

1  
**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH**

**ON THE 3<sup>rd</sup> OF JANUARY, 2024**

**CIVIL REVISION No. 361 of 2022**

**BETWEEN:-**

**M/S RELIANCE CEMENT COMPANY PVT. LTD. (NOW KNOWN AS RCCPL PVT. LTD.) THROUGH ITS MANAGER, SIYAL GHOGHRI COAL MINES, TEHSIL UMRETH, DISTRICT CHHINDWARA (MADHYA PRADESH)**

**.....PETITIONER/DEFENDANT NO.1**

***(BY SHRI R.CHOUBEY - ADVOCATE)***

**AND**

- 1. MANMINDER SINGH S/O SHRI SURENDRA SINGH ARORA, AGED ABOUT 32 YEARS, BEHIND GURUDWARA PARASIYA, TEHSIL PARASIYA, DISTT. CHHINDWARA (MADHYA PRADESH)  
[RESPONDENT/PLAINTIFF]**
- 2. MINING OFFICER (DISTRICT MINERAL FOUNDATION) CHHINDWARA, OFFICE OF THE COLLECTOR, CHHINDWARA DISTRICT CHHINDWARA (MADHYA PRADESH)**
- 3. STATE OF M.P. THROUGH THE COLLECTOR C H H I N D W A R A COLLECTOR OFFICE, CHHINDWARA DISTRICT CHHINDWARA (MADHYA PRADESH)**

**.....RESPONDENTS**

***(RESPONDENT NO.1 BY SHRI R.S.SAINI - ADVOCATE)***

***(RESPONDENTS NO.2 & 3 BY SHRI R.PANDEY - PANEL LAWYER)***

.....

*This revision coming on for admission this day, the court passed the following:*

**ORDER**

Though this matter has been listed for orders on admission, however,

with the consent of learned counsel for the parties it is finally heard.

2. This revision has been filed by the applicant/defendant no.1 /M/s.Reliance Cement Company Pvt.Ltd. against order dated 05.5.2022 passed by the First Civil Judge, Junior Division, Parasisya, District Chhindwara in RCSA/19/2022 whereby his application under Order 7 Rule 11 of CPC has been rejected.

3. It is submitted by learned counsel for the applicant that on the same spot or disputed land the Central Government has granted lease to extract coal to his party, whereas the State Government granted lease for stone crushing or extracting of minor minerals from the top to the respondent, earlier in time. It is further submitted by learned counsel that in paragraph 2 of the plaint it is stated that lease in favour of plaintiff-Manminder Singh expired on 04.1.2019 and before expiry of the lease he has already filed an application for renewal of lease with Mining Officer, District Chhindwara, therefore, suit was filed for permanent injunction.

4. The petitioner/revisionist/defendant filed an application under Order 7 Rule 11 of CPC before the trial Court which was dismissed vide order dated 05.5.2022 (Annexure-A/4) on the ground that only plaint averments are to be seen and not the defence of the defendants.

5. Perused the record. Revision has been filed on the ground that no cause of action has arisen on the provision under Order 7 Rule 11 CPC. He further submits that plaintiff has filed Writ Petition No.12699/2020 [Manminder Vs. State] in the High Court, but subsequently it was withdrawn on 11.11.2020. The order of writ court is at Page No.35 of this revision. In W.P.No.12699/2020 also the issue of renewal of lease was involved.

6. After hearing the learned counsel for the rival parties, on being

asked specific question regarding validity of lease period to learned counsel for the respondent-Manminder Singh, he admitted that on the date of filing of the suit, especially in the light of withdrawal of the Writ Petition No.12699/2020 by plaintiff there was already no lease in favour of plaintiff-Manminder Singh.

7. On hearing learned counsel and perusing the record, this Court is of the considered view that on the date of filing of suit there was no cause of action in favour of plaintiff and the same would arise only when the lease deed is renewed or application was decided one way or the other. Therefore, in the considered opinion of this Court learned trial Court erred in recording finding in respect of application under Order 7 Rule 11 CPC. The Court under Order 7 Rule 11(a) of CPC has to see whether only cause of action has arisen in favour of plaintiff.

