

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
W.P. (C) No. 4032 of 2010**

Kedar Baid, S/o Late Mrs. Shanti Baidain and Late Mr. Mital Baid,  
resident of Village Bara Karaila, P.O. Bara, P.S. Jama, Subdivision and  
District- Dumka (substituted vide order dated 23.02.2017)

**... Petitioner**

**-Versus-**

1. Rajendra Manjhi
- 1(A). Virendra Manjhi
- 1(B). Dipankar Manjhi
- 1(C). Seeman Manjhi, All sons of Late Lobin Manjhi, resident of Village- Bara Karaila, P.O. Bara, P.S. Jama, Subdivision and District- Dumka
- 1(D). Putul Devi, W/o Ramavtar Manjhi, Village- Khil Dhawadi, P.O. & P.S. Jama, District- Dumka
- 1(E). Pratima Devi, W/o Rohit Yadav, Village- Babupur, P.O. & P.S. Saraiyahat, District- Dumka
- 1(F). Indu Devi, W/o Raju Manjhi, Village- Upar Pahari, P.O. & P.S. Jarmundi, District- Dumka (All substituted vide order dated 23.02.2017)
2. Mital Baid, S/o Late Aadu Baid
3. Prasadi Baid, S/o Late Mital Baid
4. Kedar Baid, S/o Late Mital Baid (Deleted as proforma respondent and made petitioner vide order dated 23.02.2017)
5. Ramesh Baid, S/o Late Mital Baid
6. Tasri, D/o Late Mital Baid
7. Most. Ajhola Devi, widow of Late Badri Baid
8. Binod Baid, S/o Late Badri Baid, all by faith Hindu occupation, cultivator, resident of Village- Bara Karaila, P.O. Bara, P.S. Jama Subdivision and District- Dumka
9. Geeta, D/o Late Mital Baid, W/o Saligram Mahto, Village Baghmari, P.S. Sarayahat, P.S. Sarayahat, Subdivision and District- Dumka
10. Kamli, D/o Late Mital Baid, W/o Shambhu Mandal, resident of Village- Sakha Bandh, P.S. Katoria, P.O. Kerwar, District- Banka, Bihar

**... Respondents**

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**CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**  
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For the Petitioner : Mr. Rajiv Sinha, Advocate  
Ms. Shreesha Sinha, Advocate  
Mr. Bhupal Krishna Prasad, Advocate  
Mr. Niraj Kumar, Advocate  
For legal heirs of Respondent No.1 : Mr. J.P. Jha, Sr. Advocate  
Mr. Sanjeev Thakur, Advocate  
Mr. Aishwarya Prakash, Advocate  
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25/19.03.2026 Heard Mr. Rajiv Sinha along with Ms. Shreesha Sinha, Mr. Bhupal Krishna Prasad and Mr. Niraj Kumar, learned counsel appearing for the

petitioner and Mr. J.P. Jha, learned senior counsel along with Mr. Sanjeev Thakur and Mr. Aishwarya Prakash, learned counsel appearing for legal heirs of respondent no.1.

**2.** In light of the order dated 23.02.2017, respondent nos.3, 4, 5, 6, 8, 9 and 10 have already been transposed and joined the petitioner.

**3.** This writ petition has been filed under Article 227 of the Constitution of India for quashing the order dated 12.05.2010 passed in Title Suit No.88/2006 by the learned Sub-Judge-1<sup>st</sup>, Dumka, whereby, the petition filed under Order VII Rule 11(a)(d) of the Code of Civil Procedure (hereinafter to be referred to as "C.P.C.") by the defendant/petitioner for rejection of the plaint has been refused by the learned Court.

**4.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner submits that the lands appertaining to Gantzer J.B. No.17 of Mauza Bara, P.S. Jama and lands of J.B. No.24 of Mauza Gajanda, P.S. Jama, District- Dumka stood recorded in the name of Lalji Mahto, Bhullan Mahto and Feku Mahto, all sons of Late Katki Mahto in the purcha of last settlement. He next submits that the said recorded tenant Bhulan Mahto and Feku Mahto predeceased issueless by surviving recorded tenant Lalji Mahto who also subsequently died in 1946 leaving behind his married daughter Shanti Baidain (mother of petitioner) who inherited the entire lands within the J.B. No. 17 of Bara and of the J.B. No. 24 of Mauza Gajanda and since then came in exclusive cultivating possession and occupation of the same and also resided in her father's house.

