

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

+ CIVIL REVISION PETITION NO: 331/2026

% 27.02.2026

Mikkilineni Yujaya Dinesh Babu & 4 others.

.....Petitioners

And:

\$ Pasala Satyavathi

....Respondent

!Counsel for the petitioners

: Sri B.Nalin Kumar, learned senior
counsel assisted by Sri Mannam
Venkata Krishna

^Counsel for the respondent

:

<Gist:

>Head Note:

? Cases referred:

1. 2025 SCC OnLine SC 779
2. (2016) 1 SCC 332
3. (2011) 9 SCC 126
4. AIR 2008 Supreme Court 2033
5. (2020) 7 SCC 366
6. (2005) 7 SCC 510
7. 2025 SCC OnLine SC 975
8. (2024) 19 SCC 121

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

CIVIL REVISION PETITION NO: 331/2026

DATE OF JUDGMENT PRONOUNCED: **27.02.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI,J

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 331/2026

ORDER:

Heard Sri B.Nalin Kumar, learned senior advocate, assisted by Sri MannamVenkata Krishna Rao, learned counsel for the petitioners.

2. The present Civil Revision Petition under Article 227 of Constitution of India has been filed by the petitioners/defendants being aggrieved from the order dated 10.12.2025 of rejection of their application under Order VII Rule 11 of the Code of Civil Procedure (in short 'CPC') in I.A.No.474 of 2025 in O.S.No.230 of 2021 on the file of the XI Additional District Judge, Visakhapatnam filed by the plaintiff-respondent.

3. The plaintiff (respondent herein) initially filed O.S.No.1492 of 2005 on the file of III Additional Senior Civil Judge, Visakhapatnam for a perpetual injunction restraining the defendants (the petitioner Nos.1, 2 & the predecessor in the interest of the petitioner Nos.3 to 5 herein) from interfering with the peaceful possession and enjoyment of the plaintiff of the suit schedule property. In the suit, the petitioners filed written statement raising various pleas. The suit was dismissed on 04.07.2016. The plaintiff filed A.S.No.155 of 2016 which was dismissed as not pressed vide order dated 18.02.2016 passed by XI Additional District Judge, Visakhapatnam.

4. The plaintiff thereafter filed another O.S.No.230 of 2021 in the Court of XI Additional District Judge, Visakhapatnam for declaration of title and permanent injunction. The suit is pending.

5. In O.S.No.230 of 2021, the defendants/petitioners filed I.A.No.474 of 2025 under Order VII Rule 11 CPC to reject the plaint on the ground that the suit was barred by limitation. Inter-alia, it was stated that in the previous suit O.S.No.1492 of 2005, the defendants had filed written statement and denied the title of the plaintiff. The defendants case in the application under Order VII Rule 11 CPC was that since the defendants denied the title of the plaintiff in the written statement filed in O.S.No.1492 of 2005, as per Article 58 of the Limitation Act, the suit O.S.No.230 of 2021 for declaration was barred by limitation and was liable to be rejected. The O.S.No.230 of 2021 was required to be filed within a period of limitation of 3 years from the date cause of action first accrued i.e., when the written statement was filed in O.S.No.1492 of 2005 in 2005 itself. Reliance was placed in Article 58 of the Limitation Act.

6. The plaintiff-respondent filed objection/counter,inter-alia taking the stand that the application under Order VII Rule 11(d) CPC on the ground of limitation was premature, legally untenable and misconceived. The suit was not barred by limitation. The plaintiff-respondent further pleaded that after the decree in O.S.No.1492 of 2005, the plaintiff had filed A.S.No.155 of 2016 and during its pendency the defendants/petitioners with malafide intent, began spreading false propaganda in and around the vicinity of the suit schedule property, falsely claiming ownership thereof and on 15.08.2021 taking the advantage of their men, they made an unsuccessful attempt to trespass into the suit schedule property. Their right to sue for declaration was said to have

accrued on 15.08.2021. The defendants misconstituted the cause of action from the written statement filed in earlier suit, O.S.No.1492 of 2005.

7. Learned XI Additional District Judge, Visakhapatnam framed the following point for consideration:

“Whether any ground exists under Order VII Rule 11 CPC to reject the plaint as prayed by the petitioner/defendant or not?”

