



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRP No.15 of 2022

(In the matter of an application under Section 115 of
the Code of Civil Procedure)

UCO Bank, Rourkela Branch, **Petitioner**
Sector-19 **represented**
through the Branch Head-
cum-Chief Manager and
authorized Officer

-versus-

Purnima Agarwal and others **Opposite Parties**

Appeared in this case:-

For Petitioner : Mr. Subrat Mishra, Advocate

For Opposite Parties : Mr. Anupam Dash, Advocate
For Opposite Party No.1

Mr. Jagdish Biswal, Advocate
For Opposite Party No.2 & 3

CORAM:
JUSTICE A.C. BEHERA

JUDGMENT

Date of hearing :02.07.2025 / date of judgment : 25.07.2025

A.C. Behera, J. This revision under Section 115 of the C.P.C., 1908
has been filed by the petitioner-Bank against the Opposite
Parties praying for setting aside an order of rejection to its

petition under Order-7, Rule-11 read with Section 151 of the Code of Civil Procedure, 1908 (in short “the C.P.C., 1908”) passed on dated 23.06.2022 in the suit vide C.S. No.91 of 2020 by the learned Senior Civil Judge, Rourkela.

2. The petitioner-Bank in this revision is the defendant no.2 and Opposite Party No.4 is the plaintiff, the Opposite Party No.2 is the defendant no.1 and Opposite Party No.3 in the suit vide C.S. No.91 of 2020 pending in the court of learned Senior Civil Judge, Rourkela.

3. The C.S. No.91 of 2020 has been filed by the Opposite Party No.1 in this revision being the plaintiff against the petitioner and Opposite Party No.2 in this revision arraying them as defendants, praying for several relief(s) against the defendants and that suit vide C.S. No.91 of 2020 is subjudice/pending in the court of learned Senior Civil Judge, Rourkela.

4. The factual backgrounds of this revision, which prompted the petitioner (defendant no.2) for filing of the same is that, the defendant no.3 had availed loan from the petitioner-Bank(defendant no.2) and in order to secure such

loan, the defendant no.1 mortgaged some properties in the Bank(defendant no.2) including the suit scheduled properties, as guarantor of the said loan of the defendant no.3. Due to non-payment of the loan dues, the defendant no.2-Bank decided to sell the suit scheduled mortgaged properties issuing letters to the defendant nos.1 and 3 stating that, the secured suit scheduled properties shall be released subject to deposit of Rs.3,25,000,000/-(rupees three crores twenty-five lakhs) and thereafter with the knowledge of the Bank(defendant no.2), defendant nos.1 and 3, the plaintiff paid all the outstanding loan dues of the defendant no.3 to the defendant no.2-Bank, to which, defendant no.2-Bank acknowledged. When, with the knowledge, consent and acknowledgement of the defendant no.2-Bank, the plaintiff paid Rs.3,25,000,000/-(rupees three crores twenty-five lakhs) to the defendant no.2-Bank making clear to all the loan outstanding dues against defendant no.3 for releasing the mortgaged suit scheduled properties of the defendant no.1 in her favour, then, at this juncture, the defendant no.2-Bank and defendant no.1 are jointly liable for releasing the suit scheduled properties in

favour of the plaintiff. As, the defendant no.2-Bank did not do so, then, the plaintiff approached the Civil Court by filing a suit vide C.S. No.91 of 2020 on dated 06.05.2020 against the defendants praying for the reliefs indicated in the plaint.

5. During the pendency of the suit vide C.S. No.91 of 2020, the defendant no.2-Bank filed a petition on dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C. praying for rejection of the plaint of the plaintiff on the following grounds, i.e., :-

- (a) *The suit of the plaintiff is barred by limitation.*
- (b) *The suit of the plaintiff is not maintainable as per Sections 13 and 14 of the SARFAESI Act, 2002.*
- (c) *The Civil Court lacks its jurisdiction to entertain the suit, in view of Section 17 of the SARFAESI Act, 2002, because, the matter relates to the SARFAESI Act, 2002, the same can only be tried before the DRT.*
- (d) *The Civil Court has no jurisdiction to grant any of the reliefs sought for by the plaintiff in the suit vide C.S. No.91 of 2020.*
- (e) *The suit of the plaintiff vide C.S. No.91 of 2020, is not entertainable in the Civil Court.*
- (f) *There is no cause of action for the plaintiff to institute the suit.*
- (h) *The plaint of the plaintiff is liable to be rejected due to non-pleading of material facts.*

