the predecessors of the plaintiffs had notice of the registered sale deeds (executed in 1978), flowing from the partition that took place way back in 1968, by virtue of them being registered documents. In the lifetime of Mangalamma, these sale deeds have not been challenged, neither has partition been sought. Thus, the suit (filed in the year 2023) of the plaintiffs was prima facie barred by law. The plaintiffs cannot reignite their rights after sleeping on them for 45 years.

6. *Per contra*, the learned Counsel for the respondent submitted that the excess land, which has been available to the revision petitioner through the sale deed executed by his brother, A.Natarajan Pillai, was not known to him and it came to light only when the revision petitioner/defendant made trespass into the suit scheduled property on 21.05.2025. The respondent/plaintiff came to know about the sale deed only in the year 2024 and he preferred a complaint with the Mediation Centre and mediation did not fructify and the same was reported as not feasible on 22.02.2024 and thereafter, the revision petitioner/defendant made an attempt to trespass into the suit schedule property on 21.05.2025 and therefore, the present suit has been filed. He also submitted



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that the trial Court has rightly dismissed the application filed by the petitioner and all the grounds raised by the petitioner are all triable in nature which can be decided only during trial by adducing oral and documentary evidence. To strengthen his case, he relied upon a judgment of the Hon'ble Supreme Court reported in **CDJ 2025 SC 774**, in the case of **P.Kumarakruban vs P.Narayanan**, wherein, the Hon'ble Supreme Court has held as follows:

“12.In the present case, the appellant has specifically averred in the plaint that upon becoming aware of registration of documents allegedly carried out among the defendants in relation to the suit property, he immediately approached the Additional Commissioner of Police, Chennai and lodged a land grabbing complaint on 09.12.2011 against the family of Defendant No. 1. Subsequently, he applied for patta in his favour on 24.02.2012, and raised objections on 05.03.2012 to Defendant No. 4 stating that the suit property belonged to the plaintiff and that no registration concerning the same should be carried out. He has also submitted an objection petition to Defendant No. 5 requesting that no planning permit be granted to anybody except the appellant in respect of the suit property. Thereafter, the appellant instituted the suit on 03.12.2014 seeking a declaration and consequential reliefs. On the other hand, the respondents/defendants stated in their application filed under Order [VII Rule 11 CPC](#) that the appellant had knowledge of the execution of the sale deed by his father in favour of Defendant No. 1 at the earliest point of time and hence, the suit instituted by the appellant was barred by limitation. While the trial Court rejected the said application holding that the issue of limitation involved a mixed question of law and fact, the High Court in revision, took a contrary view and allowed the application filed under Order [VII Rule 11 CPC](#) and rejected the plaint solely on the ground that the suit was barred by limitation.



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12.1. However, we are of the considered view that the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under [Order VII Rule 11 CPC](#). Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable.

12.2. In this regard, we may usefully refer to the following decisions of this Court, which have consistently held that when the question of limitation involves disputed facts or hinges on the date of knowledge, such issues cannot be decided at the stage of [Order VII Rule 11 CPC](#):

(i) Daliben Valjibhai v. Prajapati Kodarbhai Kachrabhai⁷

“10. The First Appellate Court came to the conclusion that the defendants made an application for correcting the revenue records only in the year 2017 and on the said application the Deputy Collector issued notice to the plaintiffs in March 2017 and that was the time when the plaintiffs came to know about the execution of the sale deed. It is under these circumstances that the suit was instituted in the year 2017. While the High Court came to the correct conclusion that under Article 59 of the Limitation Act, a suit can be instituted within 3 years of the knowledge, it proceeded to return a finding that in cases where the document is registered, the knowledge must be presumed from the date of registration.

11.

