A.F.R.
Judgment reserved on: 06.04.2026
Judgment delivered on: 16.04.2026
Neutral Citation No. - 2026:AHC:83947

Court No. -53

Case :- FIRST APPEAL No. - 277 of 2026
Appellant :- Smt. Sunita Gupta And Another
Respondent :- Smt. Prem Gupta And 2 Others
Counsel for Appellant :- Ved Prakash Shukla
Counsel for Respondent :- Kushagra Vaibhav Singh, Pradeep Kumar Singh

Hon'ble Sandeep Jain,J.

1. The instant appeal has been filed by the plaintiffs under Section 96 CPC against the impugned judgment and decree dated 10.7.2025 passed by the Additional District Judge, Court no. 11,Agra in O.S.no. 59 of 2025, Smt.Sunita Gupta and another vs. Smt.Prem Gupta and others, whereby the application no. 27-C of defendant no.1 and 2 under Order VII Rule 11 CPC has been allowed and consequently, the plaint has been rejected.

Plaint case

2. The plaintiffs who are the daughter and son of defendant no.1 Smt. Prem Gupta and sibling of defendant no. 2 Smt.Anju Gupta filed O.S. No. 59 of 2025 with the averments that plaintiffs and defendant no.1 and 2 are the members of the HUF who are originally resident of Mahavir Ganj,Aligarh. There was an ancestral house of their grandfather late Babulal Gupta , who was having a business of Aadat. Their father Omprakash Gupta left Aligarh and joined service as Senior Asst. in the office of the Joint Development Commissioner(JDC) Agra much prior to 1955 and thereafter, married defendant no.1 in or about 1955 who was very poor,hand to mouth person and was totally dependent upon their father. **It was further submitted that their grandfather Babulal Gupta also winded up his business from Aligarh and distributed the money to their sons.**

3. It was further averred that after the marriage of defendant no.1 with their father Omprakash Gupta, their father purchased disputed suit properties, which are mentioned at the foot of the plaint, **from the fund of the HUF** in the name of his wife defendant no.1 Smt.Prem Gupta, in love and affection and in trust for the benefit of himself and all his family members from Smt.Munni Devi through registered sale deed dated 11.4.1966 which was subsequently registered in the office

of sub-registrar Agra on 09.6.1966, **hence the property in suit is HUF property**, in which the plaintiffs and defendant no.1 and 2 have equal share.

4. It was further averred that at the time of the above sale deed, the plaintiff no.1 was about 3 years old and plaintiff no. 2 was in womb and defendant no. 2 was not in existence. At the time of purchase of property of schedule 'A' it was residential house consisting of 2 rooms with tinshed and lobby on the ground floor. Thereafter, their father raised 3 storeyed building consisting of 17 rooms from the HUF fund. It was further averred that at the time of purchase of another property bearing Nagar Nigam no. 5/13,was in the nature of plot.Thereafter, their father also raised a residential house on it consisting of 4 rooms on the ground floor and one store,latrine-bathroom on the 1st floor from HUF fund.

5. It was further averred that the defendant no.1 i.e.mother of the plaintiffs is a housewife, **having no Stridhan with her and no source of income, all the investment in purchase of the property and raising construction on it was made by their father only from the ancestral nucleus i.e. from the HUF funds.**

6. It was further averred that the plaintiff no.1 and defendant no.1 and 2 are residing in house no. 5/13 in 7 rooms and remaining 10 rooms are rented with different tenants, from which defendant no.1 is **receiving about ₹ 50,000/- per month as rent on behalf of all the heirs of Late Omprakash Gupta**. It was further averred that the plaintiffs and defendants no.1 and 2 are living in house no. 5/13 Madia Katra,Agra since very inception and **part of the property in suit is rented,which is realised by defendant no.1 for herself and other co-owners**.

7. It was further averred that the marriage of plaintiff no. 2 was solemnised in the year 1986 thereafter, the father of the plaintiffs completed the constructions of the plot no. 5/13-A and since then plaintiff no. 2 is residing in the house with his family.

8. It was further averred that their father Omprakash Gupta being the Karta of HUF realised the rent of 10 rooms from the tenants till his death and after his death, the rent is being realised by the defendant no.1 for herself and for the benefit of the HUF. It was further averred that the plaintiff no.1 and defendant no. 2 are residing in house no. 5/13 Madia Katra,Agra since very inception as co-owner and being the member of the HUF, and have equal share in the properties in suit. It was further averred that all the rent realised by the defendant no.1 was in representative capacity in which plaintiffs have equal share, **the defendant no.1 used to give lump-sum amount to the plaintiffs**

and defendant no. 2 in lieu of their share in rent upto the month of October, 2022 but thereafter, the defendant no.1 failed to give any amount to the plaintiffs and when the plaintiffs demanded their share of rent then the defendant no.1 became furious and told them that the properties are in her name and threatened to dispossess the plaintiffs and has also started to negotiate its sale with different persons. The plaintiffs further asked the defendant no.1 to give the details of the rent since the month of September 2022 to which she refused.

9. It was further averred that on 23.1.2025 the defendant no. 3 Ferhan Khan with 4 other persons contacted the plaintiffs and informed that he is going to purchase the disputed property from defendant no.1 and asked the plaintiffs to vacate the properties and otherwise threatened them with dire consequences. The plaintiffs told the defendant no. 3 that they are the owners in possession of the disputed property jointly with their mother defendant no.1. The plaintiffs immediately on the same day contacted their mother defendant no.1 and enquired about the impending sale to which no satisfactory answer was given by her but later on, the defendant no.1 asked the plaintiffs to leave the house and also threatened that she is the absolute owner and shall sale the disputed properties. The plaintiffs requested their mother not to sell the disputed properties but their mother was adamant to sell it to defendant no. 3 or any other person of her choice.