**5.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner further submits that in course of recent survey settlement operation, the petitioner's mother name was recorded during the stage of Khanapuri in respect to the

J.B. No. 17 (New J.B. No. 162) and J.B. No. 24 (New J.B. No. 32) and, accordingly, the Khanapuri Purcha of New J.B. No. 162 corresponding to J.B. No. 17 and the new J.B. No. 32 corresponding to J.B. No. 24 was issued in exclusive name of the petitioner's mother. He then submits that the original respondent no.1 Lobin Manjhi and others filed objection against the said Khanapuri entry vide Badar No. 18 Gha, peskari Badar No. 7 for Mauza Gajanda and T.L. Case No. 13 at Attestation Camp at Lakra Pahari and also at Bara Palasi with respect to lands of both J.B. No. 17 and 24. He submits that the Assistant Settlement Officer vide its order dated 10.12.1982 confirmed the Khanapuri entry in favour of the petitioner's mother and rejected the claim of the original respondent no.1 Lobin Manjhi with respect to entries made in the name of petitioner's mother of the lands of J.B. No. 17 of Mauza Bara and the name of the petitioner's mother was allowed to remain and the respondents' claim was rejected with respect to the lands of J.B. No. 24 Mauza Ganjanda.

**6.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner next submits that thereafter the original respondent no.1 Lobin Manjhi and others filed Settlement Objection Suit No.19 of 1984-85 in the Court of Assistant Settlement Officer, Dumka for setting-aside the orders of the Survey and Settlement authorities, including the orders passed by the Settlement Officer as well as Assistant Settlement Officer with regard to the entry of petitioner's mother name in the purcha of the J.B. No. 17 and 24. The said objection Suit was dismissed with observation that the same is not maintainable before the said Court as the objections relates to orders passed by the Settlement Officer and Assistant Settlement Officer and the plaintiff could have availed remedy

by way of appeal or revision. He submits that it is also observed that the plaintiff can also seek relief at the time of final publication of the settlement operation. He also submits that the said order of dismissal was passed on 20.08.1988, which is annexed at Annexure-1 of the writ petition He then submits that thereafter, the respondents preferred an appeal before the Court of Charge Officer, Dumka being Title Appeal No.2 of 1988, which was also dismissed by a reasoned order on 19.08.1992, contained in Annexure-2 of the writ petition.

**7.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner also submits that with respect to the two aforesaid J.Bs. final purcha was published and issued in favour of the petitioner's mother by the Settlement Officer, Santhal Pargana, Dumka on 25.07.1998 as per the provisions of Section 24 of Santhal Pargana Settlement Regulation, 1872 (hereinafter to be referred to as "Regulation, 1872") inviting objections from interested parties with respect to the entries made in the final purcha of the concerned jamabandis. He submits that objection, whatsoever, was never filed by the original respondent no.1 Lobin Manjhi with respect to the aforesaid published record of rights and, as such, according to the provisions of Section 11 read with Section 25 of the Regulation, 1872, the entries made in the aforesaid record of the right, favouring the petitioner's mother, shall be conclusive proof of the rights and customs recorded therein. He next submits that in light of the said settlement orders resulting into final entry of the petitioner's mother name in the record and that has the force of a decree and, as such, the suit is barred as per Section 11 of the Regulation, 1872. He draws attention of the Court to Sub-section (3) of Section 25 of the Regulation, 1872 and submits that final

published record of right cannot be reopened until a fresh settlement and without previous sanction of the State Government. He submits that in this background, the original respondent no.1 Lobin Manjhi filed Title Suit No.58 of 2006 before the Court of Settlement Officer, Dumka for declaring right, title and interest in the suit property which are none-else than the lands of J.B. No.17 of Mauza Bara Karaila and lands of J.B. No.24 of Mauza Gajanda and for recovery of possession. He submits that the said suit, publication of the record of rights under Section 24 of the Regulation, 1872 on 25.07.1998 was not disclosed. The said Title Suit No.58 of 2006 was transferred by the Charge Officer, Dumka under the provisions of Section 5-A of the Regulation, 1872 to the Court of the learned Sub-Judge, Dumka for hearing and disposal vide order dated 12.06.2006 whereafter the said suit was registered as Title Suit No.88 of 2006 in the Court of Sub-Judge-I, Dumka. On notice, the petitioner's mother and proforma respondents, who have made defendants in the said suit, appeared and filed written statement denied the claim of the plaintiff and also prayed for dismissal of the suit. He submits that the defendant/petitioner's mother filed a petition on 23.02.2010 under Order VII Rule 11(a) and (d) read with Section 151 of the C.P.C. in the said suit for rejecting the plaint on the ground that the said suit is not maintainable in view of Section 24 read with Section 25 and 11 of the Regulation, 1872. He also submits that the prescribed period for filing objection by way of suit is six months from the date of publication of records of rights whereafter the entries made therein becomes conclusive proof of the rights of the parties and the same cannot be inquired into until fresh settlement. He next submits that final publication of the record of right was published on 25.07.1998 and

the said suit was filed after eight years which is barred by time that too in absence of any challenge to the notification of final publication of record of right of the concerned villages published on 25.07.1998. He further submits that the said petition filed under Order VII Rule 11(a) and (d) of the C.P.C. was erroneously rejected by the learned Court without appreciating the provisions made under the Regulation, 1872. According to him, transfer of suit under Section 5A of the Regulation, 1872 *ipso facto*, does not vest jurisdiction to the Sub-Judge, if otherwise, the provisions under the said Regulation debars filing of suit before the Civil Court regarding the matters decided by the Settlement Court under the said Rule as the interest and rights will have the force a decree of the Court. He submits that the learned Court has erroneously held that the said settlement has not been brought on record, however, the same was filed along with the said petition under Order VII Rule 11(a) and (d) of the C.P.C. and that was also not denied by original respondent no.1 in the rejoinder.

