

EXPLORING THE IMPLICATIONS OF ORDER 7 RULE 11 SUB-SECTIONS

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INTRODUCTION

Order VII Rule 11 of the Civil Procedure Code (CPC) provides an independent remedy to the defendant, where the defendant attempts to satisfy the court to dismiss a suit at its initial stage without proceeding to the stages of evidence or conducting a trial, early on the basis of averments made and evidence adduced¹.

Further, this suit outlines specific conditions under which a court is obligated to reject a plaint,² ensuring that frivolous, vexatious, or malicious litigations do not proceed to trial. This provision serves as a crucial mechanism to prevent the wastage of the court's valuable time and avoid potential injustice to the parties involved. Among the various conditions enumerated, the ones most commonly invoked in real practice are Subrules (a) and (d), being where either the plaint filed does not disclose a cause of action, or, where the suit appears from the statement in the plaint to be barred by any law.

These provisions can also be invoked suo-moto as the framers of the rule have mentioned "shall", which clearly shows the intent of the legislature to cast the duty to cast a duty on the court to make sure, such plants which fall under any of the conditions therein mentioned are not allowed to proceed further and unnecessary cause loss of resources³, and to further the same interpretation via the judgement of Mani Vs. P. Ramakrishnan⁴, the court reaffirmed the power of the judiciary to dismiss a plant even when the defendants have not filed an application under Order VII Rule 11.

UNDERSTANDING ORDER VII RULE 11(A)

A cause of action refers to the material facts that a plaintiff must allege and prove to support their right to a judgment. It's not defined statutorily but has been judicially interpreted to

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¹ Dahiben v Arvinbhai Kalyanji Bhansai [2020] SCC OnLine SC 563,

² Supra

³ Sopan Sukhdeo Sable v Assistant Charity Commissioner [2004] 3 SCC 137

⁴ Mani v P Ramakrishnan [2018] 4 MLJ 182 (Mad)

include every fact necessary for the plaintiff to establish their right to relief. If these facts are not proven, the defendant gains an immediate right to judgment. Cause of action encompasses every fact required for the plaintiff to support their claim. If these facts, if proven, show the plaintiff's right to relief, a cause of action is established⁵. A cause of action is a bundle of facts that, along with the applicable law, entitle the plaintiff to relief. It must include some act by the defendant, as without such an act, no cause of action can arise⁶.

To reject a plaint under Order VII Rule 11(a) of the CPC, the defendant must prove that no legally sustainable cause of action exists⁷. If the plaintiff's allegations prima facie show a cause of action, the court should not investigate their truthfulness at this stage⁸. Whether a plaint discloses a cause of action is determined by reading the plant as a whole. If, based on its averments, a decree can be passed, then a cause of action is disclosed.⁹

The plan must reveal a genuine cause of action. Clever drafting to create an illusion of a cause of action is not permissible¹⁰. The court's role in ascertaining whether a petition shows a cause of action does not involve assessing the defences and conducting an elaborate inquiry into the facts¹¹. A plant can only be rejected when absolutely no cause of action is disclosed, not merely a weak or defective one.¹²

If a plant shows a cause of action, it cannot be rejected simply because the averments may not be sufficient to prove the case at trial¹³. There is a distinction¹³ between non-disclosure and defective disclosure of a cause of action. Order VII Rule 11 CPC applies to non-disclosure cases¹⁴.

UNDERSTANDING ORDER VII RULE 11(B)

Order VII Rule 11(b) CPC deals with the rejection of a plaint where the relief claimed has been undervalued. According to the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, the issue

⁵ Usum Ingots & Alloys Ltd v Union of India [2004]

⁶ Swamy Atmanand v Sri Ramakrishna Tapovanam AIR 2005 SC 2392

⁷ M/S Narasu's Coffee Company v R P Sarathy [2014] CRP(PD) No 2379 of 2012 (Mad)

⁸ Sopan Sukhdeo Sable v Assistant Charity Commissioner AIR 2004 SC 1801

⁹ Liverpool and London SP&I Association v M.V. Sea Success I [2004] Appeal (civil) 5665 of 2002 (SC)