10. It was further averred that on 24.1.2025 the defendant no. 3 with some person again came to the disputed house of the plaintiffs and threatened them that they will take possession of the disputed properties forcibly after purchasing the properties. The plaintiffs tried to register FIR regarding this incident ,but they could not.

11. It is the specific case of the plaintiffs that the defendant no.1 has no right to sell any share in the disputed properties to defendant no. 3 or any other person, since the disputed property is of HUF in which as members, the plaintiffs have also got right title and interest since inception and they are also residing peacefully with their families and defendant no.1 is under obligation to give details of the rent received by her and also to give rent to other co-owners. It was further averred that the plaintiffs have preferential rights to purchase the share of other members of HUF in suit property, since they are the owners in possession and have every right to protect their properties.

12. In the above backdrop, the plaintiffs have claimed the following reliefs :-

(A)That a decree of declaration that the property in suit is HUF property and plaintiffs and defendants no.1 and 2 are members of the said HUF and have equal share in suit property and are also entitled to equal share in

rent and decree of permanent prohibitory injunction be passed in favour of the plaintiffs against the defendant no.1 not to transfer or alienate the properties in suit to the defendant no. 3 or to any other person without partition and restraining the defendants, their associates, agents or any other persons claiming through them from interfering in the ownership and possession of the plaintiffs in property in suit by changing the nature of property in suit or by dispossessing the plaintiffs or by any other manner whatsoever.
(B)Decree of mandatory injunction to give account of rent realised from tenant since September 2022 and defendant no. 1 be directed to give share of rent of property in suit along with 18% interest per annum since September 2022 to the date of actual payments.
(C)The cost of the suit be awarded to the plaintiffs against the defendants.
(D)Any other relief to which the Hon'ble Court deems and proper in the circumstances of the case be also granted to the plaintiffs against the defendants.

Defendants application under Order VII Rule 11 CPC

13. The defendant no.1 and 2 moved an application no. 27 – C under Order VII Rule 11 read with 151 CPC with the averments that according to the plaint the disputed property was purchased by defendant no.1 through registered sale deed on 11.4.1966 and the plaintiffs have also alleged that the cause of action for filing the suit has arisen on 11.4.1966. It was further averred that the disputed property was self acquired property of the defendant no.1, hence the plaintiffs have got no cause of action for filing the instant suit. Further, the plaintiff 's suit was time barred and was also barred by Section 41 of the Specific Relief Act since the plaintiffs have not claimed the efficacious relief of cancellation of gift deeds executed by defendant no.1 in favour of defendant no. 2. With these averments, it was prayed that the plaintiff 's suit be dismissed under Order VII Rule 11 CPC.

Objections filed by the plaintiffs against the above application of the defendants

14. The plaintiffs averred that the sale deed dated 11.4.1966 was executed in favour of the defendant no.1 in fiduciary capacity and as trustee for the benefit of all the members of the HUF. The issue of limitation is mixed question of law and fact which cannot be a ground under Order VII Rule 11 CPC. The alleged gift deed was not in the knowledge of the plaintiffs at the time of the filing of the suit. Further, the gift deed was nullity from inception upto the extent of the share of the plaintiffs in the disputed property. Since the disputed property is of HUF the plaintiffs are its co-owners since their birth and defendant no.1 has got no right or authority to transfer the share of the plaintiffs to the defendant no. 2 or any other person by alleged gift or in any other manner of transfer. Hence, the plaint cannot be

rejected on this ground also. It was averred that the application of the defendants was misconceived and was liable to be rejected with cost.

Reasoning of the trial court

15. The trial court opined that in the sale deed dated 11.4.1966 it was not mentioned that the property belongs to HUF. To the contrary, it is mentioned that the defendant no.1 is the absolute owner in possession of the disputed property. The sale deed also mentions that the consideration has also been paid by the defendant no.1. The trial court further opined that the plaintiffs have not led any evidence to prove the existence and nucleus of HUF, that their grandfather was having a Aadat, the income generated from Aadat and the expenditure incurred from it.

16. The trial court further opined that the plaintiffs father Omprakash Gupta was a Senior Assistant, who was getting salary, which is contrary to the plaintiffs assertion that the disputed property is of HUF. The trial court opined that the disputed property was purchased through sale deed dated 11.4.1966, of which defendant no.1 is the absolute owner in possession and according to Section 14 of the Hindu Succession Act, 1956 if any property is acquired by any Hindu woman after the commencement of this Act, then she will be treated as the absolute owner of that property, not limited owner.

17. The trial court opined that the plaintiffs have claimed that they are co-owner of the disputed property but they have failed to prove it. The trial court further opined that the plaintiffs claimed that the sale deed was executed on 11.4.1966 but the suit has been filed on 28.1.2025 whereas, the limitation under Article 110 of the Limitation Act, 1963 was only 12 years, hence the plaintiffs suit was also time barred.

18. The trial court further opined that the plaintiffs have claimed that the cause of action has arisen to them in September 2022 when the defendant no.1 refused to share with them rents realised from the disputed property, but the plaintiffs have not filed any documentary evidence to prove that they were getting any rent previously. Trial court opined that the plaintiffs have failed to prove that they have got any cause of action to file the suit. In view of the above reasoning, the plaint was rejected under Order VII Rule 11 CPC, aggrieved against which, the plaintiffs have filed the instant appeal under Section 96 CPC.

Submissions of the learned counsel of the parties

19. Learned counsel for the plaintiff appellants submitted that the

plaintiffs mother/defendant no.1 belonged to poor family, who had no Stridhan, who was not having any income to purchase the disputed property through sale deed dated 11.4.1966 for a consideration of ₹ 6,000/-,which was a princely amount at that time. Learned counsel further submitted that the consideration of the above sale deed came from the income/nucleus of the HUF of plaintiffs grandfather Babulal Gupta and father Omprakash Gupta and others, who were having a flourishing business of Aadat.