**8.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner draws attention of the Court to Sections 24 and 25 of the Regulation, 1872 and submits that in light of these two provisions, records published shall be final after six months of publication and Section 25 laid down that the prescribed period for filing objection by way of suit is six months from the date of publication of record of rights whereafter the entries made therein becomes conclusive proof of right of the parties and the same cannot be inquired into until fresh settlement. He also draws attention of the Court to Sub-section (3) of Section 25 of the Regulation, 1872 and submits that the provisions are made that when the record or rights has become final, or any objection to

any entry in a record or rights has been finally disposed of in the Settlement Courts, and when all final decisions and orders, including such as may have been passed on revision as provided in sub-section (2) of Section 25 have been correctly embodied therein, such record shall not, until a fresh settlement is made or a new table of rates and rent-rolls are prepared, that cannot be re-opened without the previous sanction of the State Government. He submits objection within six months was not filed and record of rights was already published in the year 1998 itself and in view of that, in light of Section 11 of the Regulation, 1872, the suit was barred and the learned Court has wrongly rejected the said petition filed by the petitioner's mother.

9. Mr. Rajiv Sinha, learned counsel appearing for the petitioner relied upon the judgment passed in the case of ***K. Akbar Ali v. K. Umar Khan and others***, reported in ***(2021) 14 SCC 51***. He refers paragraphs 3, 5, 7, 11 and 13 of the said judgment, which are quoted herein below:

*"3. Defendants 2 and 3 moved an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908, inter alia, on the ground that there is no power of attorney authorising Zakir Ali to enter into any sale or pre-emption agreement. The learned Single Judge rejected the application filed by Defendants 2 and 3 on 15-9-2016. However, in appeal, the Division Bench of the High Court allowed [K. Umar Khan v. K. Akbar Ali, 2018 SCC OnLine Mad 13584] the application and held that the power of attorney does not authorise the attorney to execute an agreement as the power of attorney was granted for conduct of court proceedings only. Aggrieved by the order [K. Umar Khan v. K. Akbar Ali, 2018 SCC OnLine Mad 13584] passed by the Division Bench of the High Court in appeal, the present special leave petition has been preferred by the petitioner-plaintiff.*

*5. It is well settled that while considering an application under Order 7 Rule 11CPC, the question before the Court is whether the plaint discloses any cause of action or whether the suit is barred by any law, on the face of the averments contained in the plaint itself. While considering an application under Order 7 Rule 11CPC, the Court is not to look into the strength or weakness of the case of the plaintiff or the defence raised by the defendant.*

*7. In any case, an application under Order 7 Rule 11CPC for rejection of the plaint requires a meaningful reading of the plaint as a whole. As held by this Court in ITC Ltd. v. Debts Recovery Appellate Tribunal [ITC Ltd. v. Debts Recovery Appellate Tribunal, (1998) 2 SCC 70 : AIR 1998 SC 634] , clever drafting creating illusions of cause of action are not permitted in law and a clear right to sue should be shown in the plaint. Similarly the Court must see that the bar in law of the suit is not camouflaged by devious and clever drafting of the plaint. Moreover, the provisions of Order 7 Rule 11 are not exhaustive and the Court has the inherent power to see that frivolous or vexatious litigations are not allowed to consume the time of the Court.*

*11. The argument advanced by the petitioner-plaintiff that the plaint discloses triable issues, and therefore, should not be rejected at the initial stages is devoid of merit. The entire basis of filing of a suit is the pre-emption agreement dated 5-11-1998 executed by a power of attorney-holder. To confer a right and to bind the owner, there has to be a valid power of attorney. In the absence of valid power of attorney, no right will accrue to the plaintiff.*

*13. The Division Bench of the High Court has done substantial justice by nipping in the bud, a suit which is ex facie not maintainable for want of cause of action against the defendants or any of them, thereby saving precious judicial time as also inconvenience and expenditure to the parties to the suit."*

**10.** By way of placing the said judgment, Mr. Rajiv Sinha, learned counsel submits that an application under Order VII Rule 11 C.P.C. for rejection of the plaint requires a meaningful reading of the plaint as a whole and the learned Court without appreciating the same, has erroneously rejected the petition filed by the petitioner under Order VII Rule 11 (a) and (d) of the C.P.C.