¹⁰ ITC Ltd v Debt Recovery Tribunal AIR 1998 SC 634

¹¹ Vijay Pratap Singh v Dukh Haran Nath Singh AIR 1962 SC 941

¹² V K John v Seetharam and Ors [2009] Original Side Appeal Nos 337 and 338 of 2008 (Mad)

¹³ Central Govt Employees Welfare Housing Organisation v Consolidated Civil Construction Ltd [2012] CRP(NPD) No 2308 of 2005 (Mad)

¹⁴ Yrooj Ahamed Lords Enterprises v Preethi Kitchen Appliances Pvt Ltd [2013] Original Side Appeal No 40 of 2009

of court fees is primarily between the litigant and the revenue/government. Defendants can raise objections to the adequacy of the court fee paid by the plaintiffs either through their written statement or by filing an application before evidence is taken in the main suit. Sections 12(2) and (3) of the Act confer this right upon the defendants.

A plaint can be returned to the plaintiff under Order VII Rule 10 of the CPC if the court lacks territorial or pecuniary jurisdiction. However, if a court finds that a suit has been undervalued, the appropriate order is to call upon the plaintiff to furnish the correct valuation. If the plaintiff amends the valuation before an order rejecting the plaint is made, it is considered valid¹⁵.

Order VII Rule 11(b) mandates that if a court concludes that the relief claimed has been undervalued, it must specify the correct valuation and require the plaintiff to correct it within a stipulated time. This aspect goes to the core of the suit's maintainability, allowing the defendant to raise objections irrespective of the suit's nature.¹⁶

If the court finds the suit undervalued, it must provide the plaintiff time to pay the deficit court fee. Failing this, the plaint can be rejected. However, without providing this time, the court cannot reject the plaint, as it would violate the mandatory provisions of Order VII Rule 11(b)¹⁷.

UNDERSTANDING ORDER VII RULE 11(C)

Order VII Rule 11(c) empowers the court to grant the plaintiff the necessary time to make good the deficiency in the payment of court fees. If the court finds that the plaint was insufficiently stamped when presented, it can allow the plaintiff time to rectify this deficiency. This provision ensures that plaintiffs have the opportunity to correct any deficiencies in the payment of court fees before the court considers rejecting the plaint¹⁸.

UNDERSTANDING ORDER VII RULE 11(D)

Order VII Rule 11(d) of the CPC allows for the rejection of a plaint if it is clear from the statements made in the plaint that the suit is barred by law. This subclause has limited applications, requiring that the conclusion of the suit being barred must be evident from the

¹⁵ Ramakrishna Reddi v Veera Reddi AIR 1946 Mad 126

¹⁶ L.P. Alaghappa Chettiar v V Janardhanan [2013] CRP(PD) No 1261 of 2011 (Mad)

¹⁷ R Kalavalli v P Sundaraj and Anr [2011] 4 CTC 536

¹⁸ A Sakthivel v V A Shanmogavel [2003] 1 CTC 83 (Mad) ; R N Shanmugavadivel v R N Myilsami [2010] 5 LW 185 (Mad)

plaintiff itself¹⁹. The language of Order VII Rule 11 CPC is clear and unambiguous, allowing rejection of a plaint on the ground of limitation only if it appears from the statement in the plaint that the suit is barred by any law, including the law of limitation.²⁰

Clause (d) of Order VII Rule 7 applies when the statements made by the plaintiff in the plaint, without any doubt or dispute, show that the suit is barred by any law in force. Disputed questions cannot be decided at the time of considering an application filed under this clause.²¹ Section 11 of the CPC, dealing with res judicata, implies that a question substantially and directly raised as an issue in a previously decided suit shall not be tried again. This provision suggests that a suit can be dismissed on the grounds of res judicata. However, it is a mixed question of law and fact, requiring a detailed examination.²²

Regarding claims that a suit is barred by the principles of res judicata and Order II Rule 2 CPC, these issues are also mixed questions of law and fact that cannot be decided at the preliminary stage and must be addressed during the trial.²³ Although the plea of limitation is often a mixed question of law and facts, in some cases, the statements clearly show that the suit is barred by limitation. This makes it a fit case for rejection under Order VII Rule 11(d).²⁴

