

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

**+ CIVIL REVISION PETITION NO: 1899 OF 2025**

% Dated: 04 .09.2025

# G.Srihari Rao and 4 others

.....Petitioners

and

Gundapu Vijaya Madhavarao and 6 others

.....Respondents

! Counsel for the Petitioners : Sri Y.V.Sitarama Sarma

^ Counsel for the Respondents : --

< GIST :

> HEAD NOTE :

? Cases referred :

1. AIR 1986 SC 1753
2. (2018) 13 SCC 480
3. (2025) 5 SCC 198
4. 2017(13) SCC 174
5. 1999 SCC OnLine Cal 143
6. 1970(2) SCC 272
7. 1989(17) DRJ 241
8. (2004) 4 SCC 311
9. (2017) 1 SCC 622
10. (2025) 5 SCC 38
11. 1961 SCC Online SC 4
12. (2006) 1 SCC 141
13. (2022) 4 SCC 414
14. AIR 1995 AP 43
15. (2004) 5 ALD 80

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**CIVIL REVISION PETITION No.1899 of 2025**

G.Srihari Rao and 4 others

... Petitioners

*and*

Gundapu Vijaya Madhavarao and 6 others

..... Respondents

**DATE OF ORDER PRONOUNCED: 04 .09.2025**

- |  |        |
|--|--------|
| 1. Whether Reporters of Local newspapers<br>may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be<br>Marked to Law Reporters/Journals.    | Yes/No |
| 3. Whether Their Lordship wishes<br>to see the fair copy of the Judgment?        | Yes/No |

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**RAVI NATH TILHARI, J**



**PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

THURSDAY, THE FOURTH DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**CIVIL REVISION PETITION NO: 1899/2025**

**Between:**

1. G. SRIHARI RAO, S/O. MANIKYALARAO, HINDU, AGED ABOUT 62 YEARS, 41-1/2/27, MANTADAVARI STREET, DORNAKAL ROAD, SURYARAOPET, VIJAYAWADA.
2. GUNDAPU GANGADHARARAO, S/O. MANIKYALA RAO, HINDU, AGED ABOUT 59 YEARS, TAJESWANINAGAR COLONY, ATTAPUR, HYDERABAD.
3. HEMAMBADHARARAO, S/O. MANIKYALARAO, HINDU, AGED ABOUT 57 YEARS, 27-25-10, 1ST FLOOR, KASPAVARI STREET GOVERNORPET, VIJAYAWADA - 2.
4. GUNDAPU LAKSHMINARAYANA, S/O. MANIKYALA RAO, HINDU, 52 YEARS, 29-19-7, 2ND FLOOR, SUBRAHMANYA TOWERS, SBI BANK BUILDING SURYARAOPET, VIJAYAWADA - 2.
5. KONDETI DURGA NAGAMANI, W/O. PRATAP BABU, HINDU, AGED ABOUT 60 YEARS, 41-20/3-96/A, VALLURIVARI STREET, KRISHNALANKA, VIJAYAWADA.

**...PETITIONER(S)**

**AND**

1. GUNDAPU VIJAYA MADHAVARAO, S/O. RAMARAO, HINDU, AGED ABOUT 42 YEARS, 4-207/3, KOLAVARI STREET, RAMAVARAPPADU, VIJAYAWADA.