**11.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner further relied upon the judgment passed in the case of ***Smt. Somawati and others v. The State of Punjab and others***, reported in ***1962 SCC OnLine SC***

**23.** He refers relevant observations made in the said judgment, which is quoted herein below:

*"..... In our opinion the question whether any of the aforesaid purposes falls within the expression public purpose would arise for consideration only if the declaration of the Government is not conclusive or if the action of the*

*Government is colourable. If, as contended by the learned Advocate-General sub-section (3) of section 6 concludes the matter-and the validity of this provision is not challenged-and the action of the Government is not colourable the other question would not arise for consideration.*

*It is strenuously contended on behalf of the petitioners that sub- section (3) of section 6 does not debar this court from considering whether a proposed acquisition is for a public purpose or not. It is said, in the first place, that this provision only makes the declaration "conclusive evidence" and not "conclusive proof" and then contended that the declaration is conclusive evidence only of a need and nothing more.*

*A distinction is sought to be made between "conclusive proof" and "conclusive evidence" and it is contended that where a law declares that a fact shall be conclusive proof of another, the court is precluded from considering other evidence once such fact is established. Therefore, where the law makes a fact conclusive proof of another the fact stands proved and the court must proceed on that basis....."*

**12.** Mr. Rajiv Sinha, learned counsel appearing for the petitioner also relied upon the judgment passed in the case of ***Vankamamidi Venkata Subba Rao v. Chatlapalli Seetharamaratna Ranganayakamma***, reported in ***(1997) 5 SCC 460***. He refers paragraph 15 of the said judgment, which is quoted herein below:

**"15.** *This Court in Vatticherukuru Village Panchayat v. Nori Venkatarama Deekshithulu [1991 Supp (2) SCC 288] after considering the entire case-law, had held that the civil court has no jurisdiction to go into the correctness of the patta granted by the Settlement Authorities. Under Section 9 CPC, the courts shall, subject to the provisions contained therein, have jurisdiction to try all suits of civil nature excepting suits cognizance of which is either expressly or impliedly barred. When a legal right is infringed, a suit would lie unless there is a bar against entertainment of such civil suit and the civil courts would take cognizance of it. Therefore, the normal rule of law is that civil courts have jurisdiction to try all suits of civil nature except those of which cognizance is either expressly or by necessary implication excluded. The rule of construction being that every presumption would be made in favour of the existence of a right and remedy in a democratic set-up governed by rule of law and jurisdiction of the civil courts is assumed. The exclusion would, therefore, normally be an exception. Courts generally construe the provisions strictly when jurisdiction of the civil courts is claimed to be excluded. However, in the development of civil adjudication of civil disputes, due to pendency of adjudication and abnormal delay at hierarchical stages, statutes intervene and provide*

*alternative mode of resolution of disputes with less expensive but expeditious disposal. It is settled legal position that if a tribunal with limited jurisdiction cannot assume jurisdiction and decide for itself the dispute conclusively, in such a situation, it is the court that is required to decide whether the tribunal with limited jurisdiction has correctly assumed jurisdiction and decided the dispute within its limits. It is also equally settled that when jurisdiction is conferred on a tribunal, the courts examine whether the essential principles of jurisdiction have been followed and decided by the tribunals leaving the decision on merits to the tribunal. It is also an equally settled legal position that where a statute gives finality to the orders of the special tribunal, the civil court's jurisdiction must be held to be excluded, if there is adequate remedy to do what the civil court would normally do in a suit. Such a provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure. Where there is an express bar of jurisdiction of the court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court. Where there is no express exclusion, the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the enquiry may be decisive. In the latter case, it is necessary that the statute creates a special right or liability and provides procedure for the determination of the right or liability and further lays down that all questions about the said right or liability shall be determined by the tribunal so constituted and whether remedies are normally associated with the action in civil courts or prescribed by the statutes or not. Therefore, each case requires examination whether the statute provides right and remedies and whether the scheme of the Act is that the procedure provided will be conclusive and thereby excludes the jurisdiction of the civil court in respect thereof. After the advent of independence, land reforms was one of the policies of the Government abolishing feudal system of land tenures and conferment of the ryotwari patta on the tiller of the soil. Thereby, the land reform laws extinguish pre-existing rights and create new rights under the Act. The Act confers jurisdiction on the tribunals in matters relating thereto and hierarchy of appeals/revisions are provided thereunder giving finality to the orders passed thereunder. Thereby, by necessary implication, the jurisdiction of the civil court to take cognizance of the suits of civil nature covered under the land reform laws stands excluded giving not only finality to the decisions of the tribunal but also ensuring expeditious, inexpensive and simple procedure for disposal of the matters by the tribunal and make the ryotwari patta granted to the tiller of the soil conclusive. Under the normal course of civil procedure, the jurisdiction of the trial of the civil suits in*

*relation to the matters covered under the Acts being time-consuming and tardy the lack of financial support or otherwise incapacity in defending or working the rights in the civil courts and by hierarchy of appeals defeat justice. Obviously, therefore, the civil suits by necessary implication stand excluded unless the fundamental principles of procedure are not followed by the tribunals constituted under the land reform laws. In this case, the Act concerned extinguishes the pre-existing right, creates new rights under the Act and requires tribunals to enquire into the rival claims and a form of appeal has been provided against the order of the primary authority. Thereby the right and remedy made conclusive under the Act are given finality by the orders passed under the Act. Thereby, by necessary implication, the jurisdiction of the civil court stands excluded."*

**13.** Relying on the above judgment, Mr. Rajiv Sinha, learned counsel submits that where a statute gives finality to the orders of the special tribunal, the civil court's jurisdiction must be held to be excluded and the provisions are there under Section 11 of the Regulation, 1872 barring jurisdiction of the civil court.

