



**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI  
ON 25<sup>TH</sup> MARCH 2026**

**CIVIL REVISION No. 1004 of 2025**

***ANWAR PATEL***  
*Versus*  
***SMT. SHAYARABAI AND OTHERS***

**Appearance:-**

*Shri Veer Kumar Jain, learned senior counsel assisted by Shri Vinay Vijayvargiya, learned counsel for the applicant.*

*Shri Vinod Kumar Verma with Shri Hariom Patidar and Shri Ankit Chourasiya – Advocates for respondent No. 1.*

**ORDER**

With the consent of the parties, matter is heard finally.

This revision petition under Section 115 of Code of Civil Procedure, 1908 (hereinafter referred as 'CPC') has been preferred by the applicant against the impugned order dated 31.07.2025 (Annexure P/6) whereby application filed under Order VII Rule 11 of the CPC on behalf of applicant/defendant No. 5 before the trial Court in RCSA 623/2020 filed for rejection of the plaint, has been dismissed.

**02)** Brief facts of the case are that the respondent No. 1 (plaintiff before the trial Court) has filed Civil Suit No. RCSA/623/2020 against the



present applicant and other respondents for relief of declaration, permanent injunction, partition and possession with regard to the suit lands as per the following table:-

S. No.	Survey No.	Area (in acres)	Location
1	77/1	11.50	Nipania
2	78/2	4.40	Nipania
3	79/2	2.50	Nipania
4	57/1	5.48	Nipania
5	67/1	0.76 & 6.24	Nipania

**2.1)** The aforesaid lands have been mentioned in para-2 of the plaint, but from perusal of para-16, 17 & 20 of the plaint, it is apparent that relief of declaration of 1/5<sup>th</sup> share in the suit land has been claimed by the plaintiff with regard to the lands survey Nos. 77/1 Rakba 11.50 acres, 78/2 Rakba 4.40 acres, 79/2 Rakba 2.50 acres situated at Village – Nipania, Tehsil & Dist. Indore (M.P.) only.

**2.2)** It is also mentioned in the suit that the original land owner was Sardar Singh Rajput, who passed away long ago. He was survived by his two sons namely, Shri Bapusingh Rajput and Shri Nihalsingh Rajput. Defendants No. 1 to 3 are the sons and the defendant No. 4 and plaintiff are the daughters



of the Late Shri Bapusingh. Plaintiff has further stated that in the year 1968-69 to 1977-78, the land bearing survey Nos. 77/1, 78/2 and 79/2 were recorded in the name of Bapusingh and subsequently the same were recorded in the name of sons of Bapusingh (defendants No. 1 to 3) only and such mutation was effected behind the back of the plaintiff and without her consent. Subsequently, after the death of her brothers, name of their legal representatives was recorded on land bearing survey No. 57/1 (part) in revenue records in between 1984-85 to 1987-88. It has been further alleged that the land bearing survey No. 77/1 was sold by her brothers to the present applicant and the same was recorded in the name of the applicant in the revenue records. Plaintiff claims 1/5<sup>th</sup> share in the said land and the aforesaid lands also. It has been further pleaded that representatives of defendant No. 2 Late Shri Narayan Singh filed a Civil Suit No. 884/2017 before II Civil Judge Class II, Indore without impleading her as party and ultimately the said suit was withdrawn in conspiracy with the legal representatives of defendant No. 1/respondent herein. It is further pleaded that the land bearing survey No. 77/1 admeasuring 2.86 hectare has been transferred to and mutated in the name of defendant No. 5 under provisions of Section 190 of Madhya Pradesh Land Revenue Code, 1959 (for short hereinafter referred as 'the MPLRC'). It has been further alleged that the land bearing survey No. 77/3 admeasuring 1.25 acres was sold to defendant No. 7 by LRs. of defendant No. 1



vide a registered sale deed No. 1A/424 dated 29.05.2003. Similarly, the land bearing survey No. 79/2 admeasuring 1.011 hectares was also sold to and recorded in revenue records in the name of defendant No. 7. Defendant No. 4 has got her name mutated on the suit land vide order dated 17.07.1979 without impleading the plaintiff or the defendants No. 1 to 3 and thus the same has been stated not to be binding on the plaintiff. The land bearing survey No. 76/2 admeasuring 2.222 acres is sold to and is recorded in the name of defendant No. 8, a Housing Cooperative Society. The plaintiff claiming that the defendant No. 9 being the power of attorney holder filed the suit on behalf of the LRs. of defendant No. 2 and, therefore, they have been impleaded as party to the suit. Plaintiff further claims that it was on 01.01.2020, she got information about the Civil Suit No. 884/2017 preferred by LRs. of defendant No. 2 and after inspection of the documents appended thereto the cause of action in respect of the land arose to the plaintiff, therefore, she claims relief as mentioned herein above by filing aforementioned Civil Suit annexing the plaint (Ex.P/1).