6. To which, the plaintiff objected by filing her objection stating that, the petition under Order-7, Rule-11 read with



Section 151 of the C.P.C. of the defendant no.2-Bank at the belated stage, i.e., at the fag end of the trial of the suit is not entertainable under law. For which, such petition of the defendant no.2-Bank is baseless. The defendant no.2-Bank has intended to mis-direct the Court. The averments made in the plaint of the plaintiff is clearly going to show about the fraudulent actions and activities of the defendant no.2-Bank and such fraudulent communications, acts and activities of the defendant no.2-Bank in defeating the justified claim of the plaintiff are required to be adjudicated and decided through elicitation of evidence after full-fledged trial of the suit and the suit of the plaintiff cannot be held as not maintainable under law prior to its judgment. The plaintiff has cause of action for filing the suit. The Civil Court has jurisdiction to grant the reliefs sought for by the plaintiff. The grounds raised by the defendant no.2-Bank in its petition under Order-7, Rule-11(d) read with Section 151 of the C.P.C. for rejection of the plaint are based on facts, for which, without the trial of the suit, the plaint of the plaintiff cannot be rejected. The conduct of the defendant no.2-Bank in filing the petition for rejection of plaint at the



fag end of the trial of the suit is not at all bonafide. For which, the petition dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C. of the defendant no.2-Bank is liable to be rejected.

7. After hearing from the learned counsels of both the sides, the learned Senior Civil Judge, Rourkela rejected to that petition dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C. of the defendant no.2-Bank on dated 23.06.2022 assigning the reasons that,

“the evidence from the side of the plaintiff and defendant no.1 in the suit vide C.S. No.91 of 2020 has already been closed. After closure of evidence from the side of the plaintiff and defendant no.1, when, the defendant no.2-Bank filed a petition on dated 1403.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 praying for rejection of the plaint of the plaintiff without producing the witness of the defendant no.2-Bank in the court for examination, then in such a situation, without proceeding for completion of rest part of the trial of the suit, it is not desirable to reject the plaint of the plaintiff under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908. For which,

the petition under Order-7, Rule-11 read with Section 151 of the C.P.C. filed by the defendant no.2-Bank is rejected being devoid of any merit.”

8. On being aggrieved with the above impugned order, i.e., rejection of the petition under Order-7, Rule-11 read with Section 151 of the C.P.C. of the defendant no.2-Bank passed on dated 23.06.2022 in the suit vide C.S. No.91 of 2020 by the learned Senior Civil Judge, Rourkela, the defendant no.2-Bank challenged the same by filing this revision under Section 115 of the C.P.C., 1908 being the petitioner against the plaintiff arraying her as Opposite Party No.1 and also arraying the defendant nos.1 and 3 as Opposite Party Nos.2 and 3 respectively.

9. I have already heard from the learned counsel for the petitioner(defendant no.2-Bank), the learned counsel for the Opposite Party No.1(plaintiff) and the learned counsel for the Opposite Party Nos.2 and 3(defendant nos.1 and 3).

10. In order to assail the impugned order dated 23.06.2022 passed by the learned Senior Civil Judge, Rourkela in C.S. No.91 of 2020, the learned counsel for the