8. The learned Trial Court held that the plaint averments specifically stated that the cause of action arose on 15.08.2021. The plaintiff pleaded that plaintiff was an owner and in peaceful possession of the plaint schedule property and on 15.08.2021 the defendants attempted to interfere and set up false ownership and tried to trespass. Learned Trial Court held that the Court was bound to confine strictly to the plaint averments and the written statement or defense documents, earlier written statement, judgment in O.S.No.1492 of 2005 or the appeal pleadings could not be looked into at this stage to determine the limitation period based on disputed aspects. Under Article 58 of the Limitation Act, the limitation begins when the right to sue first accrued and according to the plaint averments a clear hostile act occurred on 15.08.2021. The suit was filed well within 3 years from the date of such cause of action. The plaint disclosed cause of action on 15.08.2021 and so, the relief in the suit on the face of the plaint, was not barred by limitation.

9. Learned XI Additional District Judge, Visakhapatnam on such consideration by order dated 10.12.2025 rejected I.A.No.474 of 2025.

10. Learned counsel for the petitioners submitted that the impugned order suffers from illegality. He submitted that in O.S.No.1492 of 2005 the defendants denied the title of the plaintiff. So, from such denial, cause of action for the declaration, accrued for the first time. He referred to the judgment of the learned Trial Court in O.S.No.1492 of 2005, (at page No.118 of the present CRP), and emphasized on the defendants pleading as mentioned therein to the following effect:

“.....they pleaded that plaintiff has no right over property since late Panchadarla Appayamma does not have exclusive right to alienate the property.....”.

11. From the aforesaid part of the judgment, the learned counsel submitted that it was the defendants' case that the plaintiff has no right over the property. It was denial of the plaintiff's title. So the cause of action for the suit for declaration accrued firstly in the year 2005 when the written statement was filed. Any cause of action as stated in the plaint of O.S.No.230 of 2021, on 15.08.2021, at best would be the subsequent or further cause of action but not the first cause of action under Article 58 of the limitation Act. The suit was thus barred by the limitation on the face of the material filed with the plaint, and the learned XI Additional District Judge, Visakhapatnam ought to have rejected the plaint under Order 7 Rule 11(d) CPC.

12. Learned counsel for the petitioners placed reliance in the judgments of **NikhilaDivyang Mehtav. Hitesh P.Sanghvi¹, L.C.Hanumanthappa v.**

¹ 2025 SCC OnLine SC 779

***H.B.Shivakumar*², *Khatri Hotels Private Limited v. Union of India*³, *AnathulaSudhakar v. P.Buchi Reddy*⁴, *Dahiben v. ArvinbhaiKalyanjiBhanusali*⁵**, on the scope of Order VII Rule 11 CPC and Article 58 of the Limitation Act in support of his contentions.

13. I have considered the submissions of the learned counsel for the petitioners and perused the material on record.

14. The point for consideration and determination is as follows:

“Whether the impugned order rejecting the application under Order 7 Rule 11(d) CPC and thereby not rejecting the plaint on the plea of limitation, suffers from any illegality?”

15. The main contention of the learned counsel for the petitioners is that the question of limitation is not a mixed question of law and fact. It is a pure question of law. He submitted that Article 58 of the Limitation Act provides that to obtain any other declaration, the period of limitation is three years and the time begins to run, ‘when the right to sue first accrues’. The right to sue for declaration accrued first to the plaintiff, when the defendant/petitioners filed written statement in O.S.No.1492 of 2005 denying the title of the plaintiff. That suit was dismissed on 04.07.2016. The appeal there against was also dismissed as withdrawn. So the suit for declaration in O.S.No.230 of 2021 must have been filed within a period of three years from the cause of action

² (2016) 1 SCC 332

³ (2011) 9 SCC 126

⁴ AIR 2008 Supreme Court 2033

⁵ (2020) 7 SCC 366

when it accrued first, but the same was filed in the year 2021, much beyond the period of limitation under Article 58 of Limitation Act. So on the face of it, the suit was barred under Order 7 Rule 11(d) CPC.

16. Learned counsel submitted that the principles of law on the scope of Order 7 Rule 11 CPC are well settled by the Judicial precedents. Only the plaint averments and the material filed along with the plaint is to be considered. The defense of the defendant is not to be seen. He submitted that consequently the defendants/petitioners did not file the copy of their written statement of the O.S.No.1492 of 2005. He submitted that the plaintiff herself referred in the plaint about the written statement and the copy of the judgment dated 04.07.2016 of O.S.No.1492 of 2005 was filed along with the plaint and from perusal of that judgment it became evident that the defendants had denied the title of the plaintiff way back in the year 2005. So, on the face of the plaint with its material, the suit filed in the year 2021 was barred by limitation.