**2.3)** Applicant/defendant No. 5 filed an application under Order VII Rule 11 of CPC for eviction of the plaint mainly on the ground that the suit is hopelessly barred and not showing any cause of action inter alia among other grounds. For ready reference, objections on the aforesaid application are reproduced as under:-



“a. The suit land has been transferred to and is mutated and recorded in revenue records in the name of various other persons and the said persons are also in possession thereof and, therefore, the suits not maintainable and the plaint deserves to be rejected.

b. The portion of suit land has been sold to Defendant No.8, which being a housing cooperative society has got it diverted developed it and is put to residential usage of its members whereon a series of residential houses have been constructed and thus the plaint thus deserves to be rejected. The relief claimed in the plaint cannot otherwise be granted without making all of the parties to the suit. The plaint thus be rejected.

c. The plaintiff did not file any document pertaining to the death of Shri Sardarsingh or Shri Bapusingh with the plaint and also no document was filed to establish her to be a daughter of Late Bapusingh Rajput and thus the plaint deserves to be rejected on this count.

d. The Petitioner heavily asserted on the fact that even as per plaintiffs own averment, the mutation in respect of suit land took place in the year 1978-79 and the transfers of land having been made in the year 1987, 2003, etc. the suit is apparently hopelessly barred by the provisions of the Limitation Act and thus the plaint deserves to be rejected being time barred by about 40 years.

e. The Plaintiff has purportedly stated to have gained knowledge of the entire transaction on 01.01.2020 only



through the COS884/2017 wherein she was not impleaded as a party. The Plaintiff has failed to disclose in her pleading about the manner and means by which she got the knowledge about the said suit.

f. The Plaintiff has failed to claim the relief of partition of the suit land in the relief clause of the plaint as well as has not sought specific consequential relief regarding the cancellation of the registered deeds of conveyance and revenue proceedings by which the suit land have been transferred.

g. The plaint has been filed against a Housing Co-operative Society and thus the same is barred by virtue of Section 94 of the Madhya Pradesh Co-operative Society Act.

h. The plaint fails to disclose the definite cause of action against the Defendants and thus deserves to be rejected.

i. The plaint has not been verified by the Plaintiff but has been verified by her advocate and thus the plaint deserves to be rejected due to non-observation of procedural laws and directions under the code of civil procedure.

j. In the application, the Petitioner has also prayed for rejection of counter claim filed by the Defendant No.4. It may be mentioned that the said counter claim was filed basically against the co-defendant which is neither maintainable nor was entertainable, hence is barred by law. The counter claim was neither properly valued nor was proper court fees paid.”



2.4) The application was contested by the plaintiff. Learned trial Court vide impugned order dated 31.07.2025 (Annexure P/6) dismissed the application which has given rise to this revision petition.

3) Learned senior counsel for the applicant submits that impugned order passed by the Court below on his application is arbitrary, unjust, illegal and against the settled principles of law. Learned senior counsel further submits that from bare perusal of the plaint it is apparent that plaint is hopelessly barred by time as it is assailing the mutations done in the year 1984-85 indirectly, the relief claimed also assails the sale deeds which have been executed in favour of different persons including the plaintiff long back, but the relief to set aside sale deeds has not been claimed. Plaintiff has very cleverly drafted the plaint by suppressing the date of death of his father Late Shri Bapu Singh so that a cloud could be created over limitation and it could not be ascertained and illusory cause of action could be created. Learned senior counsel further submits that the suit is barred by Sections 31 & 34 of Specific Relief Act, coupled with the fact that respondent No. 8 is a Housing Cooperative Society and notice under Section 94 of Madhya Pradesh Cooperative Society Act which is *pari-materia* similar to provision of Section 80 of CPC, has not been complied with. Mutation proceedings have been challenged after near about 40 years of death of her father and grandfather and thus adverse inference regarding knowledge



and delay needs to be drawn against the plaintiff as the acts of the plaintiff are in defiance to provision of Section 109 of MPLRC. The plaintiff has also not filed any document to prove that she is in possession of the suit lands. She has also not filed any document to prove that she being daughter of Late Shri Bapu Singh Rajput. Her does not find place in family tree Annexure 'A' annexed with plaint as mentioned in para 2 of the plaint. Learned senior counsel further submits that the mutation done in the revenue records registered sale deeds are in public domain, therefore, it cannot be presumed that the plaintiff was not aware of the revenue proceedings and sale deeds relating to disputed lands executed by the respondents and the sale deeds executed by the defendants from their very inception and challenge thereto after more than 40 years is barred by law of limitation. For this, he has also referred the Article 58 & 59 of the Limitation Act, 1963 (for short hereinafter referred as 'the Limitation Act') of the Schedule appended to the Limitation Act. Thus, the suit filed by the plaintiff is bereft of any cause of action and also hopelessly barred. The plaint is also not verified as per provision of Order VI Rule 15 of CPC. Learned senior counsel further submits that the learned trial Court has failed to exercise the jurisdiction of rejecting the plaint to nip in the bud the frivolous suit, hence urges the Court to allow the revision petition by setting aside the impugned order and allowing the application under Order VII Rule 11 of CPC by