8. In this regard it is worth referring to the decision in the case of ***Dahiben Vs. Arvind Bhai Kalyanji Bhansali, 2020 SCC Online (SC) 562 [Civil Appeal No.9519/2010 decided on on 09.7.2020]*** wherein the Hon'ble Supreme Court has held as under:-नयते

*"12. We have heard the learned Counsel for the parties, perused the plaint and documents filed therewith, as also the written submissions filed on behalf of the parties.*

*12.1 We will first briefly touch upon the law applicable for deciding an application under Order VII Rule 11 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 to comply with the provisions of rule 9*

*Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of exceptional nature for correction the valuation or supplying the requisite stamp-paper, 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.”*

*(emphasis supplied)*

*The remedy under Order VII Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.*

*The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not*

wasted.

*In Azhar Hussain v. Rajiv Gandhi*<sup>1</sup> this Court 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 judicial time of the court, in the following words:

“12. ...The whole purpose of conferment of such power 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 if an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”

12.2 The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order VII Rule 11 are required to be strictly adhered to.

12.3 Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint, read in conjunction with the documents relied upon, or whether the suit is barred by any law.

12.4 xxxxxxxx

12.5 In exercise of power under this provision, the Court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

12.6 At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration.

12.7 *The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I & Anr.,<sup>4</sup> which reads as:*

*“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.”*

*In Hardesh Ores (P.) Ltd. v. Hede & Co.<sup>5</sup> the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact.*

12.8 *If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order VII Rule 11 CPC.*

12.9 *The power under Order VII Rule 11 CPC may be exercised by the Court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain (supra).*

12.10 *The provision of Order VII Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clause (a) to (e) are made out. If the Court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the Court has no option, but to reject the plaint.*

13. *“Cause of action” means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. It consists of a bundle of material facts, which are necessary for the plaintiff to prove in order to entitle him to the reliefs claimed in the suit.*

*In Swamy Atmanand v. Sri Ramakrishna Tapovanam this Court held:-*

*“24. A cause of action, thus, means every fact, which if traversed, it would be necessary for the plaintiff to prove an order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded” (emphasis supplied)*

*In T. Arivandandam v. T.V. Satyapal & Anr.9 this Court held that while considering an application under Order VII Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something purely illusory, in the following words: -*

*“5. ...The learned Munsiff 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 O. VII, R. 11, C.P.C. 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...”*  
(emphasis supplied)

*Subsequently, in I.T.C. Ltd. v. Debt Recovery Appellate Tribunal, this Court held that law cannot permit clever drafting which creates illusions of a cause of action. What is required is that a clear right must be made out in the plaint.*

*If, however, by clever drafting of the plaint, it has created the illusion of a cause of action, this Court in Madanuri Sri Ramachandra Murthy v. Syed Jalal<sup>11</sup> held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage.*

*The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court.*

*14. ....A three-Judge Bench of this Court in State of Punjab v. Gurdev Singh,<sup>13</sup> held that the Court must examine the plaint and determine when the right to sue first accrued to the plaintiff, and whether on the assumed facts, the plaint is within time. The words “right to sue” means the right to seek relief by means of legal proceedings. The right to sue accrues only when the cause of action arises. The suit must be instituted when the right asserted in the suit is infringed, or when there is a clear and unequivocal threat to infringe such right by the defendant against whom the suit is instituted.*

*Order VII Rule 11(d) provides that where a suit appears from the averments in the plaint to be barred by any law, the plaint shall be rejected.”*

9. At this juncture, learned counsel for the applicant/revisionist submits



that for cancellation of application for renewal of lease a proposal was already sent on 02.11.2020 by Collector and information was given to plaintiff-Manminder vide endorsement No.4006 dated 02.11.2020.

**10.** It was the duty of the learned trial Court to see before registration of the plaint whether any cause of action has arisen or not. Learned trial Court did not consider the provisions of Order 7 Rule 11(a) of CPC. Resultantly, this revision is allowed and the suit of the respondent/plaintiff being without any cause of action is dismissed.

RM



**(AVANINDRA KUMAR SINGH)**  
**JUDGE**