12. Further, in Chhotanben v. Kirtibhai Jalkrushnabhai Thakkar where again a suit for cancellation of sale deed was opposed through an application under Order 7 Rule 11, on ground of limitation, this Court specifically held that limitation in all such cases will arise from date of knowledge. The relevant portion is as follows:



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“15. What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order 7 Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10-1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant-plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1 and 2) calling upon them to stop interfering with their possession and to partition the property and provide exclusive possession of half ($\frac{1}{2}$) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7 Rule 11(d). That view commends to us.

...

19. In the present case, we find that the appellant-plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original Defendants 1 and 2 by keeping them in the dark about such execution and within two days from the refusal by the original Defendants 1 and 2 to refrain from obstructing the peaceful enjoyment of use and possession of the



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ancestral property of the appellants. We affirm the view taken by the trial court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold in exercise of the power under Order 7 Rule 11(d) CPC.”

(emphasis supplied)

13. In view of the above, there was no justification for the High Court in allowing the application under Order 7 Rule 11, on issues that were not evident from the plaint averments itself. The High Court was also not justified in holding that the limitation period commences from the date of registration itself. In this view of the matter the judgment of the High Court is unsustainable.”

(ii) *Salim D. Agboatwala v. Shamalji Oddhavji Thakkar*⁸

“11. As observed by this Court in *P.V. Guru Raj Reddy v. P. Neeradha Reddy* [(2015) 8 SCC 331 : (2015) 4 SCC (Civ) 100], the rejection of plaint under Order 7 Rule 11 is a drastic power conferred on the court to terminate a civil action at the threshold. Therefore, the conditions precedent to the exercise of the power are stringent and it is especially so when rejection of plaint is sought on the ground of limitation. When a plaintiff claims that he gained knowledge of the essential facts giving rise to the cause of action only at a particular point of time, the same has to be accepted at the stage of considering the application under Order 7 Rule 11.

12. Again as pointed out by a three-Judge Bench of this Court in *Chhotanben v. Kiritbhai Jalkrushnabhai Thakkar* [(2018) 6 SCC 422 : (2018) 3 SCC (Civ) 524], the plea regarding the date on which the plaintiffs gained knowledge of the essential facts, is crucial for deciding the question whether the suit is barred by limitation or not. It becomes a triable issue and hence the suit cannot be thrown out at the threshold.

13...

14. But a defendant in a suit cannot pick up a few sentences here and there from the plaint and contend that the plaintiffs had constructive notice of the proceedings and that therefore limitation started running from the date of constructive notice. In fact, the plea of constructive notice is raised by the respondents, after asserting



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positively that the plaintiffs had real knowledge as well as actual notice of the proceedings. In any case, the plea of constructive notice appears to be a subsequent invention.”

(iii) Shakti Bhog Food Industries Ltd. v. Central Bank of India⁹

“6. The central question is : whether the plaint as filed by the appellant could have been rejected by invoking Order [7 Rule 11\(d\) CPC](#)?

7. Indeed, Order [7 Rule 11 CPC](#) gives ample power to the court to reject the plaint, if from the averments in the plaint, it is evident that the suit is barred by any law including the law of limitation. This position is no more res integra. We may usefully refer to the decision of this Court in Ram Prakash Gupta v. Rajiv Kumar Gupta [[\(2007\) 10 SCC 59](#)]. In paras 13 to 20, the Court observed as follows : (SCC pp. 65-66)

“13. As per Order 7 Rule 11, the plaint is liable to 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 to comply with the provisions of Rule 9;’

14. In Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, [[\(2003\) 1 SCC 557](#)] it was held with reference to Order 7 Rule 11 of the Code that:

‘9. ... 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



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any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule [11 Order 7 CPC](#), the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage....' (SCC p. 560, para 9).