2. GUNDAPU PRUDHVIRAJ AJAY KUMAR, S/O. RAMARAO, HINDU, AGED ABOUT YEARS, 4-207/3, KOLAVARI STREET, RAMAVARAPPADU VIJAYAWADA -12. RESPONDENTS / RESPONDENTS PLAINTIFFS
3. GUNDAPU RAMA RAO, S/O. MANIKYALARAO, HINDU, AGED ABOUT 64 YEARS. PROPERTIES 4-207/3, KOLAVARI STREET, RAMAVARAPPADU, VIJAYAWADA.
4. GUNDAPU RAGHUNADH, S/O. (LATE) DURGA MALLESWARA RAO, HINDU, AGED ABOUT 45 YEARS, 40-2-14, KARTA VEERAAIAH NILAYAM, BESIDE KUSALAVA FINANCE, RAGHURAM STREET LABBIPET, VIJAYAWADA. 7TH DEFENDANT
5. VORPULA HEMAMALINI, W/O. BALAKRISHNA, D/O. DURGA MALLESWARA RAO, HINDU. AGED ABOUT 49 YEARS, D.NO. 40-2-14, KARTA VEERAAIAH NILAYAM, BESIDE KUSALAVA FINANCE, RAGHURAM STREET, LABBIPET, VIJAYAWADA - 10.
6. TIRANDI VIJAYALAKSHMI, W/O. VENKATESWARA RAO, HINDU, AGED ABOUT 47 YEARS, D.NO. 40-2-14, KARTA VEERAAIAH NILAYAM, RAGHURAM STREET, LABBIPET, VIJAYAWADA -10.
7. YALAM SRI DEVI, W/O. SATISH KUMAR, HINDU, AGED ABOUT 43 YEARS, D.NO. 40-2-14, KARTA VEERAAIAH NILAYAM, RAGHURAM STREET, LABBIPET, VIJAYAWADA - 10.

**...RESPONDENT(S):**

**Counsel for the Petitioner(S):**

1. Y V SITHA RAMA SHARMA

**Counsel for the Respondent(S):**

- 1.

**The Court made the following:**

**JUDGMENT:**

Heard Sri Y.V.Sitarama Sarma, learned counsel for the petitioners.

2. This Civil Revision Petition under Article 227 of the Constitution of India, has been filed by the petitioners/defendants 1 to 4 and 6 in O.S.No.162 of 2016 on the file of the XII Additional District Judge, Vijayawada.

3. The said suit was filed by the present plaintiffs/respondents 1 and 2, against the petitioners(defendants 1 to 4 and 6) and the respondents 3 to 7 (defendants 5, 7, 8, 9 and 10 respectively).

4. The suit was filed for partition, in the year 2016. The suit was at the stage of the evidence of cross examination of DW.2. At that stage, the defendants 1 to 4 and 6, the petitioners, filed I.A.No.1348 of 2023 under Order VII Rule 11(a)(d) of the Code of Civil Procedure (in short 'C.P.C'), to reject the plaint as barred by law.

5. The contention of the learned counsel for the petitioners was that the suit filed for partition was not maintainable, in view of the enactment of the Hindu Succession Act, 1956(Act No.30 of 1956). The suit was filed basing on the position of the Hindu Law (prior to

1956). The learned counsel for the petitioners submitted that after the said enactment, in view of the provisions of Section 8 of the Hindu Succession Act, the plaintiffs had no right or share to seek partition in the plaint schedule property, which was the self-acquired property of Sri G.Manikyala Rao, the grand father of the plaintiffs. They also submitted that there was no cause of action to maintain the same.

6. The plaintiffs/respondents 1 and 2 filed objection/counter in I.A.No.1348 of 2023. They submitted that the suit was maintainable in law and the question of maintainability could be decided only after completion of the evidence and trial. The application itself was not maintainable at the stage, when the evidence of the plaintiffs had been closed/completed and after the evidence of DW.1, the stage was of the cross examination of DW.2. They emphasized that they had share in the plaint schedule properties and were in constructive joint possession and the suit was not barred by law.

7. The learned Trial Court framed the points for consideration as follows:

- i) *Whether the partition suit can be rejected on the ground that, plaintiffs are not entitled share under law?*
- ii) *Whether this petition falls in any of the contingencies referred in Order VII Rule 11 CPC, so as to reject the plaint?*

8. On consideration, the learned Trial Court, recorded its answer to the points framed that, the suit could not be rejected under Order VII Rule 11 C.P.C. Even if the plaintiffs be not entitled to share in the plaint schedule properties, being the grandsons of Sri G.Manikyala Rao, still the plaint schedule property could be divided and partitioned, among the sons and daughter of Sri G.Manikyala Rao, who were defendants in the suit. The Trial Court further observed that in a partition suit, all the defendants are also treated as the plaintiffs. Further, the legal aspect as to whether the plaintiffs were entitled to any share or not as per Section 8 of the Hindu Succession Act, required consideration at the end of the trial and the same would not be covered under any of the clauses under Order VII Rule 11 C.P.C, for rejection of the plaint.