20. It was further submitted that at the stage of deciding application under Order VII Rule 11 CPC only the plaint averments and documents submitted by the plaintiff are to be considered. The written statement and the documents of the defendants are not to be considered, but the trial court has considered the house tax, water tax and the electricity bills produced by the defendants. Further, the trial court cannot examine the veracity of the plaint averments, whatever is alleged by the plaintiff, is to be presumed true at this stage.

21. It was further submitted that the trial court has considered the issue of limitation, which is a mixed question of fact and law, which cannot be considered at the stage of deciding application under Order VII Rule 11 CPC.

22. It was further submitted that the plaintiffs are residing in the disputed property since their birth,as members of the HUF, and they are co-owners of the disputed property, hence, the defendant no.1 has no right to sell it to any person. It was further averred that since the plaintiffs were not aware at the time of the filing of the suit, that a gift deed of the disputed property has been executed by defendant no.1 in favour of defendant no. 2 as such, the relief of its cancellation has not been claimed by the plaintiffs. It was further averred that the plaintiffs have claimed that the cause of action has arisen to them only in the month of September 2022 when their mother refused to share with them the rents realised from the disputed property, hence no question of the suit being barred by limitation arises.

23. Learned counsel further submitted that all the issues raised by the defendants can only be adjudicated after trial, after the parties have led evidence, which cannot be determined at this stage, hence, the trial court has erred in rejecting the plaint under Order VII Rule 11 CPC at the threshold. With these submissions, it was prayed that the appeal be allowed, and the matter be remanded to the trial court for deciding it on merits. In support of his contention learned counsel has relied on the following case law :-

(i)P.V.Guru Raj Reddy Rep.By vs. P.Neeradha Reddy and ors. (2015) 8 SCC 331.

(ii)Shailesh Kumar vs.Vibha Gupta 2025 SCC OnLine All 6320.
(iii)Shreya Vidyarthi vs.Ashok Vidyarthi & ors. (2015) 16 SCC 46.
(iv)Om Prakash Gupta vs.Radhey Shyam Gupta 2026 (1) AWC 874.
(v)Sunil Kumar Dublish vs.Ramesh Chandra Dublish and ors.2026 SCC OnLine All 310

24. Per contra, Sri Pradeep Kumar Singh learned Senior counsel for the contesting respondents submitted that the plaintiffs have alleged that there was a HUF of their grandfather and father but no prima facie evidence in this regard has been submitted. Learned counsel further submitted that the plaintiffs have also failed to prima facie prove what was the income of the alleged HUF and whether it was also having a substantial nucleus, from which the alleged property could have been purchased on 11.4.1966 for consideration of ₹ 6,000/-. Learned counsel further submitted that the plaintiffs have to prima facie show that there was a HUF which was having substantial income, from which the disputed property could have been purchased in the year 1966. It was further alleged that as per the plaint, the HUF was dissolved and the property was distributed among the members. Learned counsel submitted that if the HUF stood dissolved and if property was distributed among its members, then the whole case of the plaintiffs is demolished.

25. It was further submitted that the plaintiffs are claiming their ownership rights in the disputed property since their birth, but they have waited for about 60 years to assert their rights in the disputed property. Learned counsel further submitted that the plaintiff no.1 has averred that she was about 3 years old when the property was purchased in the year 1966 and the plaintiff no. 2 was in womb of his mother/defendant no.1, hence, within 3 years of attaining majority, the plaintiffs could have asserted their rights in the disputed property because they knew from their birth that they are co-owners in the disputed property, which belongs to HUF. It was submitted that in view of the above facts, the plaintiffs suit was grossly barred by limitation.

26. It was further submitted that the plaintiffs have claimed that upto the month of October 2022, the rents realised from the disputed property by defendant no.1 was being shared with them, because they were members of the HUF, but no prima facie evidence has been submitted in this regard by the plaintiffs. It was further submitted that there is also no evidence that their name is recorded as co-owner in the municipal records.

27. It was further submitted that the disputed property has already been gifted by the defendant no.1 to her daughter/defendant no. 2, which is in the knowledge of the plaintiffs, but they have not claimed

the relief of cancellation of the gift deed, hence, the plaintiffs suit was barred by Section 41(h) of the Specific Relief Act.

28. It was further submitted that the defendant no.1 was the absolute owner of the disputed property in accordance with Section 14 of the Hindu Succession Act 1956, as such, the plaintiffs cannot claim any right title and interest in the disputed property.

29. It was further submitted that the plaintiffs have disclosed in the plaint that the plaintiffs father, who was also the husband of defendant no.1, was in government job since much prior to the year 1955, who was getting a decent salary, in view of this also, the averments of the plaintiffs that the disputed property was purchased from the income/nucleus of HUF in the year 1966, stands demolished.

30. Learned counsel further submitted that it is true that the written statement and the documents of the defendants are not to be considered at this stage, but it is also well settled that the plaintiff has to prove his case prima facie on the basis of some documentary evidence, which the plaintiffs have failed to submit. Learned counsel further submitted that the plaintiffs have to prove that they have got cause of action to file the instant suit, but in this case, it is prima facie proved from the plaint averments that neither the plaintiffs have got any cause of action to file the suit nor the suit has been filed within the prescribed period of limitation. Learned counsel submitted that the plaintiffs suit was grossly barred by limitation and hence, this issue can be examined at the stage of deciding application under Order VII Rule 11 CPC. It was submitted that in view of the above facts,the trial court has not erred in rejecting the plaint under Order VII Rule 11 CPC. With these submissions, it was prayed that the appeal is meritless and be rejected. In support of his contention, learned counsel has relied on the following case law :-

(i)Khatri Hotels Private Ltd. & anr. Vs. Union of India & anr.(2011) 9 SCC 126.
(ii)Dahiben vs.Arvindbhai Kalyanji Bhanusali(Gajra)Dead through LR's & ors.(2020) 7 SCC 366.
(iii)Rajendra Bajoria & ors. Vs. Hemant Kumar Jalan & ors.(2022) 12 SCC 641.
(iv) The Correspondence, RBANMS Educational Institution vs. B. Gunashekar & anr. 2025 INSC 490.