petitioner(defendant no.2-Bank) relied upon the following decisions:-

(i) **(2007) 10 SCC-59 : Ram Prakash Gupta vrs. Rajiv Kumar Gupta and others, Civil Appeal No.4570 of 2023 decided on 11.09.2024 : M/s. Bhagya Estate Ventures Pvt. Ltd. vrs. Narne Estates Pvt. Ltd and another, 2025 SCC online SC-975, P. Kumarakurubaran vrs. P. Narayanan and others, 2017 (Supl.I) OLR-888 : Bata Kishore Seth vrs. Kalarsing Meher and another, Livelaw(SC)-822 : C.S. Ramaswamy vrs. K. Senthil and others, Civil Appeal No.2717 of 2023 : Venkatanna and another vrs. Nasyam Jamal Saheb and others, Civil Appeal No.14807 of 2024(arising out of SLP(C) No.18977 of 2016) : Sri Mukund Bhavan Trust and others vrs. Srimant Chhatrapati Udayan Raje Pratapsingh Maharaj Bhonsle and another, (2022) 2 SCC-573 : Electrosteel Casrings Ltd. vrs. U.V. Asset Reconstruction Co. Ltd., (2020) 16 SCC-601(Para-7) : Raghvendra Sharan Singh vrs. Ram Prasanna Singh (dead) through Legal Representatives, (2014) 14 SCC-254 : Suresh Kumar Dagla vrs. Sarwan and another, (2018) 8 SCC-120(Paras-8 and 9) : Authorized officer, State Bank of India vrs. Allwyn Alloys Pvt. Ltd. and others, (2015) 4 SCC-371(Paras-16 to 20) : Om Agrawal vrs. Haryana Financial Corporation and others, (2005) 11 SCC-314 : Sangramsingh P. Gaekwad and others vrs. Shantadevi P. Gaekwad and others, (2003) 1 SCC(Para-9) : Saleem Bhai and others vrs. Sate of Maharashtra and other, (2021) 6 SCC-707(Para-12) : Opto Circuit India vrs. Axis Bank and others, (2005) 11 SCC-3144(Paras-143 to 145) : Sangram Singh P. Gaeakwad and others vrs. Shanti Devi and others, (2023) 16 SCC-331 : Punjab and Sind Bank vrs., Frontline Corporation Ltd., (2018) 1 SCC-626 : B. Agarwal Tracom Pvt. Ltd vrs. Punjab National Bank and others, (2014) 1 SCC-479 : Jagdish Singh vrs. Heeralal and others, (1019) 14 SCC-788 : Shree Anandhakumar Mills Ltd. vrs. Indian Overseas Bank and Others and (1998) 2 SCC-70 (Paras-12 to 14) : ITC Limited vrs. Debts Recovery Appellate Tribunal.**



11. In support of the impugned order dated 23.06.2022 passed in C.S. No.91 of 2020, the learned counsel for the Opposite Party No.1(plaintiff) relied upon the following decisions:-

(i) ***Civil appeal No.4570 of 2023 decided on 11.09.2024 : M/s. Bhagya Estate Ventures Private Ltd. vrs. Narne Estate Pvt. Ltd. and another and (2007) 10 SCC-59 : Ram Prakash Gupta vrs. Rajiv Kumar Gupta and others.***

12. It appears from the record that, the suit vide C.S. No.91 of 2020 was filed by the plaintiff(Opposite Party No.1 in this revision) on dated 06.05.2020. The defendant no.2-Bank filed the petition under Order-7, Rule-11 read with Section 151 of the C.P.C. for rejection of the plaint on dated 14.03.2022, when, the suit vide C.S. No.91 of 2020 was at the fag end of its trial, because, by that time, the evidence from the side of the plaintiff and defendant no.1 was closed due to examination and cross-examination of the witnesses of the plaintiff and defendant no.1. When, the suit was posted for examination of witness from the side of the defendant no.2-Bank in that stage, instead of examining any witness on behalf of the defendant no.2-Bank, the defendant no.2-Bank filed the petition on dated 14.03.2022



under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 praying for rejection of the plaint of the plaintiff.

13. It is fundamental in law that, a petition for rejection of plaint can be filed by any of the defendants in the suit at any stage of the suit.

14. It is the settled propositions of law that, when the Civil Court has the jurisdiction to decide one relief out of several reliefs in a plaint, the suit is maintainable in the Civil Court, irrespective of the facts, whether other reliefs can be granted or not.

Likewise, a plaint cannot be rejected in part, because, the law does not provide for the compartmental rejection of a plaint.

15. The grounds for rejection of the plaint raised by the plaintiff in its petition under Order-7, Rule-11 read with Section 151 of the C.P.C., as indicated above in paragraph-5 of this judgment are the issues in the suit vide C.S. No.91 of 2020.