9. The learned Trial Court further observed that I.A.No.699 of 2024 under Order 1 Rule 10(2) C.P.C by the 5<sup>th</sup> defendant in the suit, to transpose him as the plaintiff, was pending and the said defendant could legally ask the Court to transpose him as the plaintiff. The trial Court, thus, rejected the I.A.No.1348 of 2023.

10. Challenging the order dated 20.03.2025 by XII Additional District Judge, Vijayawada, the present C.R.P has been filed.

11. Learned counsel for the petitioners submitted and confined that the plaint deserves to be rejected under Order VII Rule 11(d) C.P.C. He submitted that the suit was barred by law inasmuch as under Section 8 of the Hindu Succession Act, the plaintiffs had no right to succeed to the property of Sri G.Manikyala Rao in the presence of the 5<sup>th</sup> defendant, the plaintiffs' father. The plaintiffs' grandfather, Sri Manikyala Rao died on 04.05.2002 and succession opened after the Act 30 of 1956. The plaintiffs were born after the said Act and even under Section 15 of the Hindu Succession Act, the plaintiffs were not the heirs. So the suit was not maintainable with respect to the plaint schedule property. He submitted that the case fell under clause (d) of Order VII Rule 11 C.P.C. and the plaint ought to have been rejected as the suit was barred by law.

12. Learned counsel for the petitioners placed reliance in ***Commissioner of Wealth-Tax, Kanpur v. Chander Sen***<sup>1</sup>.

13. I have considered the aforesaid submissions and perused the material on record.

14. Order VII Rule 11 C.P.C reads as under:

*“Rule 11: The plaint shall be rejected in the following cases-  
(a) where it does not disclose a cause of action;*

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<sup>1</sup> AIR 1986 SC 1753



*(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:***

*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."*

15. Order VII Rule 11 C.P.C thus provides that the plaint shall be rejected under clauses (a) to (d). It is well settled legal position that it is only the plaint averments, which are to be considered. So the defendants/petitioners had to show that from the plaint averments the suit was barred by any law. The relevant clause upon which reliance was placed is, clause (d) which provides "where the suit appears from the statement in the plaint to be barred by any law".

16. The expression 'law' in 'barred by any law' in clause (d) of Rule 11 of Order VII C.P.C. includes not only legislative enactments but also the judicial precedents, is by now well settled.

17. In **Bhargavi Constructions vs Kothakapu Muthyam**

**Reddy**<sup>2</sup>, the Hon'ble Apex Court, held as under in paras 27 to 32:

“27. *Black’s Law Dictionary* (9th Edn.) defines the expression “law”. It says that “law” includes the “judicial precedents” (see at p. 962). Similarly, the expression “law” defined in *Jowett’s Dictionary of English Law* (3rd Edn., Vol. 2, (pp. 1304/1305) says that “law is derived from judicial precedents, legislation or from custom. When derived from judicial precedents, it is called common law, equity, or admiralty, probate or ecclesiastical law according to the nature of the courts by which it was originally enforced”.

28. The question as to whether the expression “law” occurring in clause (d) of Rule 11 of Order 7 of the Code includes “judicial decisions of the Apex Court” came up for consideration before the Division Bench of the Allahabad High Court in **Virendra Kumar Dixit v. State of U.P.** The Division Bench dealt with the issue in detail in the context of several decisions on the subject and held in para 15 as under: (SCC OnLine All)

“15. Law includes not only legislative enactments but also judicial precedents. An authoritative judgment of the courts including higher judiciary is also law.”

