



1

CR-1337-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 11th OF FEBRUARY, 2026CIVIL REVISION No. 1337 of 2025*SMT MAYA DEVI**Versus**SMT SUGAN SHARMA AND OTHERS*

.....
Appearance:

Shri Madhu Sudan Shrivastava - Advocate for applicant.

Shri C.P.Singh - Government Advocate for the State.

.....

ORDER

1. The present civil revision has been filed under Section 115 of the Code of Civil Procedure, 1908, challenging the order dated 17/10/2025 passed by 19th District Judge, Gwalior in RCSA No.440/2025, whereby the application filed by applicant/defendant No.1 under Order 7 Rule 11 read with Section 151 CPC has been dismissed.

2. The necessary facts for disposal of present revision, in short, are that respondent Nos. 1 and 2 (plaintiffs) instituted a civil suit for declaration and permanent injunction against the present applicant and other defendants. The present applicant/defendant No.1 filed an application under Order 7 Rule 11 CPC contending that the suit is barred by the principle of *res judicata* in view of compromise decree dated 22/12/2021 passed in Civil Suit No. 39-A/2010 titled Rajendra Sharma vs. Chandan Singh & Others. It was submitted that in the said earlier suit, the dispute regarding the property had



already been settled by way of compromise, and therefore, the present suit was not maintainable. The plaintiffs opposed the said application contending that the present cause of action is distinct and that the issues raised in the present suit are not barred by *res judicata*.

3. The learned trial Court, after hearing both parties, dismissed the application.

4. Assailing the said order, learned counsel for applicant submits that the suit is barred by the principle of *res judicata* in view of compromise decree dated 22/12/2021 passed in Civil Suit No. 39-A/2010 titled Rajendra Sharma vs. Chandan Singh & Others. It is submitted that in the said earlier suit, the dispute regarding the property had already been settled by way of compromise, and therefore, the present suit is not maintainable. It is submitted that the present suit is barred under Section 11 CPC and liable to be rejected under Order 7 Rule 11(d) CPC.

5. Heard learned counsel for the applicant.

6. From bare perusal of the plaint averments, it is found that the suit in respect of the disputed land mentioned in para 1 of the plaint is filed, *inter alia*, pleading that the property is a joint property of the plaintiffs and defendants No. 1 and 2. The compromise decree which has been relied upon by the applicant to submit that the dispute has been settled between the parties, filed as Annexure P-5, reveals that in the said civil suit some other relief has been sought by defendant No.3 against the predecessor-in-title, Chandan Singh. The parties to the present suit are different, and the *lis* which has been decided between the parties by way of compromise is also distinct



from the present suit. The subject matter in the compromise decree is 8 bighas of land of Survey Nos. 100, 101, 103, 104 and 105 of village Salupura Piproli District Gwalior. However, in the present suit, the subject matter is 32 bighas of land. Thus, from the perusal of the compromise decree, the dispute cannot be said to have been settled between the same parties.

7. It is trite law that while deciding an application under Order VII Rule 11 CPC, only plaint averments are germane (see *Nusli Neville Wadia Vs. Ivory Properties and Ors.* ((2020) 6 SCC 557)).

8. It is seen from the application that the questions of *res judicata* which is raised by the applicant/defendant do not *prima facie* establishes that the suit is barred by law from bare perusal averments of the plaint.

9. The Hon. Apex court vide order dated 12.9.2023 passed in Civil appeal No.5841/2023 in the case of Keshav Sood Vs. Kirti Pradeep Sood and others, has held that question of *res judicata* cannot be decided under Order 7 Rule 11 CPC and held as under :-

"4. After having heard the learned counsel appearing for the parties, we find that the plea of *res judicata* could not have been gone into on an application made by the appellant under Rule 11 of Order VII of CPC. Apart from pleadings in the earlier suit, several other documents which were relied upon by the appellant in his application under Rule 11 of Order VII of CPC were required to be gone into for deciding the issue of *res judicata*.

6. Hence, in our view, the issue of *res judicata* could not have been decided on an application under Rule 11 of Order VII of CPC. The reason is that the adjudication on the issue involves consideration of the pleadings in the earlier suit, the judgment of the Trial Court and the judgment of the Appellate Courts. Therefore, we make



it clear that neither the learned Single Judge nor the Division Bench at this stage could have decided the plea of res judicata raised by the appellant on merits."

10. Thus, this Court is of the considered opinion that the learned Court below has rightly exercised its jurisdiction while rejecting the application. This Court has not found any manifest illegality, material irregularity, or jurisdictional error in the impugned order warranting interference under Section 115 CPC.

11. Accordingly, the revision fails and is hereby **dismissed**.

(DEEPAK KHOT)
JUDGE

Aman