The parties to the suit including the defendant no.2-Bank after knowing about issues framed covering the

grounds in the petition dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 proceeded with the trial of the suit vide C.S. No.91 of 2020 up-to the closure of evidence of the plaintiff and defendant no.1.

16. It is the settled propositions of law that, when there is an issue in the suit, the said issue needs to be decided by the Court in the final judgment of the suit, but, the same would not provide the ground for rejection of plaint under Order-7, Rule-11 of the C.P.C., 1908. Because, the ground raised by the defendant for rejection of the plaint shall be answered very well in the judgment of that suit after appreciation of the pleadings and evidence of the parties.

17. Therefore, the grounds raised by the defendant no.2-Bank for rejection of the plaint of the plaintiff being the contentious issues in the suit shall be adjudicated by the trial Court on the basis of the pleadings and evidence of the parties and the said issues shall be answered properly and effectively in the judgment of the suit. For which, filing of the petition by the defendant no.2-Bank for rejection of plaint of the plaintiff at a belated stage of the suit vide C.S.



No.91 of 2020 after closure of evidence of the plaintiff and defendant no.2-Bank is to be disapproved.

18. On this aspect, the propositions of the above observations made above find support from the ratio of the following decisions of the Apex Court and the Hon'ble Courts :-

(i) In a case between ***M/s. Bhagya Estate Ventures Pvt. Ltd. vrs. Narne Estates Pvt. Ltd. and another decided on dated 11.09.2024 (by three Judges Bench of the Supreme Court) in Civil Appeal No.4570 of 2023 at Para-15*** that, there is no reason for the right of the defendant to raise a plea for rejection of the plaint by filing an application under Order-7, Rule-11 of the C.P.C. at a far belated stage such as final arguments or nearing conclusion of the trial of the suit. Allowing such pleas to be raised after the trial has proceeded so far would not only defeat the intent of the provisions but would also go against the principle of equity and would lead to wastage of the court resources. Additionally, allowing such rights to survive till eternity only act as a catalyst for the defendant to misuse the provision to prolong or delay the trial and abuse the process of law.

(ii) In a case between ***Ram Prakash Gupta vrs. Rajiv Kumar Gupta and others*** : reported in ***(2007) 10 SCC-59*** that, rejection of the plaint under Order-7, Rule-11 of the C.P.C. at a belated stage after filing of written statement, framing of issues and cross-examination, disapproved.

(iii) In a case between ***Rajiv Kant and others vrs. Govind Singh Pathania*** decided in ***C.M.P.M.O. No.421 of 2018 on 04.04.2021 in the High Court of Himachal Pradesh*** that, moving of an application under Order-7, Rule-11 of the C.P.C.



for rejection of plaint at fag end of trial is nothing but a try to drag proceedings.

(iv) In a case between **Jagir Singh vrs. Shama : reported in 2016(2) Civil Court Cases-181(P&H) (Para-3)** that, when, the petition for rejection of plaint is under Order-7, Rule-11 of the C.P.C. is filed after the conclusion of the plaintiffs evidence and when it was the turn of the defendant to examine himself and when he was even cross-examined, the application for rejection of plaint was surely not bonafide.

(v) In a case between **Panjarapol Society, Churu and another vrs. Board of Revenue, Ajmer and others : reported in 2019(3) C.J. (Civil) Rajasthan-1415** that, obviously contentious of issues shall be adjudicated by the Court on the basis of evidence to be led by the parties. For which, the application under Order-7, Rule-11 of the C.P.C. for rejection rightly the plaint is dismissed.

(vi) In a case between **ICICI Bank Ltd. vrs. Narendra Kumar Bhutani : reported in 2014(3) Civil Court Cases-648 (Rajasthan)** that, when application under Order-7, Rule-11 of the C.P.C. for rejection of plaint belatedly filed after conclusion of evidence of plaintiff and defendant failed to point out for bar contained under any statute against filing of the suit with regard to the relief claimed by the plaintiff. Maintainability of suit be decided after parties laid evidence. Rejection to the application under Order-7, Rule-11 of the C.P.C. calls for no interference.