It is settled law that if a suit appears to be barred by any law on the face of the plaint, the court must dismiss the suit. However, if there is any doubt or the court is not certain that the suit is barred, the plaint cannot be rejected under this clause.²⁵ The principle is that in order to examine whether the plaint is barred by any law under sub-rule (d) of Order VII Rule 11 CPC, the averments made in the plaint alone must be considered and assumed to be correct. It is not permissible to consider the pleas raised in the written statement or any piece of evidence.²⁶

A plaint cannot be rejected in part even if a part of the relief sought is barred by limitation while another part is within time. This is a well-settled proposition of law.²⁷

¹⁹ M Nelson Babu v Kamalesh Babu and Another [2009] 5 CTC 814

²⁰ Dega Jayalakshmi & Others v Kapoor Enterprises [2010] 1 MLJ 1167 (Mad)

²¹ Popat and Kotecha Property v State Bank of India Staff Association [2005] 4 CTC 489 (SC)

²² G Subramani v V Rajasekaran and Anr [2013] 4 CTC 468

²³ M Prince Manohar and others v Bhima Lakshmi Narasammah and others [2014] 1 CTC 160

²⁴ Balachandra Builders v Anis and others [2017] 3 MLJ 52

²⁵ Kasthuri and others v Baskaran and another [2004] 2 LW 429 (Mad)

²⁶ Ramesh B Desai and Others v Bipin Vadilal Mehta and Others [2006] 4 LW 896 (SC)

²⁷ Chandra v Reddappa Reddy [2011] 3 LW 936 (Mad)

CONCLUSION

Order VII Rule 11 of the Civil Procedure Code (CPC) stands as a critical instrument in the judicial arsenal, aimed at streamlining the legal process by eliminating baseless claims at the outset. This provision offers an independent remedy to defendants, enabling them to request the court to dismiss a suit early on, based solely on the plaintiff's averments and without delving into the evidentiary stage. This is particularly vital in averting the wastage of the court's valuable time and resources on frivolous, vexatious, or malicious litigations, which could otherwise impede the swift delivery of justice.

Among the various conditions under which a court must reject a plaint, Subrules (a) and (d) are most frequently invoked in practice. Subrule (a) addresses the situation where an ante plaint fails to disclose a cause of action, which is a fundamental requirement for any legal claim. The absence of a cause of action means that the plaintiff has not presented sufficient facts that, if true, would entitle them to the relief sought. This ensures that only those cases with a legitimate basis are allowed to proceed, thereby protecting defendants from the burden of defending against unfounded claims.

Subrule (d), on the other hand, pertains to cases where the suit appears from the statements in the plaint to be barred by any law. This provision is crucial for preventing suits that are inherently non-maintainable due to legal prohibitions, such as those barred by limitation statutes or *res judicata*, from progressing through the judicial system. The use of the word "shall" in the rule underscores the mandatory nature of the court's duty to reject plaints, reflecting the legislature's intent to uphold judicial efficiency and integrity.

Judicial interpretations have further reinforced the significance of these provisions. For instance, in *Mani Vs. P. Ramakrishnan*, the court affirmed its power to dismiss a plaint even in the absence of a defendant's application, underscoring the proactive role courts must play in curbing unnecessary litigation.

Order VII Rule 11(a) emphasizes that the determination of a cause of action is based on planting as a whole, without probing the truthfulness of the averments at this stage. Clever drafting that creates an illusion of a cause of action is not permissible, and the court must reject plaints where no cause of action is disclosed. This ensures that the judicial process is not manipulated by superficial or deceptive pleadings.

Similarly, Order VII Rule 11(d) stipulates that a plan must be rejected if it is evident from the statements therein that the suit is barred by law. This provision demands that the court focus solely on the plaintiff's sentiments, without considering defences or evidence, to determine if the suit is legally untenable. This approach helps in swiftly filtering out cases that cannot be adjudicated due to legal constraints, thus preserving judicial time and resources for genuine disputes.

Overall, Order VII Rule 11 CPC serves as a robust mechanism to uphold the principles of judicial efficiency and legal propriety. By providing a clear framework for the early dismissal of non-meritorious suits, it ensures that the court's time is dedicated to cases with legitimate claims, thereby enhancing the efficacy of the judicial process and safeguarding against the misuse of legal procedures