29. This very issue was again considered by the Gujarat High Court (Single Bench) in **Hermes Marines Ltd. v. Capeshore Maritime Partners FZC**<sup>1</sup> The learned Single Judge examined the issue and relying upon the decision of the Allahabad High Court quoted supra held in para 53 as under: (Hermes case, SCC OnLine Guj)

“53. In the light of the above discussion, in the considered view of this Court, it cannot be said that the term “barred by any law” occurring in clause (d) of Rule 11 of Order 7 of the Code, ought to be read to mean only the law codified in a legislative enactment and not the law laid down by the courts in judicial precedents. The judicial precedent of the Supreme Court in *Liverpool & London Steamship Protection and Indemnity Assn. Ltd. v. M.V. Sea Success I*<sup>1</sup>, has been followed by the decision of the Division Bench in *Croft Sales & Distribution Ltd. v. M.V. Basil*. It is, therefore, the law as of today, which is that the Geneva Convention of 1999 cannot be made applicable to a contract that does not involve public law character.

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<sup>2</sup>(2018) 13 Supreme Court Cases 480

Such a contract would not give rise to a maritime claim. As discussed earlier, the word “law” as occurring in Order 7 Rule 11(d) would also mean judicial precedent. If the judicial precedent bars any action that would be the law.”

30. Similarly, this very issue was again examined by the Bombay High Court (Single Judge) in **Shahid S. Sarkar v. Mangala Shivdas Dandekar**<sup>2</sup>. The learned Judge placed reliance on the decisions of the Allahabad High Court in *Virendra Kumar Dixit v. State of U.P.* and the Gujarat High Court in *Hermes Marines Ltd.* and held as under: (Shahid case, SCC OnLine Bom paras 18& 19) “18. The law laid down by the highest court of a State as well as the Supreme Court, is the law. In fact, Article 141 of the Constitution of India categorically states that the law declared by the Supreme Court shall be binding on all courts within the territories of India. There is nothing even in CPC to restrict the meaning of the words “barred by any law” to mean only codified law or statute law as sought to be contended by Mr Patil. In the view that I have taken, I am supported by a decision of the Gujarat High Court in *Hermes Marines Ltd.*

19. One must also not lose sight of the purpose and intention behind Order 7 Rule 11 (d). The intention appears to be that when the suit appears from the statement in the plaint to be barred by any law, the courts will not unnecessarily protract the litigation and proceed with the hearing of the suit. The purpose clearly appears to be to ensure that where a defendant is able to establish that the plaint ought to be rejected on any of the grounds set out in the said Rule, the Court would be duty-bound to do so, so as to save expenses, achieve expedition and avoid the court’s resources being used up on cases which will serve no useful purpose. A litigation, which in the opinion of the court, is doomed to fail would not further be allowed to be used as a device to harass a defendant.”

31. Similarly, issue was again examined by the High Court of Jharkhand (Single Judge) in *Mira Sinha v. State of Jharkhand*. The learned Judge, in para 7 held as under: (SCC OnLine Jhar)

“7. In the background of the law laid down by the Hon’ble Supreme Court, it is apparent that Order 7 Rule 11(d) CPC application is maintainable only when the suit is barred by any law. The expression “law” included in Rule 11(d) includes the law of limitation and, it would also include the law declared by the Hon’ble Supreme Court.”

32. We are in agreement with the view taken by the Allahabad, Gujarat, Bombay and Jharkhand High Courts in the aforementioned four decisions which, in our opinion, is the proper interpretation of the expression “law” occurring in clause (d) of Rule 11 of Order 7 of the Code. This answers the first submission of the learned counsel for the respondents against the respondents.”

18. On the aspect of Order VII Rule 11 C.P.C. recently in ***Uma Devi and others vs Anand Kumar and others***,<sup>3</sup> referring to the previous judgment in ***Madanuri Sri Rama Chandra Murthy v. Syed Jalal***<sup>4</sup>, the Hon’ble Apex Court held as under in para 16:

“16. In ***Madanuri Sri Rama Chandra Murthy v. Syed Jalal***, this Court laid down the scope of Order 7 Rule 11 CPC: (SCC pp. 178-79, para 7)

“7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when the allegations made in the plaint

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<sup>3</sup>(2025) 5 SCC 198