31. I have heard the learned counsel of the parties and perused the record of the lower court and the case law submitted by them.

32. The case laws submitted by the learned counsel for the appellants deal with the interpretation of Order VII Rule 11 CPC as well as with

the applicability of The Benami Transactions (Prohibition) Act, 1988. In the instant case, the provisions of the Act of 1988 are not applicable since the alleged sale deed was executed on 11.04.1966, which is before the enforcement of the above Act.

33. The case laws submitted by the learned counsel for the respondents deal with the provisions of Order VII Rule 11 CPC as well as the issue of limitation, which has been subsequently dealt in this judgment.

Interpretation of Order VII Rule 11 CPC

34. The Apex Court in the case of ***Correspondence, RBANMS Educational Institution vs. B. Gunashekar and Anr. 2025 SCC OnLine SC 793***, while considering the scope and purpose of Order VII Rule 11 CPC, has held as under:-

> *"14. Let us first examine the scope and purpose of Order VII Rule 11 CPC. This Court in Dahiben v. Arvindbhai Kalyanji Bhanusali (Gajra) dead through legal representatives (2020) 7 SCC 366, explained in detail the applicable law for deciding the application for rejection of the plaint. The relevant paragraphs of the said decision are reproduced below:*
>
> *"23.1 ...*
>
> *23.2. The remedy under Order VII Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.*
>
> *23.3. The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.*
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> *23.4. In Azhar Hussain v. Rajiv Gandhi1 1986 Supp SCC 315 this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p.324, para 12)*

"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 in an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action."

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order VII Rule 11 are required to be strictly adhered to.

23.6. ***Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint read in conjunction with the documents relied upon, or whether the suit is barred by any law****.*

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

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

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

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

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

23.8. ***Having regard to Order VII Rule 14 CPC, the documents filed***

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

23.9. In exercise of power under this provision, the Court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration (2004) 3 SCC 137.

23.11. ***The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed.*** *This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success which reads as : (SCC p.562, para 139)*

"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed."

23.12. In Hardesh Ores (P.) Ltd. v. Hede & Co. (2007) 5 SCC 614 the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. D. Ramachandran v. R.V. Janakiraman (1999) 3 SCC 267.

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order VII Rule 11 CPC.

23.14. The power under Order VII Rule 11 CPC may be exercised by the Court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra (2003) 1 SCC 557. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain (supra).

23.15. The provision of Order VII Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clause (a) to (e) are made out. If the Court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the Court has no option, but to reject the plaint.

24. "Cause of action" means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. It consists of a bundle of material facts, which are necessary for the plaintiff to prove in order to entitle him to the reliefs claimed in the suit.

24.1. In Swamy Atmanand v. Sri Ramakrishna Tapovanam (2005) 10 SCC 51 this Court held:

"24. A cause of action, thus, means every fact, which if traversed, it would be necessary for the plaintiff to prove an 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"

24.2. In T. Arivandandam v. T.V. Satyapal (1977) 4 SCC 467 this Court held that while considering an application under Order VII Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something purely illusory, in the following words : (SCC p. 470, para 5)

"5. ...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 VII, 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 ..."

24.3. Subsequently, in I.T.C. Ltd. v. Debt Recovery Appellate Tribunal (1998) 2 SCC 70 this Court held that law cannot permit clever drafting which creates illusions of a cause of action. What is required is that a clear right must be made out in the plaint.

24.4. If, however, by clever drafting of the plaint, it has created the illusion of a cause of action, this Court in Madanuri Sri Ramachandra Murthy v. Syed Jalal (2017) 13 SCC 174 held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage. The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court.

.....

28. A three-Judge Bench of this Court in State of Punjab v. Gurdev Singh (1991) 4 SCC 1 held that the Court must examine the plaint and determine when the right to sue first accrued to the plaintiff, and whether on the assumed facts, the plaint is within time. The words "right to sue" means the right to seek relief by means of legal proceedings. The right to sue accrues only when the cause of action arises. The suit must be instituted when the right asserted in the suit is infringed, or when there is a clear and unequivocal threat to infringe such right by the defendant against whom the suit is instituted. Order VII Rule 11(d) provides that where a suit appears from the averments in the plaint to be barred by any law, the plaint shall be rejected."

14.1. ***Thus, it is clear that the above provision viz., Order VII Rule 11 CPC serves as a crucial filter in civil litigation, enabling courts to terminate proceedings at the threshold where the plaintiff's case, even if accepted in its entirety, fails to disclose any cause of action or is barred by law, either express or by implication. The scope of Order VII Rule 11 CPC and the authority of the courts is well settled in law. There is a bounden duty on the Court to discern and identify fictitious suit, which on the face of it would be barred, but for the clever pleadings disclosing a cause of action, that is surreal. Generally, sub-clauses (a) and (d) are stand alone grounds, that can be raised by the defendant in a suit.***

However, it cannot be ruled out that under certain circumstances, clauses (a) and (d) can be mutually inclusive. For instances, when clever drafting veils the implied bar to disclose the cause of action; it then becomes the duty of the Court to lift the veil and expose the bar to reject the suit at the threshold. The power to reject a plaint under this provision is not merely procedural but substantive, aimed at preventing abuse of the judicial process and ensuring that court time is not wasted on fictitious claims failing to disclose any cause of action to sustain the suit or barred by law. *Therefore, the appeal before us requires careful consideration of the scope of rejection of the plaint under Order VII Rule 11 CPC, particularly, in the context of the suit filed based on an agreement to sell against third parties in possession.*