rejecting the plaint and also dismissing the suit. To buttress his submissions, learned senior counsel has placed reliance upon the celebrated judgment passed by the Apex Court in *Dahiben vs. Arvindhbai Kalyanji Bhanusali (Gajra) Dead through Legal Representatives & Ors. (2020) 7 SCC 366* and also on para-5 of the judgment passed by the Apex Court in *T. Arivandandam vs. T.V. Satyapal, (1977) 4 SCC 467 and ABC Laminart (P) Ltd. v. A.P. Agencies [(1989) 2 SCC 163]*. Learned senior counsel has also placed reliance upon para 14 & 15 of the judgment passed by the Apex Court in *Kanakarathanammal vs. Loganatha, AIR 1965 SC 271*, last para of the judgment passed by this Court in the case of *Janoutibai vs. Rajobai 1985 MPWN 400*, para 32 of *Shivakalibai vs. Meerabai 1991 MPLJ 102*, para 19 to 20 of judgment passed by the Karnataka High Court in the case of *Tukaram vs. Shambhaji MANU/KA/0498/1998* and para 17, 18 & 19 of the judgment passed by the High Court of Bombay (Nagpur Bench) in the case of *Govindrao vs. Dadarao & Ors. MANU/MH/0645/2004*.

**04)** *Per contra*, learned counsel for the respondent No.1 / plaintiff Shayarbai submits that she is the daughter of Bapusingh, who passed away on 14.11.1980, survived by plaintiff and her sister Late Dulibai and brothers Late Antarsingh, Late Narayansingh and Late Chandarsingh. She is not the daughter of Late Antarsingh as argued by counsel for the applicant and therefore, she has



1/5<sup>th</sup> share in the property of Late Bapusingh, which is in dispute in the civil suit filed by her.

**4.1)** Learned counsel further submits that name of the applicant could not have been entered in the revenue record as '*Mourushi Krishak*', which has been wrongly entered in the year 1985-86. To buttress his submissions, learned counsel has placed reliance on the judgment delivered by the Apex Court in the case of **Jattu Ram Vs. Hakam Singh and Others** reported in **(1994) AIR (SCW) 1387**.

**4.2)** Learned counsel further submits that respondent No.1 / plaintiff came to know about the mutations when Civil Suit No.884/2017 was filed by Bhagu Bai W/o Late Narayansingh and thereafter, she immediately collecting necessary documents filed this civil suit, which is well within time. He further submits that notice to respondent No.8 – Umang Grih Nirman Sahakari Sanstha, Indore is not required as suit is not only against the society and even he can delete the name of aforesaid Society with the permission of the Court.

**4.3)** Learned counsel further submits that after the death of Bapusingh on 14.11.1980, the lands in dispute were taken care of by the brothers of the plaintiff and who conspired and got mutated their names without taking consent of plaintiff. Sister of the plaintiff i.e. Dulibai has filed a counter claim in the suit claiming her 1/5<sup>th</sup> share in the property. Allegations raised for rejecting the



plaint in application under Order VII Rule 11 of the CPC can be decided only on the basis of evidence and it cannot be said inferred on bare perusal of the plaint, that suit is barred by limitation or it is not showing any cause of action.

**4.4)** Learned counsel further submits that for forging thumb impression of late Antarsingh in mutation proceeding for land survey no 77/1 area 2.86 hectare and securing order dated 25/09/1987, an FIR No 490/2022 under sections 420, 467, 468 and 471 of IPC was got registered at police station Lasudia Indore against applicant and others, at the behest of survivors of deceased respondent No 1. On these miscellaneous contentions, learned counsel submits that learned Trial Court has not committed any error in dismissing the application filed under Order VII Rule 11 of the CPC for rejecting the plaint, therefore, this revision petition bereft of any substance, is liable to be dismissed.

**05)** In reply to the contentions raised on behalf of the respondent, learned Senior Counsel appearing on behalf of the applicant submits that FIR which was lodged at the behest of Mohansingh has been quashed by this Court and therefore, now the FIR cannot be referred. Learned counsel submits that in his earlier arguments he referred plaintiff as daughter of Antarsingh, which is based on plaint allegations itself and in that plaint allegations to suppress the



facts with regard to limitation, date of death of Bapusingh has not been disclosed.