15. In *ITC Ltd. v. Debts Recovery Appellate Tribunal* [*ITC Ltd. v. Debts Recovery Appellate Tribunal*, [\(1998\) 2 SCC 70](#)] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. "The trial court must remember that if on a meaningful—not formal—reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise its power under Order [7 Rule 11 CPC](#) taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, [it has to be nipped] in the bud at the first hearing by examining the party searchingly under Order [10 CPC](#)." (See *T. Arivandandam v. T.V. Satyapal* [[\(1977\) 4 SCC 467](#)], SCC p. 468.)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in *Roop Lal Sathi v. Nachhattar Singh Gill* [[\(1982\) 3 SCC 487](#)], only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In *Raptakos Brett & Co. Ltd. v. Ganesh Property* [[\(1998\) 7 SCC 184](#)] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 Order 7 was applicable.

19. In *Sopan Sukhdeo Sable v. Charity Commr.* [[\(2004\) 3 SCC 137](#)] this Court held thus : (SCC pp. 146-47, para 15)

'15. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not



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permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction or words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.'

20. For our purpose, clause (d) is relevant. It makes it clear that if the plaint does not contain necessary averments relating to limitation, the same is liable to be rejected. For the said purpose, it is the duty of the person who files such an application to satisfy the court that the plaint does not disclose how the same is in time. In order to answer the said question, it is incumbent on the part of the court to verify the entire plaint. Order 7 Rule 12 mandates where a plaint is rejected, the court has to record the order to that effect with the reasons for such order."

8. On the same lines, this Court in Church of Christ Charitable Trust & Educational Charitable Society v. Ponniamman Educational Trust [(2012) 8 SCC 706 : (2012) 4 SCC (Civ) 612], observed as follows : (SCC pp. 713-15, paras 10-12)

"10. ... It is clear from the above that where the plaint does not disclose a cause of action, the relief claimed is undervalued and not corrected within the time allowed by the court, insufficiently stamped and not rectified within the time fixed by the court, barred by any law, failed to enclose the required copies and the plaintiff fails to comply with the provisions of Rule 9, the court has no other option except to reject the same. A reading of the above provision also makes it clear that power under Order 7 Rule 11 of the Code can be exercised at any stage of the suit either before registering the plaint or after the issuance of summons to the defendants or at any time before the conclusion of the trial.

11. This position was explained by this Court in Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557], in which, while considering Order 7 Rule 11 of the Code, it was held as under : (SCC p. 560, para 9)



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'9. A perusal of Order [7 Rule 11 CPC](#) makes it clear 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 under Order [7 Rule 11 CPC](#) 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 Rule [11 Order 7 CPC](#), the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order [7 Rule 11 CPC](#) cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court.'

It is clear that in order to consider Order 7 Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the court to scrutinise the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averments. These principles have been reiterated in Raptakos Brett & Co. Ltd. v. Ganesh Property [(1998) 7 SCC 184] and Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express [(2006) 3 SCC 100].

12. It is also useful to refer the judgment in T. Arivandandam v. T.V. Satyapal [(1977) 4 SCC 467], wherein while considering the very same provision i.e. Order 7 Rule 11 and the duty of the trial court in considering such application, this Court has reminded the trial Judges with the following observation : (SCC p. 470, para 5)

'5. ... The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order [7 Rule 11 CPC](#) taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order



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10 [CPC](#). An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Chapter XI) and must be triggered against them.'

It is clear that if the allegations are vexatious and meritless and not disclosing a clear right or material(s) to sue, it is the duty of the trial Judge to exercise his power under Order 7 Rule 11. If clever drafting has created the illusion of a cause of action as observed by Krishna Iyer, J. in the abovereferred decision [T. Arivandandam v. T.V. Satyapal, [\(1977\) 4 SCC 467](#)], it should be nipped in the bud at the first hearing by examining the parties under Order 10 of the Code."

14. All these events have been reiterated in Para 28 of the plaint, dealing with the cause of action for filing of the suit. Indeed, the said para opens with the expression "the cause of action to file the suit accrued in favour of the plaintiff and against the defendants when the illegal recoveries were noticed and letter dated 21-7-2000 was sent to the defendants to clarify as to how the interest was being calculated". This averment cannot be read in isolation.

....