<sup>4</sup> 2017(13) SCC 174

*are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.”*

19. As illustrations, not exhaustive this Court recites some examples:

- i) It is suit to enforce any right in respect of any property held binami against the person in whose name the property is held or against any other person shall not lie by or on behalf of a person claiming to be the real owner of such property as such is barred by Section 4 (1) of the Benami Transaction (Prohibition) Act, 1988 as held in ***Ashim Kumar Roy v. Smt.Anima Mallick***<sup>5</sup>.
- ii) Further, as held in the case of ***Tej Kiran Jain v. Sh.N.Sanjiva Reddy***<sup>6</sup>, which affirmed the judgment of the Full Bench of the Delhi High Court, in which it was held that the plaint was liable to be rejected under Order VII Rule 11 (d) C.P.C, according to which, the plaint shall be rejected where the suit appears from the statement in the plaint to be barred by any law. In the

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<sup>5</sup> 1999 SCC OnLine Cal 143

<sup>6</sup> 1970(2) SCC 272

said case, the perusal of the plaint showed that the defendants were being proceeded against by the plaintiffs because of what was stated by them in the Lok Sabha. According to Clause (2) of the Article 105 of the Constitution “no member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, papers, oaths or proceedings”, such a suit would be barred by law and plaint liable to be rejected under Order VI Rule 11(d) C.P.C.

- iii) In ***Joginder Singh Bedi v. Bawa Darbara Singh***<sup>7</sup>, it was held that no suit shall lie to set aside the decree on the ground of the compromise on which the decree is based was not lawful. If on the averments in the plaint, it is clear that the suit is to set aside a compromise decree on the ground that the compromise on which the decree is based was not lawful such would also be a case for

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<sup>7</sup> 1989(17)DRJ 241

rejection of the plaint under Order VII Rule 11(d) C.P.C read with Order 23 Rules 3 and 3A C.P.C.

- iv) In ***Mardia Chemicals Ltd. & Ors. v. Union of India & Others***<sup>8</sup>, ***Robust Hotels Private Limited and others vs. EIH Limited and others***<sup>9</sup> and ***Central Bank of India and another vs. Smt Prabha Jain and others***<sup>10</sup>, it was held that Section 34 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, SARFAESI Act) bars the jurisdiction of the civil court for (i) suits or proceedings relating to matters that the Debts Recovery Tribunal or the Appellate Tribunal can decide under the SARFAESI Act, and (ii) no injunction may be granted by any court or authorities regarding actions under the Act or the Recovery of Debts Due to Banks and Financial Institutions Act, 1993
- v) In ***Akbar Khan Alam Khan and another vs. Union of India and others***<sup>11</sup>, it was held that Section 9(2) of the Citizenship Act the only question, which a civil court is prevented from determining is 'whether a citizen of India

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<sup>8</sup> (2004) 4 SCC 311

<sup>9</sup> (2017) 1 SCC 622

<sup>10</sup> (2025) 5 SCC 38

<sup>11</sup> 1961 SCC Online SC 4

has acquired citizenship of another country or when or how he acquired' it. So, the jurisdiction of the civil court is barred with respect to that question.

- vi) In ***Sudhir G. Angur and others vs. M. Sanjeev and others***<sup>12</sup>, the question was whether a suit filed with respect to the trusteeship and mis-management of the trust under Section 92 of the CPC, was not maintainable in view of the provisions of Section 17 of the Mysore Religious and Charitable Act, 1927 (for short, the Act, 1927), the Hon'ble Apex Court held that the enquiry contemplated under Section 17 of the Act, 1927 was summary enquiry, as held under the various Land Revenue Codes, such summary enquiry does not bar jurisdiction of the civil courts. There were also serious allegations of forgery, fraud and diversion of trustees properties. It was held that those allegations could never be enquired into in summary manner by the authority under the Act, 1927 and those matters could only be gone into by a court, so the order rejecting the application under Order 7 Rule 11 CPC was upheld.