15. Order VII Rule 11(a) CPC mandates rejection of the plaint where it does not disclose a cause of action. In Om Prakash Srivastava v. Union of India (2006) 6 SCC 207, this Court pointed out that cause of action means every fact which, if traversed, would be necessary for the plaintiff to prove in order to support their right to judgment. It consists of bundle of facts which narrate the circumstances and the reasons for filing such suit. It is the foundation on which the entire suit would rest. ***Therefore, it goes without saying that merely including a paragraph on cause of action is not sufficient but rather, on a meaningful reading of the plaint and the documents, it must disclose a cause of action. The plaint should contain such cause of action that discloses all the necessary facts required in law to sustain the suit and not mere statements of fact which fail to disclose a legal right of the plaintiff to sue and breach or violation by the defendant(s)****. It is pertinent to note here that even if a right is found, unless there is a violation or breach of that right by the defendant, the cause of action should be deemed to be unreal….*

****

17. At the same time, we are conscious of principle that only averments in the plaint are to be considered under Order VII Rule 11 CPC. ***While it is true that the defendant's defense is not to be considered at this stage, this does not mean that the court must accept patently untenable claims or shut its eyes to settled principles of law and put the parties to trial, even in cases which are barred and the cause of action is fictitious. In T. Arivandandam (supra), this Court emphasized that where the plaint***

is manifestly vexatious and meritless, courts should exercise their power under Order VII Rule 11 CPC and not waste judicial time on matters that are legally barred and frivolous."

(emphasis supplied)

35. The Apex Court in the case of ***Raghwendra Sharan Singh vs. Ram Prasanna Singh (Dead) By Lrs. (2020)16 SCC 601***,while considering whether the suit was barred by limitation for the purpose of Order VII Rule 11 CPC, held as under:-

"7. Applying the law laid down by this Court in the aforesaid decisions on exercise of powers under Order 7 Rule 11 CPC to the facts of the case in hand and the averments in the plaint, we are of the opinion that both the courts below have materially erred in not rejecting the plaint in exercise of powers under Order 7 Rule 11 CPC. It is required to be noted that it is not in dispute that the gift deed was executed by the original plaintiff himself along with his brother. The deed of gift was a registered gift deed. The execution of the gift deed is not disputed by the plaintiff. It is the case of the plaintiff that the gift deed was a showy deed of gift and therefore the same is not binding on him. However, it is required to be noted that for approximately 22 years, neither the plaintiff nor his brother (who died on 15-12-2002) claimed at any point of time that the gift deed was showy deed of gift. One of the executants of the gift deed, brother of the plaintiff during his lifetime never claimed that the gift deed was a showy deed of gift. It was the appellant herein-original defendant who filed the suit in the year 2001 for partition and the said suit was filed against his brothers to which the plaintiff was joined as Defendant 10. It appears that the summon of the suit filed by the defendant being TS (Partition) Suit No. 203 of 2001 was served upon Defendant 10-plaintiff herein in the year 2001 itself. Despite the same, he instituted the present suit in the year 2003. Even from the averments in the plaint, it appears that during these 22 years i.e. the period from 1981 till 2001/2003, the suit property was mortgaged by the appellant herein-original defendant and the mortgage deed was executed by the defendant. Therefore, considering the averments in the plaint and the bundle of facts stated in the plaint, we are of the opinion that by clever drafting the plaintiff has tried to bring the suit within the period of limitation which, otherwise, is barred by law of limitation. Therefore, considering the decisions of this

Court in T. Arivandandam [T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467] and others, as stated above, and as the suit is clearly barred by law of limitation, the plaint is required to be rejected in exercise of powers under Order 7 Rule 11 CPC.

8. At this stage, it is required to be noted that, as such, the plaintiff has never prayed for any declaration to set aside the gift deed. We are of the opinion that such a prayer is not asked cleverly. If such a prayer would have been asked, in that case, the suit can be said to be clearly barred by limitation considering Article 59 of the Limitation Act and, therefore, only a declaration is sought to get out of the provisions of the Limitation Act, more particularly, Article 59 of the Limitation Act. The aforesaid aspect has also not been considered by the High Court as well as the learned trial court.

9. Now, so far as the application on behalf of the original plaintiff and even the observations made by the learned trial court as well as the High Court that the question with respect to the limitation is a mixed question of law and facts, which can be decided only after the parties lead the evidence, is concerned, ***as observed and held by this Court in Sham Lal [Sham Lal v. Sanjeev Kumar, (2009) 12 SCC 454 : (2009) 4 SCC (Civ) 741] ; N.V. Srinivasa Murthy [N.V. Srinivasa Murthy v. Mariyamma, (2005) 5 SCC 548 : AIR 2005 SC 2897] as well as in Ram Prakash Gupta [Ram Prakash Gupta v. Rajiv Kumar Gupta, (2007) 10 SCC 59] , considering the averments in the plaint if it is found that the suit is clearly barred by law of limitation, the same can be rejected in exercise of powers under Order 7 Rule 11(d) CPC****."*

(emphasis supplied)

36. The Apex Court in the case of ***Shri Mukund Bhavan Trust and others vs. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and another (2024)15 SCC 675***, was considering whether the suit was barred by limitation while deciding application under Order VII Rule 11 CPC. It was held as under:-