17. This Court proceeds to consider the aforesaid submission on merits, referring to the legal provisions of Order 7 Rule 11 (d) CPC, Article 58 of the Limitation Act and the legal precedents on the subject.

18. Order 7 Rule 11 CPC 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 returned 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 an exceptional nature from correcting 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.”

19. In ***Dahiben*** (supra) the Hon’ble Apex Court laid down the principles which are to be adhered to while considering the application under Order 7 Rule 11 CPC. Para Nos. 23.1 to 23.15 is reproduced as under:

“23.1 We will first briefly touch upon the law applicable for deciding an application under Order 7 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)

23.2. 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.

23.3. 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.

23.4. In *Azhar Hussain v. Rajiv Gandhi* 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.”

23.5. 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.

23.6. 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 plaint², read in conjunction with the documents relied upon, or whether the suit is barred by any law.

23.7. Order VII Rule 14(1) provides for production of documents, on which the plaintiff places reliance in his suit, which reads as under :

“14: Production of document on which plaintiff sues or relies.— (1)Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2)Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3)A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4)Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory." (emphasis supplied)

23.8. Having regard to Order 7 Rule 14 CPC, the documents filed alongwith the plaint, are required to be taken into consideration for deciding the application under Order VII Rule 11 (a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

23.9. 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.

23.10. 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.

23.11. 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* 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."

23.12. In *Hardesh Ores (P.) Ltd. v. Hede & Co.* 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. *D.Ramachandran v.R.V.Janakiraman*

23.13. 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 7 Rule 11 CPC.

23.14. The power under Order 7 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 case* (supra).

23.15. 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."

20. The law therefore is well settled that in the exercise of the power under Order 7 Rule 11 CPC, 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. 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 which cannot be adverted to or taken into consideration. The plaint averments and the documents filed along with the plaint are only required to be taken into consideration.

21. Article 58 of the Limitation Act reads as under:

"THE SCHEDULE Period of Limitation [See Sections 2(j) and 3] First Division-Suits		
Description of suit	Period of limitation	Time from which period limitation begins to run
*	*	*
Part III- Suits Relating To Declarations		
*	*	*
58. To obtain any other declaration.	Three Years	When the right to sue first accrues.

22. In ***Khatri Hotels Private Limited*** (supra), the Hon'ble Aped Court held as under:

"25. Article 58 of the Schedule to the 1963 Act, which has a bearing on the decision of this appeal, reads as under:

"THE SCHEDULE Period of Limitation [See Sections 2(j) and 3] First Division-Suits		
Description of suit	Period of limitation	Time from which period limitation begins to run
*	*	*
Part III- Suits Relating To Declarations		
*	*	*
58. To obtain any other declaration.	Three Years	When the right to sue first accrues.

26. Article 120 of the Schedule to the Limitation Act, 1908 (for short "the 1908 Act") which was interpreted in the judgment relied upon by Shri Rohatgi reads as under:

Description of suit	Period of limitation	Time from which period limitation begins to run
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*	*	*
120. Suit for which no period of limitation is provided elsewhere in this Schedule.	Six years	When the right to sue accrues

27. The differences which are discernible from the language of the above reproduced two articles are:

(i) The period of limitation prescribed under Article 120 of the 1908 Act was six years whereas the period of limitation prescribed under the 1963 Act is three years and,

(ii) Under Article 120 of the 1908 Act, the period of limitation commenced when the right to sue accrues. As against this, the period prescribed under Article 58 begins to run when the right to sue first accrues.

28. Article 120 of the 1908 Act was interpreted by the Judicial Committee in *Bolo v. Koklan* [(1929-30) 57 IA 325 : AIR 1930 PC 270] and it was held: (IA p. 331)

“There can be no ‘right to sue’ until there is an accrual of the right asserted in the suit and its infringement, or at least a clear and unequivocal threat to infringe that right, by the defendant against whom the suit is instituted.”

The same view was reiterated in *Annamalai Chettiar v A.M.K.C.T.Muthukaruppan Chettiar* [ILR (1930) 8 Rang 645] and *Gobinda Narayan Singh v. Sham Lal Singh* [(1930-31) 58 IA 125].

29. In *Rukhmabai v. Lala Laxminarayan* [AIR 1960 SC 335 : (1960) 2 SCR 253], the three-Judge Bench noticed the earlier judgments and summed up the legal position in the following words:

“33. ... The right to sue under Article 120 of the [1908 Act] accrues when the defendant has clearly or unequivocally threatened to infringe the right asserted by the plaintiff in the suit. Every threat by a party to such a right, however ineffective and innocuous it may be, cannot be considered to be a clear and unequivocal threat so as to compel him to file a suit. Whether a particular threat gives rise to a compulsory cause of action depends upon the question whether that threat effectively invades or jeopardizes the said right.”