**06)** Learned Senior Counsel for the applicant inviting attention of this Court towards para 2 of the plaint submits that Family Tree, which has been enclosed as Annexure-A (परिशिष्ट-अ) with the plaint, does not disclose the name of the plaintiff in survivors of the deceased Bapusingh, but even assuming that she is daughter of Bapusingh does not have any adverse bearing on his claim that suit is barred by limitation as present suit has been filed by the plaintiff on 14.10.2020, which is near about 40 years after the death of Bapusingh on 14.11.1980. Referring para 9 and 9-A of the plaint, learned counsel further submits that the order by the revenue authorities has been passed on 25.09.1987 and the suit has been filed 33 years after that. Mutation in favour of sons of Bapusingh as per para 4 and 5 of the plaint was made in the year 1984-85 and mutation in favour of defendant No.5 / petitioner was done on 17.07.1979 as per the plaint allegations, therefore, the suit is filed after 41 years of the aforesaid mutation and even the Sale Deed, which has been executed by the defendant No.7 and 8 as per para 13 and 14 of the plaint, this civil suit which is filed after 20-22 years thereafter is clearly barred by limitation and it does not require any inquiry and it is not a mixed question of law and fact as mentioned by learned Trial Court in the impugned order.



**6.1)** Learned Senior Counsel further submits that since defendant No.7 and 8 are Co-operative Housing Societies, hence notice under Section 94 of the Madhya Pradesh Co-operative Societies Act, 1960 was mandatory requirement before filing of the suit, which has not been followed. Learned counsel further submits that no relief has been claimed challenging the mutation in favour of sons of Bapusingh (brothers of plaintiff) and mutation in favour of defendants No.4 and 5, therefore, subsequent mutation cannot be challenged.

**6.2)** Learned Senior Counsel has further submitted that in the partition suit, it is mandatory requirement that all the properties claimed to be partition should be included and all the co-owners must be arraigned as either plaintiff or defendant, which is lacking in the instant case. Hence, the suit which is barred by law and also hit by other mandatory requirements, which has not been followed, therefore, learned Senior Counsel urges this court for allowing this revision petition by setting aside the impugned order and rejecting the plaint.

**07)** Heard and considered rival submissions raised at bar and perused the record.

**08)** It is not *res integra* that only plaint allegations and documents filed along with the plaint are to be seen for deciding the application filed under Order VII Rule 11 of CPC as held by the Apex Court in case of *Kamala & Ors. vs. KT Eshwara, SA and Ors (2008)12 SCC 661*. Similar view has also been



taken by the Apex Court in case of *Saleem Bhai vs. State of Maharashtra (2003) 1 SCC 557*. Thus, in the light of the aforesaid, this Court will go through the pleadings in the plaint and documents filed therein to ascertain whether the plaint allegations and documents filed therein reveals any actual contradiction and whether the suit is barred by law of limitation or any other law.

**09)** From perusal of the plaint, it can very well be discerned that original land owner of the disputed land was Late Shri Sardar Singh Rajput as stated in para-1 of the plaint and he was survived by Late Shri Bapu Singh Rajput, father of the plaintiff and Late Shri Nihal Singh. Late shri Bapu Singh who as per plaintiff passed away on 14/11/1980 is survived by Shayara Bai, plaintiff, Duli Bai and three sons, late Shri Antarsingh, late shri chandersingh and late shri Narayansingh.

**10)** The allegations in para-4 of the plaint are that agricultural land bearing survey No. 77/1, situated at Village – Nipania, Dist. Indore, *Rakba* 11.50 acre, without her consent and by playing fraud upon her has been mutated in the name of sons of Late Bapusingh i.e. Late Antarsingh, Late Narayansingh and Late Chandarsingh (brothers of the plaintiff) and without impleading her and her sister Dulibai as party to the proceedings.

**11)** The land bearing survey No. 57/1 has also been got mutated in the name of aforesaid persons and *khasra panchshala* thereof for the year **1984-85**



and **1987-88** have been annexed with the plaint. She has alleged that even though she is having 1/5<sup>th</sup> share in the aforesaid disputed lands, but by playing fraud, aforesaid undivided agricultural lands have been got mutated and sold to defendant No. 5 and name of defendant No. 5 has also been got mutated. All these aforesaid mutation proceedings have been done by playing fraud upon the plaintiff and in collusion of his brothers and illegally her 1/5<sup>th</sup> share in the aforesaid properties have been sold which is void as it is against law. The order passed by Collector in Case No. 40/*suomotu* revision/98-99 (State of M.P. vs. Anwar), order dated 16.11.2005 has been passed without following due procedure for mutation.

**12)** The allegations in para-9 of the plaint are that when plaintiff perused Civil Suit No. 884/2017 (Bhagubai & Ors. vs. Anwar & Ors.), she came to know that survey No. 77/1 situated at Village – Nipania, *Rakba Paiki* 4.26 acres has been sold to Faiju Patel s/o Bapu Patel (Defendant No. 6) and to evade court fee on sale deed, an application under Section 198 of MPLRC was filed which was registered on Case No. 46 अ-6/1986-87 wherein Tehsildar passed an order of mutation on 25.09.1987. The aforesaid order was passed after recording the statements of Late Antarsingh S/o Bapusingh, Kailash and Anwar S/o Rahmat Ali, defendant No. 5 (petitioner herein).