22. It is well-established position that the cause of action for filing a suit would consist of bundle of facts. Further, the factum of the suit being barred by limitation, ordinarily, would be a mixed question of fact and law. Even for that reason, invoking Order [7 Rule 11 CPC](#) is ruled out. In the present case, the assertion in the plaint is that the appellant verily believed that its claim was being processed by the regional office and the regional office would be taking appropriate decision at the earliest. That belief was shaken after receipt of letter from the Senior Manager of the Bank, dated 8-5-2002 followed by another letter dated 19-9-2002 to the effect that the action taken by the Bank was in accordance with the rules and the appellant need not correspond with the Bank in that regard any further. This firm response from the respondent Bank could trigger the right of the appellant to sue the respondent Bank. Moreover, the fact that the appellant had eventually sent a legal notice on 28-11-2003 and again on 7-1-2005 and then filed the suit on 23-2-2005, is also invoked as giving rise to cause of action. Whether this plea taken by the



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appellant is genuine and legitimate, would be a mixed question of fact and law, depending on the response of the respondents.”

7.By relying on the above judgment, the learned Counsel for the respondent submitted that the limitation is a question of facts and law, which has to be adjudicated only at the time trial and hence, he seeks dismissal of this petition.

8.This Court considered the submissions made on either side and perused the materials available on record.

9.It is not in dispute that the petitioner herein has filed an application to reject the plaint on the ground of limitation, which was negated by the trial Court. In the context of the present case, it is appropriate to rely upon a judgment of Hon'ble Supreme Court comprising three Judges Bench reported in **(2018) 6 SCC 422**, in the case of ***Chhotanben and another vs Kiritbhai Jalkrushnabhai Thakkar and others***, wherein, the Hon'ble Supreme Court has held as follows:

“16.The High Court on the other hand, has considered the



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matter on the basis of conjectures and surmises and not even bothered to analyse the averments in the plaint, although it has passed a speaking order running into 19 paragraphs. It has attempted to answer the issue in one paragraph which has been reproduced hitherto (in para 10). The approach of the trial court, on the other hand, was consistent with the settled legal position expounded in Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] , Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express [Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express, (2006) 3 SCC 100] and also T. Arivandandam v. T.V. Satyapal [T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467] .

.....

19. In the present case, we find that the appellant-plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original Defendants 1 and 2 by keeping them in the dark about such execution and within two days from the refusal by the original Defendants 1 and 2 to refrain from obstructing the peaceful enjoyment of use and possession of the ancestral property of the appellants. We affirm the view taken by the trial court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold in exercise of the power under Order 7 Rule 11(d) CPC.

20. In the above conspectus, we have no hesitation in reversing the view taken by the High Court and restoring the order of the trial court rejecting the application (Ext. 21) filed by Respondent 1-Defendant 5 under Order 7 Rule 11(d) CPC. Consequently, the plaint will get restored to its original number on the file of the IVth Additional Civil Judge, Anand, for being proceeded further in accordance with law. We may additionally clarify that the trial court shall give effect to the order passed below Ext. 17 dated 20-1-2016, reproduced in para 8, above, and take it to its logical end, if the same has remained unchallenged at the instance of any one of the defendants. Subject to that, the said order must be taken to its logical end in accordance with law.”



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10.In view of the proposition, as laid down by the Hon'ble Supreme Court in ***Chhotanben's*** case (referred above), if there is a question of dispute with regard to the knowledge between the petitioner and the respondent, where, the petitioner alleges that by virtue of the registered sale deed, the limitation commences from that date, and *per contra*, knowledge and sale deed which was known to the plaintiff only in the year 2024, then, these are all question of fact and question of law, which has to be adjudicated only before the trial Court. Therefore, this Court does not find any infirmity or irregularity in the order passed by the trial Court rejecting the claim to reject the plaint.

11.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.02.2026

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No



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To

The Principal Subordinate Judge, Nagercoil.



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