"13. As settled in law, when an application to reject the plaint is filed, ***the averments in the plaint and the documents annexed therewith alone are germane****. The averments in the application can be taken into account only to consider whether the case falls within any of the sub-rules of Order 7 Rule 11 by considering the averments in the plaint. The court*

cannot look into the written statement or the documents filed by the defendants. The civil courts including this Court cannot go into the rival contentions at that stage…

****

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****….*

****

40. At this juncture, we wish to observe that we are not unmindful of the position of law that limitation is a mixed question of fact and law and the question of rejecting the plaint on that score has to be decided after weighing the evidence on record. ***However, in cases like this, where it is glaring from the plaint averments that the suit is hopelessly barred by limitation, the courts should not be hesitant in granting the relief and drive the parties back to the trial court.*** *We again place it on record that this is not a case where any forgery or fabrication is committed which had recently come to the knowledge of the plaintiff. Rather, the plaintiff and his predecessors did not take any steps to assert their title and rights in time. The alleged cause of action is also found to be creation of fiction."*

(emphasis supplied)

37. It is apparent from the above law laid down by the Apex Court in the case of ***Correspondence, RBANMS Educational Institution*** (supra) that at the time of deciding Order VII Rule 11 CPC application, the court has to look into only the averments made in the plaint and the documents submitted by the plaintiff. The court has not to examine the written statement of the defendant or the documents submitted by it.

38. It is also apparent that the test for exercising the power under Order VII Rule 11 CPC is if the averments made in the plaint are

taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. The plaint should also disclose a real cause of action and if clever drafting has created the illusion of a cause of action, then it should be nipped in the bud at the 1st hearing, so that bogus litigation will end at the earliest stage. The court should also be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court.

39. It is also apparent that the court is not bound to accept patently untenable claims or shut its eyes to settled principles of law and put the parties to trial, even in cases which are barred and the cause of action is fictitious. In such situation the courts should not waste judicial time on matters that are legally barred and frivolous.

40. It is also apparent from the law laid down by the Apex Court in ***Raghwendra Sharan Singh*** (supra) and ***Shri Mukund Bhavan Trust*** (supra) that if from the plaint averments it is found that the suit was hopelessly barred by law of limitation then the same can be rejected in exercise of powers under Order VII Rule 11 CPC.

Conclusion of this Court

41. The Apex Court in the case of ***Angadi Chandranna vs. Shankar and others 2025 SCC OnLine SC 877***, while considering whether there is presumption that a Hindu family merely because it is joint, possesses any joint property, held as under:-

> *"13. Further, it is a settled principle of law that there is no presumption of a property being joint family property only on account of existence of a joint Hindu family. The one who asserts has to prove that the property is a joint family property. If, however, the person so asserting proves that there was nucleus with which the joint family property could be acquired, then there would be presumption of the property being joint and the onus would shift on the person who claims it to be self-acquired property to prove that he purchased the property with his own funds and not out of joint family nucleus that was available. That apart, while considering the term 'nucleus' it should always be borne in mind that such nucleus has to be established as a matter of fact and the existence of such nucleus cannot normally be presumed or assumed on probabilities. This Court in R. Deivanai Ammal (Died) v. G. Meenakshi Ammal, dealt with the concept of Hindu Law, ancestral property and the nucleus existing therein. The relevant paragraphs are extracted below for ready reference:*
>
> > *"13. First let us consider the nature of the suit properties, namely, self-acquired properties of late Ganapathy Moopanar or ancestral properties and whether any nucleus was available to purchase the properties. Under the Hindu Law it is only when a person alleging that the property is ancestral property proves that there was a*

nucleus by means of which other property may have been acquired, that the burden is shifted on the party alleging self-acquisitions to prove that the property was acquired without any aid from the family estate. In other words the mere existence of a nucleus however small or insignificant is not enough. It should be shown to be of such a character as could reasonably be expected to lead to the acquisition of the property alleged to be part of the joint family property. Where the doctrine of blending is invoked against a person having income at his disposal and acquiring property, the reasonable presumption to make is that he had the income at his absolute disposal unless there is evidence to the contrary. If a coparcener desires to establish that a property in the name of a female member of the family or in the name of the manager himself has to be accepted and treated as property acquired from the joint family nucleus, it is absolutely essential that such a coparcener should not only barely plead the same, but also establish the existence of such a joint family fund or nucleus. Even if the joint family nucleus is so established, the prescription that the accretions made by the manager or the purchases made by him should be deemed to be from and out of such a nucleus does not arise, if there is no proof that such nucleus of the joint family is not an income-yielding apparatus. The proof required is very strict and the burden is on the person who sets up a case that the property in the name of a female member of the family or in the name of the manager or any other coparcener is to be treated as joint family property. There should be proof of the availability of such surplus income or joint family nucleus on the date of such acquisitions or purchases. The same is the principle even in the cases where moneys were advanced on mortgages over immoveable properties. The onus is not on the acquirer to prove that the property standing in his name was purchased from joint family funds. That may be so, in the case of a manager of a joint family, but not so in the case of all coparceners. For a greater reason it is not so in the case of female members.

14. The doctrine of blending of self-acquired property with joint family has to be carefully applied with reference to the facts of each case. No doubt it is settled that when members of a joint family by their joint labour or in their joint business acquired property, that property, in the absence of a clear indication of a contrary intention, would be owned by them as joint family property and their male issues would necessarily acquire a right by birth in such property. But the essential sine qua non is the absence of a contrary intention. If there is satisfactory evidence of an intention on the part of the acquirer of such property to treat it as his own, but not as joint family property, the presumption which ordinarily arises, according to the personal law of Hindus that such property would be regarded as joint family property, will not arise.