**13)** It has also been alleged in para-10 of the plaint that on perusal of plaint filed by legal heirs of defendant No. 3 she came to know that legal heirs of Late Antarsingh (defendant No. 1) and legal heirs of 1(d) Jaswantsingh, father of Rahul has also executed a sale deed No. 137/424 dated 29.05.2003 for the land situated in village – Nipania, survey No. 77/3, area 1.23 hectare has been sold to defendant No. 7 which is also not binding on her as she was not made a party to the aforesaid sale deed.

**14)** In para-11 of the plaint she has alleged that before Tehsildar, one application under Sections 169, 190, 109 and 110 of MPLRC was filed which was registered on case No. 31(अ)/46/1978-79 and the order was passed on 17.07.1979 whereby name of defendant No. 4 was directed to be recorded by conspiring with the revenue officers without affording opportunity of hearing to the plaintiff and legal heirs of defendants No. 1, 2 & 3. This order is also illegal and not binding on the plaintiff. Similarly, survey No. 79/2, *Rakba* 1.011 hectare has been got mutated in the name of defendant No. 7 and *Rakba* 2.222 hectare of the aforesaid land, survey No. 76/2 has been sold to defendant No. 8 which is recorded in the name of aforesaid society wherein plaintiff has also having 1/5<sup>th</sup> share.

**15)** From the aforesaid allegations, it is apparent that plaintiff is aware of the aforementioned sale deed and mutation proceedings since very beginning



of the sale deed and order of mutation. The aforesaid civil suit has been filed on 14.02.2020 near about more than 40 years after order dated 17.07.1979 and 17 years after the execution of the sale deed dated 29.05.2003 referred in para-10. In para-17 of the plaint, the cause of action has been shown to have arisen on 01.01.2020 when a Civil Suit No. 884/2017 was filed by legal heirs of defendant No. 2 wherein she was not made a party. The aforesaid illusory cause of action is without any basis since it is not in dispute that plaintiff is daughter of late Bapusingh, therefore, she can claim only through her father and suit filed by legal heirs of defendant No. 2 Narayansingh will not give rise to any cause of action to her for filing the present suit.

**16)** As per provisions contained in Article 58 of the Limitation Act, a suit for declaration must be filed within a period of three years from the date when the right to sue first accrues. Similarly, in Article 59 of the Limitation Act, same period of limitation of three years has been mentioned. Both the provisions are extracted as under:-

58	To obtain any other declaration.	Three years.	When the right to sue first accrues.
59	To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years.	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.



17) Aforesaid period has passed long back from the date of either execution of the sale deeds as referred in the plaint or from the date of mutations which have taken place in favour of other legal heirs of Late Shri Bapusingh, who are brothers of the plaintiff and mutation in favour of the applicant herein. This is apparent from the plaintiff's own averments of the plaint and requires no evidence for its determination.

18) Even though in para-17 of the plaint, cause of action has been shown to have arisen on 01.01.2020, but actually it is without any basis. Plaintiff has not claimed that she has obtained any certified copy of mutation proceedings based on sale deed and, therefore, she came to know for the first time about the mutation proceedings and the sale deeds executed by the legal heirs of his deceased brothers on 01/01/2020 as shown in para 17 of the plaint. There is nothing in the plaint to show that at any point of time as shown in plaint, cause of action arose in favour of the plaintiff. As held by the Apex Court in *ABC Laminart (P) Ltd. v. A.P. Agencies [(1989) 2 SCC 163]*, what cause of action means has been held in para 12 which is reproduced as under:-

*“12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an*



*act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defense which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.”*

19) Hon'ble Apex Court in ***ITC Ltd. v. Debts Recovery Appellate Tribunal, (1998) 2 SCC 70*** has held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code. In case of ***T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467 : 1977 SCC OnLine SC 286 at page 470*** also the Apex has emphasized that irresponsible law suits should be nipped in bud. Relevant paragraph 5 runs as under:-

*“5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7, Rule 11 CPC taking care to see that the ground mentioned therein is*



*fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10, CPC. An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi:*

*“It is dangerous to be too good.”*

20) In the light of aforesaid discussion, this Court is of the considered view that cause of action stated in entire plaint is not real, but it is illusory cause of action which is the result of clever drafting only. Plaintiffs/respondents No. 1 to 3 have not substantiated the pleadings with any supportive document even to prima facie satisfy the Court that they have any real cause of action for filing the aforesaid suit. In para 23.6 of *Dahiben (supra)*, Hon'ble Apex Court has held that it is duty cast on the Court while adjudicating the application under Order VII Rule 11 of CPC to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint, read in conjunction with the documents relied upon, or whether the suit is barred by any law. Similarly In the matter of *Sopan Sukhdeo Sable Vs Charity Commr reported in (2004) 3 SCC 137* Hon'ble Apex Court has held that the trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to



sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code.