**14.** On these grounds, Mr. Rajiv Sinha, learned counsel appearing for the petitioner submits that the impugned order may kindly be set-aside and the petition filed by the petitioner's mother under Order VII Rule 11(a) and (d) of the C.P.C. may kindly be allowed.

**15.** On the other hand, Mr. J.P. Jha, learned senior counsel appearing for legal heirs of respondent no.1 submits that the facts are not in dispute, however, once the Settlement Officer has referred the matter to the competent court of civil jurisdiction, it was required to be decided by the said Court and in view of that, the learned Court has rightly passed the order rejecting the petition filed under Order VII Rule 11 (a) and (d) of the C.P.C.

**16.** Mr. J.P. Jha, learned senior counsel appearing for legal heirs of respondent no.1 refers to Section 5 of the Regulation, 1872 and submits that in light of that provision, the civil court jurisdiction is barred during settlement.

He submits that however in light of Section 5-A of the Regulation, 1872, the Settlement Officer is competent to transfer the case to the competent court of civil jurisdiction for deciding if the issue involved in the said petition found that the same can be decided by the civil court only. He submits that the suit being Title Suit No.88 of 2006 was already filed and in view of that, the said petition itself was misconceived. He next submits that the final publication in the record of rights has been published on 19.02.2010.

**17.** Mr. J.P. Jha, learned senior counsel appearing for legal heirs of respondent no.1 draws attention of the Court to Section 24 as well as Section 25 and Section 25-A of the Regulation, 1872 and submits that as per Section 25, the record to be final after six months of publication. By way of referring Section 25-A of the said Regulation, 1872, he submits that the said provision speaks that the suit to contest Settlement Officer's decision and as per the said provision, the suit was rightly filed and the learned Court was proceeding in the right direction.

**18.** Mr. J.P. Jha, learned senior counsel further draws attention of the Court to Sub-section (5) of Section 5-A of the Regulation, 1872 and submits that every decision given in the appeal shall be certified by the Court by whom the certificate mentioned in sub-section (1) was made, or to such officer as the State Government may appoint in the record of rights. He submits that in view of that, there is no illegality in the impugned order and the learned Court has rightly passed the order and, as such, this writ petition may kindly be dismissed.

**19.** Mr. J.P. Jha, learned senior counsel appearing for legal heirs of respondent no.1 relied upon the judgment passed in the case of ***State of***

**Himachal Pradesh v. Keshav Ram and others**, reported in **AIR 1997 Supreme Court 2181**. He refers to paragraph 4 of the said judgment, which is quoted herein below:

*"4. In view of the rival contentions, the question that arises for consideration is whether the plaintiffs have been able to establish their title and the courts below were justified in declaring plaintiffs' title. As has been stated earlier the only piece of evidence on which the courts below relied upon to decree the plaintiffs' suit is the alleged order made by the Assistant Settlement Officer directing correction of the record of right. The order in question is not there on record but the plaintiffs relied upon the register where the correction appears to have been given effect to. The question, therefore, arises as to whether the entry in the settlement papers recording somebody's name could create or extinguish title in favour of the person concerned? It is to be seen that the disputed land originally stood recorded in the name of Raja Sahib of Keonthal and thereafter the State was recorded to be the owner of the land in the record of right prepared in the year 1949-50. In the absence of the very order of the Assistant Settlement Officer directing necessary correction to be made in favour of the plaintiffs, it is not possible to visualize on what basis the aforesaid direction had been made. But at any rate such an entry in the Revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs. To our query as to whether there is any other document on the basis of which the plaintiffs can claim title over the disputed land, the learned counsel for the plaintiffs-respondents could not point out any other document apart from the alleged correction made in the register pursuant to the order of the Assistant Settlement Officer. In our considered opinion, the courts below committed serious error of law in declaring plaintiffs' title on the basis of the aforesaid order of correction and the consequential entry in the Revenue papers. In the circumstances, the appeal is allowed and the judgment and decree passed in all the three forums are set aside. The plaintiffs' suit stands dismissed. There will be no order as to costs."*

**20.** Mr. J.P. Jha, learned senior counsel appearing for legal heirs of respondent no.1 further relied upon the judgment passed in the case of **Chhotanben and another v. Kiritbhai Jalkrushnabhai Thakkar and others**, reported in **AIR 2018 Supreme Court 2447**. He refers paragraphs 12, 13, 14 and 16 of the said judgment, which are quoted herein below:

**"12.** *What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order 7 Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10-1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant-plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1 and 2) calling upon them to stop interfering with their possession and to partition the property and provide exclusive possession of half (½) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7 Rule 11(d). That view commends to us.*

**13.** *The High Court on the other hand, has considered the matter on the basis of conjectures and surmises and not even bothered to analyse the averments in the plaint, although it has passed a speaking order running into 19 paragraphs. It has attempted to answer the issue in one paragraph which has been reproduced hitherto (in para 10). The approach of the trial court, on the other hand, was consistent with the settled legal position expounded in Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] , Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express [Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express, (2006) 3 SCC 100] and also T. Arivandandam v. T.V. Satyapal [T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467].*

**14.** *These decisions have been noted in Church of Christ Charitable Trust and Educational Charitable Society v. Ponniamma Educational Trust [Church of Christ Charitable Trust and Educational Charitable*

*Society v. Ponniamman Educational Trust, (2012) 8 SCC 706 : (2012) 4 SCC (Civ) 612] , where this Court, in para 11, observed thus : (SCC p. 714, para 11)*

*"11. This position was explained by this Court in Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] , in which, while considering Order 7 Rule 11 of the Code, it was held as under : (SCC p. 560, para 9)*

*'9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit—before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court.'*

*It is clear that in order to consider Order 7 Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the Court to scrutinise the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averments. These principles have been reiterated in Raptakos Brett & Co. Ltd. v. Ganesh Property [Raptakos Brett & Co. Ltd. v. Ganesh Property, (1998) 7 SCC 184] and Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express [Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express, (2006) 3 SCC 100]."*

**16.** *In the present case, we find that the appellant-plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original Defendants 1 and 2 by keeping them in the dark about such execution and within two days from the refusal by the original Defendants 1 and 2 to refrain from obstructing the peaceful enjoyment of use and possession of the ancestral property of the appellants. We affirm the view taken by the trial court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold*

*in exercise of the power under Order 7 Rule 11(d) CPC."*

**21.** Mr. J.P. Jha, learned senior counsel appearing for legal heirs of respondent no.1 lastly relied upon the judgment passed in the case of ***Mayank (H.K.) Ltd. and others v. Owners & Parties, Vessel, M.V. Fortune Express and others***, reported in ***(2006) 3 SCC 100***. He refers paragraphs 11 and 12 of the said judgment, which are quoted herein below:

*"11. Under Order 7 Rule 11 of the Code, the court has jurisdiction to reject the plaint where it does not disclose a cause of action, where the relief claimed is undervalued and the valuation is not corrected within the time as fixed by the court, where insufficient court fee is paid and the additional court fee is not supplied within the period given by the court, and where the suit appears from the statement in the plaint to be barred by any law. Rejection of the plaint in exercise of the powers under Order 7 Rule 11 of the Code would be on consideration of the principles laid down by this Court. In *T. Arivandandam v. T.V. Satyapal* [(1977) 4 SCC 467] this Court has held 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, the court should exercise its power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. In *Roop Lal Sathi v. Nachhattar Singh Gill* [(1982) 3 SCC 487] this Court has held that where the plaint discloses no cause of action, it is obligatory upon the court to reject the plaint as a whole under Order 7 Rule 11 of the Code, but the rule does not justify the rejection of any particular portion of a plaint. Therefore, the High Court therein could not act under Order 7 Rule 11(a) of the Code for striking down certain paragraphs nor the High Court could act under Order 6 Rule 16 to strike out the paragraphs in the absence of anything to show that the averments in those paragraphs are either unnecessary, frivolous or vexatious, or that they are such as may tend to prejudice, embarrass or delay the fair trial of the case, or constitute an abuse of the process of the court. In *ITC Ltd. v. Debts Recovery Appellate Tribunal* [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed by the defendant under Order 7 Rule 11 of the Code is to find out whether the real cause of action has been set out in the plaint or something illusory has been projected in the plaint with a view to get out of the said provision. In *Saleem Bhai v. State of Maharashtra* [(2003) 1 SCC 557] this Court has held that the trial court can exercise its powers under Order 7 Rule 11 of the Code at any stage of the suit before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial and for the said purpose the averments in the plaint are*

*germane and the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage. In Popat and Kotecha Property v. State Bank of India Staff Assn. [(2005) 7 SCC 510] this Court has culled out the legal ambit of Rule 11 of Order 7 of the Code in these words: (SCC p. 516, para 19)*

