

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-109 of 2026

[Mst. Rehmat Bibi and others V. Province of Sindh and others]

Petitioners : Through Mr. Riazuddin Qureshi, Advocate.
Respondents 1 to 7 : Through Mr. Salahuddin Chandio, A.A.G..
Respondent No.8 : Through Mr. Aftab A. Memon, Advocate.
Date of Hearing : 28.09.2026
Date of Order : 28.09.2026

ORDER

Abdul Hamid Bhurgri, J.- Through this petition, the Petitioners have impugned the order dated 04.03.2025, passed by the learned Senior Civil Judge, Thatta, in F.C. Suit No.186 of 2019 *[Alam Khan v. Province of Sindh and others]*, whereby their application under Order VII, Rule 11 CPC was dismissed. Civil Revision Application No.04 of 2025 *[Mst. Rehmat Bibi v. Province of Sindh and others]*, preferred against the said order, was also dismissed by the learned IInd Additional District Judge, Thatta, vide order dated 12.01.2026. Hence, this petition.

2. Learned counsel for the Petitioners contends that: (i) no cause of action has accrued to the plaintiff/Respondent No.8; (ii) the plaintiff has no title to the suit property and the documents relied upon by him are forged; (iii) the suit is barred under Order II, Rule 2 CPC, as the plaintiff has not claimed the whole relief allegedly available to him under the law; (iv) where a plaint attracts any of the clauses of Order VII, Rule 11 CPC, it ought to be rejected at the earliest stage so as to save the parties and the Court from futile litigation; and (v) both the impugned orders are, therefore, contrary to law. He prays that the impugned orders be set aside and the plaint rejected.

3. Conversely, learned counsel for Respondent No.8 contends that the plaintiff has sought declaration of his ownership over the suit property on the basis of sale deeds. According to him, the Mukhtiarkar concerned issued notices disputing the plaintiff's title, thereby furnishing a cause of action for institution of the suit for declaration and injunction. He submits that the suit is maintainable and that the objections raised by the Petitioners involve disputed questions of fact which cannot be determined without recording evidence.

4. Learned AAG submits that, according to the Provincial Government, the suit land belongs to the Government of Sindh. He, however, fairly concedes that the question of title cannot be determined summarily while considering an application under Order VII, Rule 11 CPC and would require adjudication on the basis of evidence.

5. I have heard learned counsel for the parties and perused the material available on record.

6. The principles governing exercise of jurisdiction under Order VII, Rule 11 CPC are well settled. Primacy is to be accorded to the contents of the plaint, though such consideration is not necessarily exclusive in every case. The Court is required to examine the plaint as a whole to determine whether it discloses a cause of action or whether, from the statements contained therein, the suit appears to be barred by any law. The pleas raised in defence cannot ordinarily be juxtaposed with the averments of the plaint for determining their truth or falsity, nor can disputed questions requiring evidence be adjudicated at this preliminary stage. Reference in this regard may be made to *Haji Abdul Karim and others v. Messrs Florida Builders (Pvt.) Limited* (PLD 2012 SC 247) and *Jewan and others v. Federation of Pakistan and others* (1994 SCMR 826).

7. Examined on the above touchstone, the plaint, available at page 57 of the petition, shows that the plaintiff/Respondent No.8 claims ownership of the suit property on the basis of sale deeds. He has further pleaded that notices were issued to him by the Mukhtiarkar concerned questioning his title, which prompted him to institute the suit. These averments, on their face, disclose a cause of action for approaching the civil Court.

The Petitioners' objections that the plaintiff has no title to the property and that the documents relied upon by him are forged constitute matters requiring adjudication on evidence. Likewise, whether the sale deeds relied upon by the plaintiff are genuine and confer any right or title upon him, and whether the land belongs to the plaintiff or to the Government of Sindh, are disputed questions which cannot appropriately be determined while exercising jurisdiction under Order VII, Rule 11 CPC. These matters must remain open for determination by the learned trial Court on the basis of evidence led by the parties.

8. The objection founded upon Order II, Rule 2 CPC is equally misconceived. The rule is intended to prevent splitting of a claim arising from the same cause of action and, inter alia, operates against a subsequent suit where a plaintiff, having been entitled to a particular claim or relief on the same cause of action, had omitted or relinquished it in the earlier proceedings, subject to the exceptions recognized by law. Its application, therefore, necessarily presupposes an earlier suit and requires comparison of the causes of action and the reliefs claimed in the two proceedings.

In the present case, learned counsel for the Petitioners has neither identified any earlier suit instituted by plaintiff/Respondent No.8 on the same cause of action nor pointed to any material from which such a bar is apparent on the face of the plaint. In the absence of the foundational facts necessary to attract Order II, Rule 2 CPC, the plaint could not have been rejected on this ground.

9. The further objection that the plaintiff has omitted to claim consequential relief is also insufficient to attract Order VII, Rule 11 CPC in the circumstances presently appearing from the plaint. The proviso to Section 42 of the Specific Relief Act, 1877 prohibits grant of a mere declaration where the plaintiff, being able to seek further relief, omits to do so. In the present case, however, the plaintiff has not sought a bare declaration; he has also sought injunctive relief and has specifically pleaded that he is in possession of the suit property. Whether that assertion is factually correct is a matter for trial. At this stage, therefore, it cannot be held merely on the basis of the Petitioners' denial that the plaint is barred by the proviso to Section 42 of the Specific Relief Act, 1877.

10. Both Courts below have concurrently declined to reject the plaint. While exercising constitutional jurisdiction under Article 199 of the Constitution, this Court does not sit as another appellate or revisional forum over such interlocutory determinations. Interference may nevertheless be warranted where the impugned order suffers from a jurisdictional defect, patent illegality, material misreading or non-reading of the record, or results in an outcome not sustainable in law. No such infirmity has been demonstrated in the present case. On the contrary, the questions sought to be raised by the Petitioners substantially involve

matters which require adjudication upon evidence and cannot appropriately be determined through proceedings under Order VII, Rule 11 CPC.

11. Consequently, finding no ground for interference with the concurrent orders passed by the Courts below, this petition is dismissed, along with the pending application(s), if any.

12. It is clarified that the observations made herein are confined to the determination of whether the plaint is liable to rejection under Order VII, Rule 11 CPC and shall not be construed as expressing any opinion on the respective claims of title, possession, genuineness or otherwise of the documents relied upon by the parties, or any other issue requiring determination at trial. The learned trial Court shall decide the suit independently, on the basis of the pleadings and evidence brought before it and strictly in accordance with law, without being influenced by any observation contained in this order. Since the suit pertains to the year 2019, the learned trial Court shall make every endeavor to proceed with and conclude the same expeditiously.

JUDGE

Ayaz Gul