**21)** If the suit filed by the plaintiff is allowed to continue it will definitely be a wastage of valuable judicial time. Hon'ble Apex Court in the matter of *Azhar Hussain v. Rajiv Gandhi reported in 1986 AIR 1253* has observed 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.”*

**22)** In the instant case, Plaintiff has pleaded about fraud committed upon her by his brothers and other respondents in getting mutated disputed lands in their name, but she has not given any specific particulars of the fraud which could arrest the period of limitation and, therefore, she is not entitled to



take benefit of Section 17 of Limitation Act, 1963. It has been argued on behalf of the respondent/plaintiff that she gained knowledge of the alleged fraud on 01.01.2020 when she perused Civil Suit No. 884/2017 filed by legal heirs of Respondent No. 2, but no details have been given as to how she inspected aforesaid Civil Suit on the aforementioned date.

**23)** To appreciate the controversy with regard to arrest of limitation period till discovering of the fraud allegedly played upon the plaintiff, S. 17 of Limitation Act is relevant and is reproduced as under:-

*“17. Effect of fraud or mistake.—(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,—*

*(a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or*

*(b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or*

*(c) the suit or application is for relief from the consequences of a mistake; or*

*(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him; the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it, or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:*

*Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which—*



*(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or*

*(ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or*

*(iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.*

*(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:*

*Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.”*

**24)** From bare perusal of the aforesaid provision this plea of plaintiff is not acceptable as Section 17 of the Limitation Act postpones limitation in cases of fraud only when the plaintiff discovers the fraud or when with the exercise of reasonable due diligence, have discovered it. In the instant case, it is well within the knowledge of the plaintiff as pleaded in the plaint that after death of her father Bapusingh on 14.11.1980 names of her brothers/respondents were mutated in the revenue record in the year 1984-85. Documents relating to mutation are in public domain and open to inspection for all and sundry at any point of time. Failure to take any step to challenge the challenged the mutation



proceedings undertaken in the year 1984-85, for over thirty six years no action has been taken by the plaintiff. Further, the fraud plea in the plaint lacks the specific particulars required by law. There are no particulars as to who, when or by what means fraud was committed and a bare and unparticularized allegation of fraud is insufficient to attract the benefit of Section 17 as held by the Apex Court in para 18 to 21 of judgment in ***Santosh Devi v. Sunder, 2025 SCC OnLine SC 1808***. Relevant para graphs are reproduced as under:-

*“17. To appreciate the findings arrived at by the Courts below, we must first see on whom the onus of proof lies. The record reveals that the disputed document is a registered sale deed. It is not in dispute that the petitioner has signed the sale deed. We are, therefore, guided by the settled legal principle that a document is presumed to be genuine if the same is registered, as held by this Court in Prem Singh v. Birbal, (2006) 5 SCC 353. The relevant portion of the said decision reads as below:*

*“27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.”*

*(Emphasis supplied)*

*In view thereof, in the present case, the initial onus was on the plaintiff, who had challenged the sale deed.*

*18. When fraud is alleged against the defendant, it is an acknowledged rule of pleading that the plaintiff must set forth the particulars of the fraud which he alleges. In the present case, fraud is alleged as a ground upon which the plaintiff justifies the institution of the suit long after the expiry of the period normally allowed for the institution of the suit. Though no specific reference to the provisions of Section 17 of the Limitation Act,*



*1963 (for short, 'the Limitation Act') is made in the plaint, it is manifest that the pleading proceeds upon the hypothesis that the plaintiff had also contributed along with the defendant in the purchase of the subject property and at the time of the sale, the plaintiff was entitled to 50% of the sale consideration. In other words, the fraud was played upon the plaintiff to sign the sale deed and thereby transfer the subject property. The requirement of Order VII Rule 6, Civil Procedure Code, are clear. It is necessary that the plaint should show the ground upon which the exemption from the normal period of limitation is claimed. The question is whether the plaint in this case fulfils the requirements of law. As observed by Lord Selborne in Walling Ford v. Mutul Society, [L.R.] 5 App. Cas. 685:*

*“With regard to fraud, if there be any principle which is perfectly well settled, it is that general allegations however strong be the words in which they are stated, are insufficient even to amount to an averment of fraud of which any Court ought to take notice.”*

*19. It is not the mere use of general words such as 'fraud' that can serve as the foundation for the plea. Such expressions are quite ineffective to give the legal basis in the absence of particular statements of fact which alone can furnish the requisite basis for the action.*

*20. Order VII Rule 6 uses the words “the plaint shall show the ground upon which exemption from such law is claimed”. The exemption provided under Sections 4 to 20 of the Limitation Act are based on certain facts and events. Section 17, with which we are concerned, provides for a fresh period of limitation, which is founded on certain facts.*

*21. The matter can also be looked at from a different angle. Assuming for the moment that the defendant was a party to the fraud as alleged relating to the sale transaction, whether the same by itself is sufficient to save limitation under Section 17 of the Limitation Act. We are of the opinion that the fraud relating to the sale transaction as alleged itself would not help the plaintiff in getting over the plea of limitation in this case. As already discussed, under Section 17 of the Limitation Act, the plaintiff should have been kept out of knowledge of his right to*



*sue by means of fraud. We are of the opinion that the alleged fraud relating to the sale transaction itself has nothing to do with the question viz., that the plaintiff had been kept out of knowledge of his right to file a suit for cancellation of the sale deed because of fraud.”*

In the light of the aforesaid, the plaintiff is not entitled to the benefit of Section 17 of the Limitation Act.