30. While enacting Article 58 of the 1963 Act, the legislature has designedly made a departure from the language of Article 120 of the 1908 Act. The word “first” has been used between the words “sue” and “accrued”. This would mean that if a suit is based on multiple causes of action, the period of limitation will begin to run from the date when the right to sue first accrues. To put it differently, successive violation of the right will not give rise to fresh cause and the suit will be liable to be dismissed if it is beyond the period of limitation counted from the day when the right to sue first accrued.”

23. In ***Nikhila Divyang Mehta*** (supra), the Hon'ble Apex Court considered Article 58 of the Limitation Act and observed that the use of the words "when the right to sue first accrues" was very relevant and important. It categorically provided that the limitation of three years had to be counted from the date when the right to sue first accrued. Paragraph Nos.19 & 20 of ***Nikhila Divyang Mehta*** (supra) read as under:

"19. The relief of declaration claimed in the suit at hand does not fall under Articles 56 and 57 and, therefore, by necessary implication, Article 58 would stand attracted which provides for a limitation period of three years to obtain any other declaration other than that mentioned under Articles 56 and 57. It provides that for such a declaration, the limitation is three years from the date when the right to sue first accrues.

20. The use of the words "when the right to sue first accrues" as mentioned in Article 58 is very relevant and important. It categorically provides that the limitation of three years has to be counted from the date when the right to sue first accrues."

24. The Hon'ble Apex Court further held in ***Nikhila Divyang Mehta*** (supra) in paragraph No.24 as under:

"24. There is no dispute to the fact that the limitation for filing of the suit falls under Article 58 of the Schedule to the Act wherein limitation prescribed is three years. It may be pertinent to note that the limitation of three years is from the date when the cause of action first arose. So, according to the plaintiff's case, the cause of action first arose on 04.02.2014 and, therefore, the limitation would end on 04.02.2017. However, even if the limitation is calculated from the date of knowledge of the Will and/or the Codicil, it would run from the first week of November, 2014 and would end in the first week of November, 2017. The suit admittedly was instituted on 21.11.2017; much beyond the first week of November, 2017 and as such is apparently barred by limitation, for which neither any defence is required to be looked into nor any evidence in support is needed to be adduced."

25. In ***Nikhila Divyang Mehta*** (supra) the Hon'ble Apex Court recorded that according to the plaintiff's own admission the cause of action for filing the suit commenced on 04.02.2014 and ended on 21.10.2014. So, in view of

Article 58 of the Limitation Act, from 04.02.2014 when the cause of action first accrued, the limitation of three years came to an end on 04.02.2017. The suit instituted on 21.11.2017 was apparently barred by limitation.

26. Learned counsel for the petitioners placed much reliance in para-27 of the ***Nikhila Divyang Mehta*** (supra) to contend that the limitation is not a mixed question of law and fact. It can be decided even without evidence. He emphasised that the question of limitation, can be considered at the stage of Order 7 Rule 11(d) CPC and the plaint if it is barred by limitation has to be rejected without even allowing the parties to lead the evidence on the point of limitation. Para 27 reads as under:

“27. The submission that limitation is a mixed question of law and fact and that it cannot be decided without allowing the party to lead evidence is of no substance. In the present case, we have earlier noted that the suit was admittedly instituted on 21.11.2017 whereas according to the plaint averments the cause of action first arose on 04.02.2014. Even assuming that the cause of action last arose in the first week of November, 2014, the suit ought to have been filed by 07.11.2017. The suit was filed on 21.11.2017. It was ex-facie barred by limitation for which, no evidence was required to be adduced by the parties. The above issue is purely an issue of fact and in the admitted facts as per the plaint, allegations stand concluded for which no evidence is needed.”

27. Article 58 of the Limitation Act, governs the suit for declaration, not governed by any other Article of the Limitation Act. Limitation, in such a case, would be three years from the date the cause of action accrued first. To maintain the suit for declaration the cause of action may arise on many occasions but for the purpose of a suit governed by Article 58, it is the first cause of action from which the limitation period has to be counted. If the suit is not filed within three years from the date the cause of action accrued first, it

would be barred by limitation and there is no dispute on such a proposition of law.