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<sup>12</sup> (2006) 1 SCC 141



- vii) In ***Rashid Wali Beg vs. Farid Pindari and others***<sup>13</sup>, the Hon'ble Apex Court held that a conjoint reading of Sections 7 and 85 of the WAQF Act, 1995 would show that the bar of jurisdiction of civil court contained in Section 6(5) and Section 7(2) is confined to Chapter--II, but the bar of jurisdiction under Section 85 is all pervasive.
- viii) This Court is also of the view that if the suit is barred by limitation on the face of the plaint averments applying the provisions of the Limitation Act, the relevant article of the schedule, then also the plaint would be liable to be rejected under Order VII Rule 11(d) C.P.C.
- ix) However, in many cases, the question of limitation may not be a pure question of law but mixed question of law and fact, in those cases the plaint shall not be liable to be rejected under Order VII Rule 11(d) C.P.C but that would be a case for trial to determine the period of limitation its commencement and then the suit being beyond the limitation and so the suit being barred by law and its dismissal. In this respect, this Court refers to the judgments of this Court in ***Khaja Quthubullah v.***

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<sup>13</sup> (2022) 4 SCC 414

**Government of A.P<sup>14</sup> and Raja Extractions Ltd. V.  
Nagaboyiana Pokeeru<sup>15</sup>.**

20. The contention raised by the learned counsel for the petitioners is that the property being of the grandfather of the plaintiffs and their father being alive the plaintiffs would have no share in the property in view of Section 8 of the Hindu Succession Act. In the view of this Court that is the subject matter of the trial. The suit, in the event the plaintiffs not entitled to any share in the plaint schedule property and so not entitled for partition may be dismissed, but on that account it cannot be said that the suit is barred by any law. Even in such a situation, the suit for partition could proceed and be decided partitioning the property amongst the defendants in the suit as the defendants are also treated as plaintiffs in a suit for partition and when particularly in this case the defendant No.5 had already applied for his transposition as plaintiff.

21. In **Chander Sen**(supra), upon which the learned counsel for the petitioners placed reliance, is on the merits of the claim with respect to Section 8 of the Hindu Succession Act, to determine the succession. The contention raised, based on the judgment in **Chander Sen**(supra), if so raised before the Trial Court would

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<sup>14</sup> AIR 1995 AP 43

<sup>15</sup> (2004) 5 ALD 80

require consideration by the said Court regarding the plaintiffs' case of partition based on his share if any in the suit property, but based on the said judgment, neither it can be held that the suit is 'barred by law' nor that any such determination should be made on the merits of the claim in the exercise of jurisdiction under Article 227 of the Constitution of India, as it is also well settled in law that the question as to whether the suit is barred by any law would many times depend upon the facts and circumstances of each case. In the present case, the entitlement of the plaintiffs for the claim made depends upon the leading of evidence, which can be done only during trial.

22. The suit was filed in the year 2016 for partition. It was at the stage of the cross examination of DW.2 after completion of the evidence of the plaintiffs as also DW.1 At that stage, the application under Order VII Rule 11 C.P.C was filed. True, that an application under Order VII Rule 11 C.P.C can be filed at any stage of suit proceedings but the present application was filed almost 7 years after the institution of the suit without assigning any reason for not filing the application timely or at the earliest opportunity. When the trial has proceeded upto that stage and particularly, when it is a suit for partition, in which the defendants are also treated as the plaintiffs,

and the partition is to be affected among the defendants as well, this Court is of the view that the learned Trial Court is right in observing that filing of the petition at such a stage and when one of the defendants i.e. 5<sup>th</sup> defendant had already filed application for his transposition as plaintiff, which was pending for consideration, was strange and peculiar which deserved dismissal.

23. Thus considered, I do not find any illegality in the order of the learned Trial Court and do not find it a fit case for interference with the impugned order in the exercise of the jurisdiction under Article 227 of the Constitution of India.

24. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

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

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**RAVI NATH TILHARI, J**

Date: 04.09.2025

Note:

L.R.Copy to be marked.

B/o.

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**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**C.R.P. NO: 1899/2025**

Date:- 04.09.2025

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L.R.COPY

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