**25)** In the instant case, plaintiff has indirectly challenged sale deeds executed by the respondents more than two decades ago, but no relief in the plaint in this regard has been claimed, therefore, also her suit is not maintainable as barred by Section 34 of the Specific Relief Act, 1963.

**26)** In case of *Uma Devi v. Anand Kumar, (2025) 5 SCC 198 : 2025 SCC OnLine SC 703 at page 203* in similar factual matrix as in the instant case, a suit challenging family partition of year 1968 the trial court, considering the facts, allowed the application under Order 7 Rule 11CPC and dismissed the suit, finding no cause of action for filing the suit. However, the appellate court found that there were triable issues that required consideration. The appellate court was of the opinion that the plaintiffs had a legitimate claim over the joint family properties, and in the absence of any notice to the plaintiffs regarding the partition, the suit was remanded back to the trial court for fresh consideration. Hon'ble Apex Court restored dismissal of the suit. Relevant paragraphs of the aforesaid judgments are reproduced as under:-



*“11. The sole argument advanced by the respondent-plaintiffs is that the suit was only for partition, filed in the year 2023 and was within the limitation period as the limitation will be counted from the date of their knowledge of the sale deed. However, upon examining the pleadings before the trial court and the appellate court, it is evident that the plaintiff failed to address the crucial question of when they became aware of the registered sale deeds. If they had prior knowledge of the sale deeds, they failed to specify the exact date of such knowledge. Additionally, the pleadings suggest suppression of essential facts by the plaintiffs.*

*12. In the case at hand, partition took place way back in the year 1968, which is evident from the revenue record entries. The suit is filed in the year 2023 i.e. after a period of 55 years. Further, many of the family members had executed registered sale deeds in the year 1978. These sale deeds have been attached, and on perusal it is observed that these were in fact registered sale deeds.*

*13. A registered document provides a complete account of a transaction to any party interested in the property. This Court in Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana [Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656 : (2012) 1 SCC (Civ) 351 : (2012) 169 Comp Cas 133 : (2012) 340 ITR 1] held as under : (SCC pp. 664-65, para 15)*

*“15. ... ‘17. ... Registration of a document [when it is required by law to be, and has been effected by a registered instrument] [Ed. : Section 3 Explanation I TPA, reads as follows: “S. 3 Expln. I—Where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration....” (emphasis supplied)]] gives notice to the world that such a document has been executed.*

*18. Registration provides safety and security to transactions relating to immovable property, even if the document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents. Registration provides information to*



*people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the person(s) presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title to the property may be affected and secure extracts/copies duly certified.’ [Ed. : As observed in Suraj Lamp & Industries (P) Ltd. (1) v. State of Haryana, (2009) 7 SCC 363, pp. 367-68, paras 17-18.] ”*

*14. Applying this settled principle of law, it can safely be assumed that the predecessors of the plaintiffs had notice of the registered sale deeds (executed in 1978), flowing from the partition that took place way back in 1968, by virtue of them being registered documents. In the lifetime of Mangalamma, these sale deeds have not been challenged, neither has partition been sought. Thus, the suit (filed in the year 2023) of the plaintiffs was prima facie barred by law. The plaintiffs cannot reignite their rights after sleeping on them for 45 years.*

*15. The learned Senior Counsel for the appellant-defendants, Mr Sundaram, relied upon the decision of this Court in Shri Mukund Bhavan Trust v. Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle [Shri Mukund Bhavan Trust v. Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle, (2024) 15 SCC 675 : 2024 SCC OnLine SC 3844] to substantiate the contention that the suit was barred by limitation. It was observed as follows : (SCC paras 22 & 25)*

*“22. When a portion of the property has been conveyed by court auction and registered in the first instance and when another portion has been conveyed by a registered sale deed in 1952, there is a constructive notice from the date of registration*



*and the presumption under Section 3 of the Transfer of Property Act, comes into operation. The possession, in the present case, also has been rested with the appellant before several decades, which operates as notice of title. ...*

23.-24. \*\*\*

*25. Continuing further with the plea of limitation, the Courts below have held that the question of the suit being barred by limitation can be decided at the time of trial as the question of limitation is a mixed question of law and facts. Though the question of limitation generally is mixed question of law and facts, when upon meaningful reading of the plaint, the court can come to a conclusion that under the given circumstances, after dissecting the vices of clever drafting creating an illusion of cause of action, the suit is hopelessly barred and the plaint can be rejected under Order 7 Rule 11.*”