28. However, when it comes to the applicability of Article 58 of the Limitation Act and so the question of within limitation or beyond limitation, at the stage of rejection of plaint under Order 7 Rule 11(d) CPC, if the plaint averments and the material filed along therewith disclose clearly the date of first cause of action and on the face of the plaint, the suit is barred by limitation, then only it would be a case of rejection of the plaint under Order 7 Rule 11(d) CPC.

29. Here, the main question that arises is as to when, the cause of action first accrued to the plaintiff to maintain O.S.No.230 of 2021, for declaration and injunction. In the plaint the plaintiff mentioned 15.08.2021 as the date of cause of action for filing the suit (vide para IV of the plaint at page 98). There is a dispute raised by the defendants that the cause of action did not accrue firstly, on the date mentioned in the plaint but it arose prior thereto, from the date the written statement was filed in 2005 in O.S.No.1492 of 2005, which according to the defendant is the first date of accrual of the cause of action as the title of the plaintiff was denied at that time. I am of the view that, in the facts & circumstances arising in this case, the issue which required determination was as to when the cause of action accrued first, as there is a dispute on the point of date of first accrual of the cause of action. At the stage of Order 7 Rule 11(d) CPC, the Court will consider only the plaint averments and the material filed along with the plaint. If as per the plaint averments itself,

ex-facie, the cause of action accrued firstly on the date mentioned in the plaint and from that date the suit is not within the period of limitation, the plaint has to be rejected under Order 7 Rule 11(d) CPC. The suit must be barred on the averments of the plaint, ex-facie. In other words it would not require determination of the fact as to when the cause of action accrued first. If there is objection by the defendants that the cause of action did not accrue on the date mentioned in the plaint but accrued on a different date and from that date the suit is barred, then the question as to when the cause of action accrued first, being a question of fact and its determination being dependent on the evidence to be led, to prove the plea of the plaintiff or of the defendant, the question of limitation would not be a pure question of law. It would then be a mixed question of law and fact and then the question of limitation so as to reject the plaint under Order 7 Rule 11(d) CPC, cannot be gone into at this initial stage without trial.

30. In ***Nikhila Divyang Mehta*** (supra), Hon'ble Apex Court recorded that on the averments in the plaint the suit was barred by limitation as it was filed after three years from the date the cause of action accrued first as already referred (supra) in para-27 of ***Nikhila Divyang Mehta*** (supra).

31. To reiterate, a plaint can be rejected under Order 7 rule 11(d) in those case where the suit is barred by limitation on the averments in the plaint, ex-facie, but not in those cases where the defendants dispute the date of the first cause of action and cites a different date.

32. In ***Popat and Kotecha Property v. State Bank of India Staff Association***⁶, the Hon'ble Apex Court held that Clause (d) of Order 7 Rule 11 speaks of suit, as appears from the statement in the plaint to be barred by any law. The Hon'ble Apex Court held that the disputed questions cannot be decided at the time of considering the application filed under Order 7 Rule 11 CPC. Clause(d) of Rule 11 of Order 7 applies in those cases only where the statement made by the plaintiff in the plaint without any doubt or dispute shows that the suit is barred by any law in force. Where the suit from statement in the plaint could not be said to be barred by limitation, plaint cannot be rejected. The Hon'ble Apex Court held that the statement in the plaint without addition or subtraction must show that it is barred by any law to attract the application of Order 7 Rule 11.

33. Para Nos.10 & 25 in ***Popat and Kotecha Property*** (supra) read as under:

“10. Clause (d) of Order VII Rule 7 speaks of suit, as appears from the statement in the plaint to be barred by any law. Disputed questions cannot be decided at the time of considering an application filed under Order 7 Rule 11 CPC. Clause (d) of Rule 11 of Order VII applies in those cases only where the statement made by the plaintiff in the plaint, without any doubt or dispute shows that the suit is barred by any law in force.

* * * * *

25. When the averments in the plaint are considered in the background of the principles set out in ***Sopan Sukhdeo case*** (supra) {(2004) 3 SCC 137}, the inevitable conclusion is that the Division Bench was not right in holding that Order 7 Rule 11 CPC was applicable to the facts of the case. Diverse claims were made and the Division Bench was wrong in proceeding with the assumption that only the non-execution of lease deed was the basic issue. Even if it is accepted that the

⁶ (2005) 7 SCC 510

other claims were relatable to it they have independent existence. Whether the collection of amounts by the respondent was for a period beyond 51 years need evidence to be adduced. It is not a case where the suit from statement in the plaint can be said to be barred by law. The statement in the plaint without addition or subtraction must show that is barred by any law to attract application of Order VII Rule 11. This is not so in the present case.”