15. It is a well-established principle of law that where a party claims that any particular item of property is joint family property, the burden of proving that it is so rests on the party asserting it. Where it is established or admitted that the family possessed some joint property which from its nature and relative value may have

formed the nucleus from which the property in question may have been acquired, the presumption arises that it was joint property and the burden shifts to the party alleging self-acquisition to establish affirmatively that the property was acquired without the aid of the joint family. But no such presumption would arise if the nucleus is such that with its help the property claimed to be joint could not have been acquired. In order to give rise to the presumption, the nucleus should be such that with its help the property claimed to be joint could have been acquired. A family house in the occupation of the members and yielding no income could not be nucleus out of which acquisitions could be made even though it might be of considerable value.

16. In a Hindu joint family, if one member sues for partition on the foot that the properties claimed by him are joint family properties then three circumstances ordinarily arise. The first is an admitted case when there is no dispute about the existence of the joint family properties at all. The second is a case where certain properties are admitted to the joint family properties and the other properties in which a share is claimed are alleged to be the accretions or acquisitions from the income available from joint family properties or in the alternative have been acquired by a sale or conversion of such available properties. The third head is that the properties standing in the names of female members of the family are benami and that such a state of affairs has been deliberately created by the manager or the head of the family and that really the properties or the amounts standing in the names of female members are properties of the joint family. While considering the term 'nucleus' it should always be borne in mind that such nucleus has to be established as a matter of fact and the existence of such nucleus cannot normally be presumed or assumed on probabilities. The extent of the property, the income from the property, the normal liability with which such income would be charged and the net available surplus of such joint family property do all enter into computation for the purpose of assessing the content of the reservoir of such a nucleus from which alone it could, with reasonable certainty, be said that the other joint family properties have been purchased unless a strong link or nexus is established between the available surplus income and the alleged joint family properties. The person who comes to Court with such bare allegations without any substantial proof to back it up should fail.

17. It is also a well-established doctrine of Hindu Law that property which was originally self-acquired may become joint property if it has been voluntarily thrown by the coparcener into the joint stock with the intention of abandoning all separate claims upto it. But the question whether the coparcener has done so or not is entirely a question of fact to be decided in the light of all the circumstances of the case. It must be established that there was a clear intention on the part of the coparcener to waive his separate rights and such an intention will not be inferred from acts which may have been done from kindness or affection. The important point to keep in mind is that the separate property of a Hindu coparcener ceases to be his separate property and acquires the characteristics of his joint family or ancestral property, not by

mere act of physical mixing with his joint family or ancestral property, but by his own volition and intention by his waiving or surrendering his special right in it as separate property. Such intention can be discovered only from his words or from his acts and conduct."

*****

*17. ...**However, as per Hindu law, after partition, each party gets a separate and distinct share and this share becomes their self-acquired property and they have absolute rights over it and they can sell, transfer, or bequeath it as they wish. Accordingly, the properties bequeathed through partition, become the self-acquired properties of the respective sharers.***

*18.****

19. As reiterated above, after the joint family property has been distributed in accordance with law, it ceases to be joint family properties and the shares of the respective parties become their self-acquired properties...."

(emphasis supplied)

42. It is the plaintiff's case that the disputed property was purchased through sale deed on 11.4.1966 for consideration of ₹ 6,000/- in the name of their mother/defendant no.1 Smt.Prem Gupta, who was very poor, who was not having any independent income, who had no Stridhan and as such, she could not have purchased the property.

43. The plaintiffs have further alleged that the above property was purchased from the funds of HUF, consisting of their grandfather Babulal Gupta, father Omprakash Gupta and others, but the plaintiffs have not submitted any documentary evidence to prove the above fact. The initial burden is upon the plaintiffs to prove the existence of the above HUF, who were its members, its income, when it came into existence, when it was dissolved, what was its assets, whether it was having sufficient nucleus to purchase the above property of ₹ 6,000/-, but this burden has not been prima facie discharged by the plaintiffs.

44. The plaintiffs have only filed the certified copy of the above sale deed dated 11.4.1966 which discloses that defendant no.1 is the absolute owner in possession of the disputed property, which was purchased for a consideration of ₹ 6,000/- from Smt.Munni Devi. Nowhere the sale deed mentions that the consideration has been paid from the funds of the HUF, or it has been paid by the husband of defendant no.1. From the perusal of the sale deed, it is not disclosed that the property has been purchased from the funds provided by the alleged HUF. In view of the above facts, the plaintiffs assertion that the disputed property has been purchased from the funds of the alleged HUF is not prima facie proved.

45. The plaint further discloses that the plaintiff's father was in government job since much prior to the year 1955. It is apparent that if the plaintiffs father was in government job, then the HUF which was a business concern, could not have remained in simultaneous existence and further, the plaintiffs father could not have been its member, because a government servant is not allowed to do business while remaining in government job. A government servant cannot be part of a business, while he is in government service. The plaintiffs have themselves disclosed in the plaint that their grandfather winded his business from Aligarh and distributed the money to his sons, the plaintiffs father being one of them. The plaintiffs have not disclosed when the business of their grandfather was winded and the property distributed among the members. It is further apparent that after the dissolution of the joint family, the property given to its members or coparceners becomes their self-acquired property, as such, the plaintiffs cannot assert their ownership in it in any manner whatsoever.

46. It is apparent that the plaintiffs are alleging that the HUF was dissolved and its property was distributed among its members, but when this was done, and what amount was given to its each member on dissolution, has not been disclosed in the plaint. In the absence of above material facts, it is not open to the plaintiffs to allege that a HUF was in existence when the property was purchased on 11.4.1966. The plaintiffs have further failed to prove that the alleged HUF was having sufficient income and funds/nucleus, from which the disputed property could have been purchased.

