

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CR-2062-2026**Date of decision: 06.03.2026****Smt. Ashulika Sharma and another**

. . . . Petitioners

Vs.**Janhit Sewa Charitable Trust (Regd.) 576, Sector 16A, Faridabad**

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Anurag Mor and Mr. Nitin Verma, Advocates,
for the petitioners.

DEEPAK GUPTA, J.

The present revision petition has been filed by the defendants challenging the order dated 22.08.2024 (Annexure P4) passed by the learned Civil Judge (Junior Division), Faridabad, whereby their application under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint was dismissed, as well as the subsequent order dated 13.11.2025, whereby the review application filed by them under Section 114 read with Order XLVII Rule 1 CPC was also dismissed.

2. The respondent–plaintiff, a charitable trust, instituted a civil suit challenging the validity of a Will dated 06.10.2015 allegedly executed by Smt. Asarfi Devi and seeking declaratory and consequential reliefs. During the pendency of the suit, the defendants filed an application under Order VII Rule 11 CPC seeking rejection of the plaint on several grounds, inter alia, that the trust could not institute the suit in its own name, that all trustees had not been impleaded as parties, that the provisions of Section 92 CPC and Order XXXI CPC had not been complied with, that the plaint did not disclose a cause of action, and that the suit was barred by Order II Rule 2 CPC.

3. The learned trial Court, after hearing the parties and considering the pleadings, dismissed the said application by a detailed order dated 22.08.2024. The trial Court held that while considering an application under

Order VII Rule 11 CPC, only the averments contained in the plaint and the documents annexed therewith can be looked into. The Court further held that the plaint disclosed a clear cause of action, as the plaintiff had challenged the Will dated 06.10.2015 on grounds such as incapacity of the testator, fraud and undue influence. It was further observed that the questions regarding the authority of the person instituting the suit on behalf of the trust, the validity of the authority letter, and the applicability of Order II Rule 2 CPC involved mixed questions of law and fact, which could not be adjudicated at the stage of deciding an application under Order VII Rule 11 CPC. The trial Court accordingly concluded that none of the grounds raised by the defendants justified rejection of the plaint.

4. Aggrieved by the said order, the defendants filed an application seeking review of the order dated 22.08.2024, contending that the Court had committed errors apparent on the face of the record and had relied upon judgments, which were not applicable to the facts of the case. The learned trial Court examined the scope of review jurisdiction under Section 114 read with Order XLVII Rule 1 CPC and held that review can be entertained only when there is discovery of new and important matter, or when there is an error apparent on the face of the record. It was observed that the grounds raised by the defendants required re-examination of the merits of the case and involved a process of reasoning, which cannot be undertaken in review jurisdiction. The trial Court accordingly held that no error apparent on the face of the record had been shown and dismissed the review application vide order dated 13.11.2025.

5. Learned counsel for the petitioners has reiterated before this Court the same contentions, which were raised before the trial Court, particularly that the trust was not competent to institute the suit in its own name and that the provisions of Section 92 CPC and Order XXXI CPC had not been complied with. It has also been argued that the suit is barred by Order II Rule 2 CPC and therefore, the plaint ought to have been rejected.

6 Having considered the submissions made and perused the impugned orders, this Court finds no merit in the present revision petition.

7. It is a settled principle of law that while deciding an application under Order VII Rule 11 CPC, the Court has to confine itself to the averments made in the plaint and the documents relied upon therein. The defence raised by the defendants or disputed questions requiring evidence cannot be considered at that stage. The trial Court has correctly applied this settled principle while examining the application filed by the defendants.

8. A meaningful reading of the plaint shows that the plaintiff has challenged the Will dated 06.10.2015 on various grounds including incapacity of the testator, fraud and undue influence. These averments clearly disclose a cause of action for filing the suit. Whether the plaintiff will ultimately succeed in proving those allegations is a matter, which can only be determined during the course of trial.

9. Similarly, the question whether the person who instituted the suit had proper authority to represent the trust, or whether all trustees were required to be impleaded, are matters which involve disputed facts and require evidence. Such issues cannot be adjudicated at the stage of deciding an application under Order VII Rule 11 CPC.

10. The contention regarding the bar of Order II Rule 2 CPC has also been rightly rejected by the trial Court by holding that the applicability of such bar is a mixed question of law and fact, which cannot be decided without examining the pleadings and evidence relating to the earlier proceedings.

11. As regards the order dismissing the review application, the trial Court has correctly noticed that the power of review is extremely limited and cannot be exercised merely because another view on the merits of the matter is possible. The review jurisdiction cannot be used as a substitute for an appeal. The petitioners failed to point out any patent or self-evident error in the earlier order, and therefore the dismissal of the review application does not suffer from any illegality.

12. The scope of interference by this Court in revision under Section 115 CPC is also limited. Interference is warranted only when the subordinate Court has exercised jurisdiction not vested in it by law, or has failed to exercise

jurisdiction vested in it, or has acted with material irregularity in the exercise of its jurisdiction. No such jurisdictional error or material irregularity is made out in the present case.

13. The impugned orders passed by the trial Court are well reasoned and do not suffer from any perversity or illegality warranting interference by this Court.

14. Consequently, the present revision petition is dismissed.

15. It is, however, clarified that any observation made herein is only for the purpose of deciding the present revision petition and shall not be construed as an expression of opinion on the merits of the case pending before the trial Court.

06.03.2026

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>