**16.** *In Madanuri Sri Rama Chandra Murthy v. Syed Jalal [Madanuri Sri Rama Chandra Murthy v. Syed Jalal, (2017) 13 SCC 174 : (2017) 5 SCC (Civ) 602] , this Court laid down the scope of Order 7 Rule 11CPC : (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 11CPC 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 11CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11CPC 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 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 11CPC 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.”*

*17. In Dahiben v. Arvindbhai Kalyanji Bhanusali [Dahiben v. Arvindbhai Kalyanji Bhanusali, (2020) 7 SCC 366 : (2020) 4 SCC (Civ) 128] , it is stated as under : (SCC p. 377, para 23)*

*“23. ... 23.3. The underlying object of Order 7 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.”*

*18. In our considered opinion, the trial court had rightly allowed the application of the appellant-defendants under Order 7 Rule 11CPC, holding that the suit filed by the plaintiffs was a meaningless litigation, that it did not disclose a proper cause of action and was barred by limitation. There were thus no justifiable reasons for the appellate court to have remanded the matter to the trial court.*

*19. The suit was indeed barred by limitation. Consequently, the impugned order dated 8-1-2025 [Anand Kumar v. Chandrashekar P.M., 2025 SCC OnLine Kar 8] passed by the High Court is set aside, and both these appeals are hereby allowed.”*

**27)** In view of Article 58 & 59 of Schedule appended to Limitation Act, 1963 and in conjunction with meaningful reading of the plaint averments and the documents filed therewith, this Court is of the considered view that



plaint does not disclose any real cause of action and the suit is manifestly barred by limitation.

**28)** In the instant case it is not in dispute that defendant/respondent No. 8 is a Society, but compliance of Section 94 has not been made by giving a notice as required under the aforesaid section to the Society before filing a suit which is similar to the provision as contained in Section 80 of CPC. It is also relevant to mention in the instant case that plaintiff has not filed any document along with the plaint and has not even pleaded that she is in possession of the suit land.

**29)** Accordingly, in the instant case it has been found that plaintiff has never been in the possession of the suit land as no supportive document is annexed with the plaint and it has also been found that by way of clever drafting, point of limitation has been unsuccessfully tried to be defeated, therefore, contentions raised on behalf of the plaintiff that in the instant case there is no point which touches the jurisdictional error committed by the court below in rejecting application of applicant filed under Order VII Rule 11 of CPC, is not sustainable and arguments advanced in this behalf by the plaintiff's side are discarded.

**30)** It is no inflexible rule that the point of limitation is always a mixed question of fact and law and plaint cannot be rejected. Where bar of limitation



is clearly and undisputedly ascertainable from the averments of the plaint as in the instant case, the same can be rejected. In the case of much celebrated judgment passed by the Apex Court in *Dahiben (supra)*, the Hon'ble Apex Court rejected the plaint on the ground as it was clearly made out from the averments of the plaint that it is barred by limitation.

31) Learned senior counsel appearing on behalf of the applicant has also contended by relying on para 32 of the judgment passed by coordinate Bench of this Court in *Shivakalibai (supra)*, para 19 & 20 of the judgment passed by the Karnataka High Court in the case of *Tukaram (supra)* and para 14 & 15 of the judgment passed by the Apex Court in the case of *Kanakarathanammal (supra)* that in the instant case, all the co-sharers have not been joined, therefore, suit is not maintainable and also relying upon last para of the judgment passed by this Court in *Janoutibai (supra)* and para 17 to 19 of the judgment passed by the High Court of Bombay in *Govindrao (supra)*, it has also been concluded that if the entire properties have not been included, then the suit is not maintainable. The Civil Suit No. RCSA 623/2020 filed by the plaintiff is seeking relief of partition of the suit property along with other reliefs mentioned in para 20 of the plaint, but neither all the properties of Bapusingh have been included for partition nor all the interested parties have



been impleaded, therefore, suit filed by the plaintiff is also not maintainable in the light of aforesaid judgments on this count also.

**32)** Upshot of the aforesaid discussion is that in the instant case, it has been found that illusion of cause of action is created to frustrate the point of limitation, whereas there was no actual cause of action to file the suit and the suit for the reliefs claimed were barred by limitation.

**33)** Resultantly, Civil Revision having substance, succeeds and is hereby allowed and the impugned order dated 31.07.2025 (Annexure P/6) passed in RCSA 623/2020 is hereby set aside. Application filed by the applicant under Order VII Rule 11 of CPC before the Trial Court is allowed and the plaint filed in the aforesaid suit before 24<sup>th</sup> District Judge, Indore deserves to be and is hereby rejected entailing dismissal of aforementioned suit.

No order as to costs.

**(BINOD KUMAR DWIVEDI)**  
**JUDGE**