34. Recently, in ***P.Kumarakurubaran v. P.Narayanan***⁷, the suit was instituted seeking a declaration and consequential reliefs. The defendants in their application under Order 7 Rule 11 CPC stated that the appellant had knowledge of the execution of the sale deed at the earliest point of time and so the suit was barred by limitation. The Trial Court rejected the application holding that the issue of limitation involved a mixed question of law and fact. In the revision the High Court took a contrary view and rejected the plaint on the ground that the suit was barred by limitation. The plaintiff/appellant had specifically averred in the plaint that upon becoming aware of registration of documents on a particular date the suit was filed, and from that date the suit was within the period of limitation. The Hon'ble Apex Court held 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 was credible, all those matters necessarily required appreciation of evidence and at the 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 was specifically pleaded and formed the basis of cause of action, the issue of limitation could not be decided summarily. It became a mixed

⁷ 2025 SCC OnLine SC 975

question of law and fact, which could not be adjudicated at the threshold stage under Order 7 Rule 11 CPC. The Hon'ble Apex Court held that the rejection of the plaint on the ground of limitation without permitting the parties to lead evidence as passed by the High Court was legally unsustainable.

35. Para Nos.12, 12.1 & 13 in ***P.Kumarakurubaran*** (supra) read as under:

“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 7 Rule 11 CPC and rejected the plaint solely on the ground that the suit was barred by limitation.

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.

* * * * *

13. In this backdrop, the approach of the High Court in reversing the well-reasoned order of the trial Court warrants interference. The trial Court had rightly held that the issue of limitation necessitated adjudication upon evidence, particularly in view of the appellant's assertion that the Power of Attorney executed by him did not confer any authority upon his father to alienate the suit property and that the impugned transaction came to his knowledge only at a much later point in time. In such circumstances, the determination of limitation involved disputed questions of fact that could not be summarily decided without the benefit of trial. The High Court, however, proceeded to reject the plaint solely on a prima facie assumption that the suit was barred by limitation, without undertaking any examination as to whether the plea regarding the date of knowledge was demonstrably false or inherently improbable in light of the record. In the opinion of this Court, such an approach amounts to an error of law and constitutes a misapplication of the well-established principles governing the exercise of power under Order VII Rule 11 CPC. For the same reasons, the decisions relied upon by the learned counsel for the respondents are inapplicable, being factually distinguishable."

36. In ***Hanumanthappa*** (supra), the issue was the applicability of Article 58 of the Limitation Act to the amendment of the plaint. There, it was not disputed that Article 58 of the Limitation Act would apply, as the amendment sought was to add the relief of declaration of title to the already existing relief of permanent injunction. The Hon'ble Apex Court held that the amendment of the plaint was time-barred in that the right to sue for declaration of title first arose on 16.05.1990. There was clear denial of the title of the plaintiff in the suit for declaration and in that very suit the amendment application to add the prayer of declaration was sought to be added. The amendment application was beyond the period of limitation from 16.05.1990.

37. **Hanumanthappa** (supra) is not on Order 7 Rule 11 CPC. The question whether at the stage of Order 7 Rule 11 CPC, the question of the suit being barred by limitation can be determined and the plaint can be rejected was not involved. No doubt such a question can be determined at this stage applying the law as in **Hanumanthappa** (supra) but, only on the plaint averments. If the plaint averments show the date when the first cause of action accrued and from that date the suit is beyond three years limitation it would be liable to be rejected.

38. Further, in **Hanumanthappa** (supra), the original written statement unmistakably indicated that the defendant had not accepted the plaintiff's title. Learned counsel for the petitioner placed reliance in para No. 29 of **Hanumanthappa** (supra) which considered **Khatri Hotels (P) Ltd. v. Union of India**, {(2011) 9 SCC 126} which reads as under to contend that in the present case also there was clear denial of title of the plaintiff in the defendants' written statement filed in O.S.No.1492 of 2005:

"29. Applying the law thus laid down by this Court to the facts of this case, two things become clear. First, in the original written statement itself dated 16th May, 1990, the defendant had clearly put the plaintiff on notice that it had denied the plaintiff's title to the suit property. A reading of an isolated para in the written statement, namely, para 2 by the trial court on the facts of this case has been correctly commented upon adversely by the High Court in the judgment under appeal. **The original written statement read as a whole unmistakably indicates that the defendant had not accepted the plaintiff's title.** Secondly, while allowing the amendment, the High Court in its earlier judgment dated 28th March, 2002 had expressly remanded the matter to the trial court, allowing the defendant to raise the plea of limitation. There can be no doubt that on an application of *Khatri Hotels (p) Ltd. (supra)*, **the right to sue for declaration of title first arose on the facts of the present case on 16th May, 1990 when the original written statement clearly denied the plaintiff's title. By 16th May, 1993 therefore a suit based on declaration of title would have become time-barred.** It is clear that the doctrine of relation back would not apply to the facts of this case for the reason that the court which allowed the amendment expressly allowed it subject to the plea of limitation, indicating

thereby that there are no special or extraordinary circumstances in the present case to warrant the doctrine of relation back applying so that a legal right that had accrued in favour of the defendant should be taken away. This being so, we find no infirmity in the impugned judgment of the High Court. The present appeal is accordingly dismissed.”

39. When this Court looks into the averment of the petitioners of denial of the plaintiff's title in their written statement of O.S.No.1492 of 2005, from the copy of the judgment of O.S.No.1492 of 2005, annexed with the plaint (at page 118), referred by the learned counsel for the petitioner, it cannot be said that there was a clear denial of plaintiff's title. What was pointed out by the learned counsel for the petitioners is as under:

“..... They pleaded that plaintiff has no right over property since late panchadarla Appayamma **does not have exclusive right to alienate** the property....”.

Learned counsel also referred to para-12 of the judgment under issue No.1 and laid emphasis on the following part:

“.....As said above it is the claim of the defendants that **plaintiff's vendor's vendor panchadarla Appayamma has no exclusive right over the total property and hence she could not convey title to the plaintiff's vendor....**”.

Based on the aforesaid he submitted that there was denial of the plaintiff's title in the year 2005 when the cause of action accrued firstly to the plaintiff, so the suit filed in the year 2021 was barred by limitation.

40. **Hanumanthappa** (supra) was a case of denial of title, in the written statement. The Hon'ble Apex Court observed that the original written statement unmistakably indicated that the defendant had not accepted the

plaintiff's title and the original written statement clearly denied the plaintiff's title.

41. So, there must be a clear denial of the plaintiff's title. The question therefore is whether from the referred part of the judgment in O.S.No.1492 of 2005, is it a case of clear denial of plaintiff's title by the defendants in their written statement filed in O.S.No.1492 of 2005, so as to attract the applicability of law as in ***Hanumanthappa*** (supra).

42. This Court is of the view that there is not a clear denial of the plaintiff's title in the written statement of O.S.No.1492 of 2005, from the portion referred by the learned counsel from the judgment of that previous suit. The copy of the written statement is not on record and the same can also not be seen at this stage, when only plant is to be considered. The defendants' case as per the aforesaid was that, the plaintiffs vendor's vendor had no exclusive right over suit schedule property and therefore she could not convey title to the plaintiff's vendor. So, at best the defendants' case was of 'no exclusive title', but not the denial of complete title. 'No exclusive' means not the sole owner ; not to the exclusion of all others, but along with others.

43. In the plaint of O.S.No.230 of 2021 there is a clear statement that on 18.10.2021 the cause of action accrued to file the suit for declaration. The Court has to see the plaint averments and the material along with the plaint. The plaint averments are very clear that the cause of action accrued on 18.10.2021 and from that date the suit was filed within three years. The

document annexed with the plaint, judgment copy of O.S.No.1492 of 2005 upon which the reliance was placed by the learned counsel does not establish that the defendants had clearly denied the title of the plaintiff in their written statement filed in O.S.No.1492 of 2005.

44. This Court is of the view that at this stage of Order 7 Rule 11 CPC, taking the cause of action accrued as per the plaint averments on 18.10.2021, the suit having been filed within three years from that date, the learned Trial Court did not act illegally or without jurisdiction, in rejecting the application of the petitioners to reject the plaint under Order 7 Rule 11 CPC.

45. **Anathula Sudhakar** (supra) is on the point as to when a suit for injunction simpliciter is maintainable and when the declaration is also required. It is not relevant for the issue involved at this stage.