(vii) In a case between **Prajapati Rameshkumar Bhagwandas vrs. Thakore Jugaji Malaj : reported in 2020(1) Civil Court Cases-299(Gujarat)** that, when the trial of the suit has commenced and application under Order-7, Rule-11 of the C.P.C. for rejection of plaint filed at a much belated stage, same is not required to be entertained as a belated attempt deserves to be discouraged, application under Order-7, Rule-11 of the C.P.C. rejected.



(viii) In a case between **Shri Elmano menio Dias vrs. The Archbishop, Archdiocese of Goa** : reported in **2009(2) Civil Court Cases-113 (Bombay)** that, when, there is an issue which needs to be decided by the Court at the final hearing, it will not provide the ground for rejection of the plaint under Order-7, Rule-11 of the C.P.C.

(ix) In a case between **Nanu Ram Sharma and another vrs. Additional District Judge(Fast Track) No.2, Jaipur District Jaipur and others** : reported in **2012(2) Civil Court Cases-462(Rajasthan)** that, when written statement filed and thereafter, application under Order-7, Rule-11 of the C.P.C. for rejection of plaint filed. Plea that suit is not maintainable. Order that objections raised by the defendant shall be taken into consideration after recording the evidence of both the parties. No error.

19. Here, in this matter at hand, when the defendant no.2-Bank has filed the petition under Order-7, Rule-11 read with Section 151 of the C.P.C. on dated 14.03.2022 after closure of evidence from the side of the plaintiff and defendant no.1, and when the suit vide C.S. No.91 of 2020 was posted for adducing evidence from the side of the defendant no.2-Bank, then, at this juncture, by applying the propositions of law enunciated by the Apex Court and the Hon'ble Courts in the ratio of the above decisions indicated above in Para No.18 of this judgment including the decisions relied by the parties indicated in Para Nos.10 and 11 of this judgment, it is held that, petition dated

14.03.2022 of the defendant no.2-Bank under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 for rejection of plaint of the plaintiff at the fag end of the trial of the suit is not bonafide. Because, the grounds raised by the defendant no.2-Bank in its petition dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 for rejection of plaint of the plaintiff are the issues in the suit vide C.S. No.91 of 2020 and the said issues shall be decided finally in its judgment within a very short period only after closure of evidence from the side of the defendant no.2-Bank. For which, the aforesaid belated attempt of the defendant no.2-Bank in filing a petition under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 for rejection of the plaint of the plaintiff is discouraged.

20. That apart, when the trial of the suit vide C.S. No.91 of 2020 has progressed substantially and the same is at its fag end, then at this stage, if the defendant no.2-Bank will be allowed to raise the issues in the suit again as the grounds in its petition dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 for rejection of plaint of the plaintiff, the same will not only nullify the



intention of the provisions under Orde-7, Rule-11 of the C.P.C., but that will go against the principle of equity and the same shall ultimately lead to wastage of time of the Court prolonging the trial of the suit resulting in abuse of process of the court.

21. As per the discussions and observations made above, when it is held that, the petition dated 14.03.2022 under Order-7, Rule-11 read with Section 151 of the C.P.C., 1908 of the defendant no.2-Bank for the rejection of the plaint of the plaintiff was not bonafide, then at this juncture, it cannot be held that, the rejection of that petition of the defendant no.2-Bank by the trial court through the impugned order dated 23.06.2022 is erroneous. For which, the question of interfering with the same through this revision filed by the petitioner(defendant no.2-Bank) does not arise.

22. Therefore, there is no merit in this revision filed by the petitioner(defendant no.2-Bank). The same must fail.

23. In result, this revision filed by the petitioner (defendant no.2-Bank) is dismissed on contest.



24. The Trial Court, i.e., learned Senior Civil Judge, Rourkela is directed to dispose of the suit vide C.S. No.91 of 2020 pending in its court as expeditiously as possible within a period of four months from the date of communication of this judgment.

The parties of this revision are directed to appear in the court of the learned Senior Civil Judge, Rourkela in C.S. No.91 of 2020 on dated 11.08.2025 for the purpose of receiving the directions of the learned Senior Civil Judge, Rourkela as to further proceedings of that suit vide C.S. No.91 of 2020.

25. As such, this revision is disposed of finally.

(A.C. Behera)
Judge

Orissa High Court, Cuttack
The 25th of July, 2025/ Jagabandhu, P.A.