47. It is further apparent that the disputed property was purchased when the plaintiffs father Omprakash Gupta, who is also the husband of defendant no.1, was alive, who was earning a decent salary in government job, who according to the plaintiffs was in government job much prior to the year 1955, who was having sufficient means to purchase the property, who has not challenged the title of his wife in the disputed property. Even if for the sake of argument it is presumed that the defendant no.1 was not having any income to purchase the disputed property, even then her husband Omprakash Gupta was getting a decent salary in the government job, who could have provided the consideration of the sale deed. It is not the case of the plaintiffs that their father was also not earning anything. There was/is no legal bar that the husband cannot purchase property in the name of his wife. Even, Section 3(2) of The Benami Transactions (Prohibition) Act of 1988, permits the husband to purchase the property for the benefit of his wife or the unmarried daughter.

48. Now the question arises, if the consideration of the disputed property was provided by the husband of the defendant no.1 then

what is the status of the defendant no.1 insofar as the ownership of the disputed property is concerned ?

49. Section 14 of the Hindu Succession Act,1956 reads as under:-

> ***14. Property of a female Hindu to be her absolute property*** *–(1) Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.*
> *Explanation – In this subsection, "property" includes both movable and immovable property acquired by female Hindu by inheritance or devise, or at a partition, or in lieu of arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.*
> *(2)Nothing contained in sub-section(1) shall apply to any property acquired by way of gift or under a Will or any other instrument or under a decree or order of a Civil Court or under an award where the terms of the gift, Will or other instrument or the decree, order or award prescribe a restricted estate in such property.*

50. It is apparent from Section 14 of the Hindu Succession Act,1956 that any property purchased by female Hindu whether before or after the commencement of the Act shall be held by her as full owner thereof and not as a limited owner. In this case, the defendant no.1 has purchased the property after the commencement of the Act on 11.4.1966, and the sale deed does not mention that her rights are limited in the disputed property. To the contrary, the sale deed mentions that she is the absolute owner of the disputed property. In view of this, the plaintiffs assertion that they are the co-owner of the disputed property, which was purchased from the funds of the alleged HUF, is not even prima facie proved.

51. The plaint averments disclose that plaintiff no.1 was 3 years old, when the property was purchased through sale deed on 11.4.1966 and the plaintiff no. 2 was in womb of his mother, whereas the defendant no. 2 was not in existence. The plaintiffs are claiming that they are the members of the HUF since birth and are asserting that they are co-owners in the disputed property. It is further apparent that the plaintiffs have filed the suit on 29.1.2025 asserting their rights in the disputed property, when they were well aware that they are co-owner of the disputed property since their birth. The plaintiffs have claimed declaration of their rights in the disputed property that it belongs to HUF and they are members of it along with the defendants no.1 and 2 and have got also equal share in the property.

52. It is further apparent that from 11.4.1966 till the filing of the suit on 29.1.2025, the plaintiffs were very well aware that their mother/defendant no.1 was the absolute owner of the disputed

property, in which they are claiming co-ownership , but they never asserted their co-ownership in the disputed property during the lifetime of their father Omprakash Gupta. The plaintiffs were in legal disability being minor on 11.4.1966, but they could have subsequently, within 3 years of attaining majority, in accordance with Section 8 of the Limitation Act, 1963 challenged the exclusive ownership of their mother and claimed the relief of declaration of co-ownership in the disputed property, but no such suit was filed by the plaintiffs. It is apparent from the plaint that at the time of filing of the suit in the year 2025, the plaintiff no.1 was aged about 61 years and plaintiff no. 2 was aged about 58 years. In view of this, the plaintiff 's suit for the relief of declaration that the disputed property belongs to HUF and they are its co-owner, is grossly time barred.

53. The plaintiffs have further alleged in the plaint that previously they were getting their share of the rent, which was realised from the tenant's of the disputed property but no documentary evidence has been adduced to prove this fact. The plaintiffs have asserted that the cause of action of the suit has arisen to them in the month of September, 2022 when the defendant no.1 failed to share with them the rents realised from the disputed property but no document has been produced to prove that tenants were residing in the disputed property from whom rent of ₹ 50,000/- per month was being collected, which was being shared with them. The plaintiffs have also failed to prove that their name is also entered as co-owner in the municipal records. It appears that in order to bring the suit within the limitation, this artificial fact of rent realisation has been pleaded by the plaintiffs which is not supported by any documentary evidence. It is apparent that the plaintiffs have tried to bring the suit within the prescribed period of limitation by claiming that cause of action has arisen after the month of September,2022 which is not correct, because the plaintiffs were well aware at least since attaining majority, that their mother was the absolute owner of the disputed property. It is apparent that the whole controversy has arisen after the death of plaintiff 's father.

54. From the above analysis it is evident that the plaintiffs have asserted their rights in the disputed property on the basis that they are its co-owner but prima facie it is not proved. The plaintiffs have failed to prove that the disputed property was purchased from the funds/nucleus of HUF. There is no evidence on record to prove that the plaintiffs have got any right title and interest in the disputed property. It is also evident that the plaintiffs suit for the relief of declaration is time barred. The plaintiffs have also failed to prove that they are entitled to any share of the rent, if any, realised from the disputed property by defendant no.1, who is the true owner of the disputed property, hence the plaintiffs have got no cause of action to

file the instant suit and further, the suit is also grossly barred by limitation.

55. For the aforesaid reasons, the trial court has not erred in allowing the defendants application under Order VII Rule 11 CPC and consequently, rejecting the plaint. This appeal has got no merit and is liable to be dismissed at the admission stage.

56. **Accordingly, this appeal is dismissed at the admission stage under Order 41 Rule 11 CPC with costs throughout**. Consequently, the impugned judgment and decree of the trial court passed in O.S. no. 59 of 2025 dated 10.7.2025 is affirmed.

57. Interim order, if any,stands vacated.

58. Office is directed to send back the record of the trial court, forthwith.

Order Date:- 16.04.2026
Jitendra/Himanshu/Mayank

(Sandeep Jain, J.)