46. Thus considered, the conclusions are as follows:

i) At the stage of considering the application under Order 7 Rule 11 CPC only the plaint averments and the material filed along with the plaint are to be considered.

ii) The written statement of the defendant, any material produced by the defendant or even the contents of the application under Order 7 Rule 11 CPC are not relevant.

iii) The averments of the plaint, must ex-facie show that the suit is barred by limitation then the plaint can be rejected under Order 7 Rule 11(d).

iv) The limitation for a suit for declaration, under Article 58 of Limitation Act is three years from the date the cause of action accrues 'firstly'.

v) If the plaint makes clear averment of only one date of cause of action, or in case of many dates for accrual of the cause of action, it is the first date of accrual of the cause of action, from which the limitation would start to run and if the suit is within three years from such date, the plaint cannot be rejected at the threshold.

vi) If the defendant disputes the date mentioned in the plaint as the date of accrual of the cause of action firstly and sets up another date, then the first question for determination would be what is the date of accrual of cause of action firstly and depending upon such determination the period of limitation of three years will have to be computed. This would require evidence. The question of limitation then would be a mixed question of fact & law and not a pure question of law. The plaint cannot be rejected under Order 7 Rule 11(d) CPC in such a case.

vii) In the present case the defendants' case is that the cause of action accrued firstly in the year 2005 when in O.S.No.1492 of 2005, written statement was filed denying the title of the plaintiff. The plaint on the other hand clearly stated that the cause of action accrued on 18.10.2021 and from that date the suit was not barred by the law of limitation. So, there was a dispute on the date of accrual of cause of action firstly. The petitioners placed reliance in the judgment of O.S.No.1492 of 2005, to

show the plea taken in their written statement in O.S.No.1492 of 2005.

But, that requires evidence to determine, and so based on such a plea of limitation, plaint cannot be rejected at the threshold.

viii) Even from perusal of the judgment of O.S.No.1492 of 2005 there is no clear denial of the plaintiff's title. The denial was that the plaintiff's vendor's vendor was not the 'exclusive owner'. It is not a clear and complete denial of title of the plaintiff. What is denied is exclusive ownership.

ix) **On the point of determination**; there is no illegality in the order impugned.

47. Before parting, this Court makes it clear that it has proceeded to decide the issue considering Article 58 of the Limitation Act for the reason that the argument was advanced based on Article 58 of Limitation Act and the learned Trial Court has also decided the controversy considering Article 58 of the Limitation Act.

48. However, it is clarified that the present is a suit for declaration of title and also for the consequential relief of injunction. In ***N.Thajudeen v. Tamil Nadu Khadi and Village Industries Board***⁸, the Hon'ble Apex Court held that in a suit for declaration of title if a further relief is claimed in addition to the mere declaration, the relief of declaration would only be an ancillary relief and

⁸ (2024) 19 SCC 121

for the purpose of limitation it would be governed by the relief that has been additionally claimed.

49. Para Nos.26 to 28 in **N.Thajudeen** (supra) reads as under:

“26. In the case at hand, the suit is not simply for the declaration of title rather it is for a further relief for recovery of possession. It is to be noted that when in a suit for declaration of title, a further relief is claimed in addition to mere declaration, the relief of declaration would only be an ancillary one and for the purposes of limitation, it would be governed by the relief that has been additionally claimed. The further relief claimed in the suit is for recovery of possession based upon title and as such its limitation would be 12 years in terms of Article 65 of the the Schedule to the Limitation Act.

27. In C.Mohammad Yunus v. Unnissa {1961 SCC OnLine SC 135} it has been laid down that in a suit for declaration with a further relief, the limitation would be governed by the Article governing the suit for such further relief. In fact, a suit for a declaration of title to immovable property would not be barred so long as the right to such a property continues and AIR 1961 SC 808 subsists. When such right continues to subsist, the relief for declaration would be a continuing right and there would be no limitation for such a suit. The principle is that the suit for a declaration for a right cannot be held to be barred so long as Right to Property subsist.

28. Even otherwise, though the limitation for filing a suit for declaration of title is three years as per Article 58 of the Schedule to the Limitation Act but for recovery of possession based upon title, the limitation is 12 years from the date the possession of the defendant becomes adverse in terms of Article 65 of the Schedule to the Limitation Act. Therefore, suit for the relief of possession was not actually barred and as such the court of first instance could not have dismissed the entire suit as barred by time.”

50. So, this Court makes it clear that, if the limitation of the suit is governed by Article 58 or some other Article that would be an open question for determination in accordance with law in the suit, if such a question is raised or arises before the learned Trial Court.

51. The Civil Revision Petition is devoid of merits and is dismissed at the admission stage.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

Dated: 27.02.2026
Note: LR copy be marked
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 331/2026

Dated: 27.02.2026
Note: LR copy be marked
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