*"19. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities."*

***12.** From the aforesaid, it is apparent that the plaint cannot be rejected on the basis of the allegations made by the defendant in his written statement or in an application for rejection of the plaint. The court has to read the entire plaint as a whole to find out whether it discloses a cause of action and if it does, then the plaint cannot be rejected by the court exercising the powers under Order 7 Rule 11 of the Code. Essentially, whether the plaint discloses a cause of action, is a question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety taking those averments to be correct. A cause of action is a bundle of facts which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleadings relied on are in regard to misrepresentation, fraud, wilful default, undue influence or of the same nature. So long as the plaint discloses some cause of action which requires determination by the court, the mere fact that in the opinion of the Judge the plaintiff may not succeed cannot be a ground for rejection of the plaint. In the present case, the averments made in the plaint, as has been noticed by us, do disclose the cause of action and, therefore, the High Court has rightly said that the powers under Order 7 Rule 11 of the Code cannot be exercised for rejection of the suit filed by the plaintiff-appellants."*

**22.** Relying on the above judgment, Mr. J.P. Jha, learned senior counsel submits that the plaint cannot be rejected on the basis of allegation made by

the defendant in the written submission or in an application for rejection of the plaint. He submits that the Court is required to read the entire plaint as a whole and find out whether it discloses all the facts or not and other criteria are also required to be considered by the learned Court.

**23.** On these grounds, Mr. J.P. Jha, learned senior counsel appearing for the legal heirs of respondent no.1 submits that there is no illegality in the impugned order of the learned Court in rejecting the petition filed under Order VII Rule 11(a) and (d) of the C.P.C. and in view of that, this writ petition is fit to be dismissed.

**24.** In view of the above submissions of the learned counsel for the parties, the Court has gone through the materials on record including the impugned order as well as the annexures annexed with the writ petition and other affidavits. The facts as discussed herein above are not in dispute. In the recent survey settlement operation, the petitioner's mother name was recorded during the stage of Khanapuri in respect to the J.B. No.17 (New J.B. No.162) and J.B. No.24 (New J.B. No.32), in which, the original respondent no.1 Lobin Manjhi and others filed objection against the said Khanapuri entry vide Badar No.18 Gha, peskari Badar No.7 for Mauza Gajanda and T.L. Case No.13 at Attestation Camp at Lakra Pahari and also at Bara Palasi with respect to lands of both J.B. No.17 and 24. Vide order dated 10.12.1982, the Assistant Settlement Officer confirmed the Khanapuri entry in favour of petitioner's mother and rejected the claim of original respondent no.1 Lobin Manjhi with respect to entries made in the name of petitioner's mother of the lands of J.B. No.17 of Mauza Bara and of J.B. No.24 of Mauza Gajanda.

**25.** The Settlement Objection Suit No.19 of 1984-85 filed by original

respondent no.1- Lobin Manjhi was dismissed by the Assistant Settlement Officer, Dumka on the point of maintainability vide order dated 20.08.1988. Against the said order, original respondent no.1 preferred an appeal being Title Appeal No.2 of 1988, which was further dismissed by the Charge Officer, Dumka vide order dated 19.08.1992.

**26.** The final purcha with respect to aforesaid two J.Bs. was passed in favour of the petitioner's mother in the year 1998 which was finally gazetted on 19.02.2010 and, thereafter, with respect to the said publication, original respondent no.1-Lobin Manjhi has not filed any objection and eight years thereafter, he has preferred Title Suit No.58 of 2006 before the Court of Settlement Officer, Dumka for declaring right, title and interest in the suit property, which was subsequently transferred by the Settlement Officer while exercising power under Section 5-A of the Regulation, 1872 before the learned Court which on receiving was numbered as Title Suit No.88 of 2006 in the Court of the learned Sub-Judge-I, Dumka. In the said suit, the petitioner's mother filed a petition under Order 7 Rule 11(a) and (d) of the C.P.C., which was rejected by the learned Court saying that the final publication of record of right has not been brought on record and further holding that once it has been transferred to the civil court, the learned Court is required to decide the said case.

**27.** Section 5 of the Regulation, 1872 stipulates the bar of jurisdiction of civil court during settlement.

**28.** Section 5-A of the said Regulation, 1872 provides the provision of re-transfer of suit to civil court.

**29.** Section 24 of the said Regulation, 1872 speaks of publication of record-

of-rights. For ready reference, Section 24 is quoted herein below:

**"24. Publication of record-of-rights.-** *After the Settlement the Settlement-Officer shall have made the record-of-rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient.*

*Objections against such record. Any person interested shall thereupon be allowed to bring forward [in the Settlement Courts] within a period of six months from the date of publication of such record-of-rights, any objection he may desire to make to any part of such record; and the objection so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court."*

**30.** Section 25 of the said Regulation, 1872 speaks of record to be final after six months of publication. Sub-section (3) of Section 25 is also relevant which speaks until a fresh settlement is made or a new table of rates and rent-rolls are prepared, that cannot be re-opened. For ready reference, Section 25(1) and sub-section (3) thereof are quoted herein below:

**"25. Record to be final after six months publication.-**  
**(1)** *After a period of six months from the date of the publication of the record-of-rights of any village, such records shall be conclusive proof of the rights and customs therein recorded, other than the rights mentioned in Section 25-A, except so far as concerns entries in such record regarding which objections by parties interested may still be pending in the Original or Appellate Courts, or may still be open to appeal.*

xxx                      xxx                      xxx

**(3)** *When a record-or-rights has become final, or any objection to any entry in a record-of-rights has been finally disposed of in the Settlement Courts, and when all final decisions and orders, including such as may have been passed on revision as provided in sub-section (2), have been correctly embodied therein, such record shall not, until a fresh settlement is made or a new table of rates and rent-rolls are prepared, be re-opened without the previous sanction of the [State] Government."*

**31.** Thus, the provisions are made in the said Regulation, 1872 that once the publication of records of right is made in light of Section 24, any interested person is required to make objection within six months from the date of publication.

**32.** Section 25 of the said Regulation, 1872 speaks that once no objection is made within six months, the record shall be final and sub-section (3) of the said section bar to re-open the said record of rights until a fresh settlement or new table of rates and rent-rolls are prepared.

**33.** At the time of final settlement in favour of the petitioner's mother, the objection was filed by respondent no.1, which was rejected and, thereafter, the settlement has been made.

**34.** The notification of the Government dated 19.02.2010 clearly speaks that the publication of settlement was already done with respect to the different J.Bs. in the year 1998 itself. In the said notification, the said two J.Bs. are at Sl. Nos. 14 and 34 respectively and final publication was made on 31.07.1998. Thus, it is an admitted position that the said final settlement was made in the year 1998, however, it has been gazetted on 19.02.2010. Thereafter, original respondent no.1 has not filed any objection and after eight years, he has filed the suit which was transferred by the Settlement Officer to the court of competent civil jurisdiction.

**35.** In the aforesaid background, it is crystal clear that respondent no.1 has initially objected the settlement which was rejected and, thereafter, the settlement was made in favour of the petitioner's mother and, thereafter, he has filed objection suit, which was further rejected. The publication was made in the year 1998 and published on 19.02.2010 and after eight years, the said suit was filed which has been transferred by the Settlement Officer. The conduct of respondent no.1 clearly suggests that the suit was an after-thought when final settlement was already made in light of the provisions made under Section 24 of the said Regulation, 1872 and no objection was

filed within six months.

**36.** Sub-section (3) of Section 25 clearly stipulates that until a new table of rates and rent-rolls are prepared, that cannot be re-opened.

**37.** In light of Section 11 of the said Regulation, 1872, the civil court jurisdiction is barred. The publication was already made in the year 1998, however, objection was not filed. Thus, in light of Section 11 of the said Regulation, 1872 and in the aforesaid background, the suit was barred by law.

**38.** There is no doubt that in deciding the petition under Order VII Rule 11 of the C.P.C., the Courts are required to strictly adhere to the rule and look into the plaint.

**39.** The judgments relied by Mr. J.P. Jha, learned senior counsel for the legal heirs of respondent no.1 are not in dispute. Those judgments are passed in the facts and circumstances of those cases, but what has been discussed herein above, it is crystal clear that the suit was barred by law in light of Section 11 of the said Regulation, when final publication was already made in the year 1998 and finally published on 19.02.2010.

**40.** It is well-settled 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. A reference may be made to the judgment passed in the case of ***Dahiben v. Arvinbhai Kalyanji Bhanusali (Gajra) dead through legal representatives and others***, reported in ***((2020) 7 SCC***

**366.** Paragraphs 23.5, 23.6, 23.8 to 23.13 and 23.15 are quoted herein below:

***23.5.*** *The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.*

***23.6.*** *Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by*

*scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] , read in conjunction with the documents relied upon, or whether the suit is barred by any law.*

**23.8.** *Having regard to Order 7 Rule 14 CPC, the documents filed along with the plaint, are required to be taken into consideration for deciding the application under Order 7 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. [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]*

**23.11.** *The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] 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. [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 [D. Ramachandran v. R.V. Janakiraman, (1999) 3 SCC 267; See also Vijay Pratap Singh v. Dukh Haran Nath Singh, AIR 1962 SC 941] .*

**23.13.** *If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.*

**23.15.** *The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the*

*grounds specified in clauses (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."*

**41.** In view of the above facts, reasons and analysis, the writ petition succeeds. The impugned order dated 12.05.2010 passed in Title Suit No.88/2006 by the learned Sub-Judge-I, Dumka is, hereby, set-aside. The petition filed by the petitioner's mother under Order VII Rule 11(a) and (d) of the C.P.C. is, hereby, allowed. The plaint being Title Suit No.88 of 2006 filed by the defendant/original respondent no.1 is rejected.

**42.** Accordingly, this writ petition is allowed and disposed of.

**(Sanjay Kumar Dwivedi, J.)**

*Dated: 19<sup>th</sup> March, 2026*  
Ajay/ **A.F.R.**

*Uploaded on*  
*23<sup>rd</sup> March, 2026*