

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Civil Revision Appln. No.S-55 of 2023

Applicants/  
Appellants : 1) Akbar Ali s/o Khuda Bux, Gakhar  
2) Nisar Ghulam Hussain s/o Allah Ditta  
*Through M/s Muhammad Moez Shamsi &  
Shahbaz Hussain, Advocates*

Respondent : Nisar Ali Shah s/o Pir Shah, Syed  
*Through Mr. Shafiq Ahmed Khan Laghari  
Advocate*

Date of hearing : 22.01.2026  
Date of decision : 12.03.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.**— Through the instant Civil Revision Application under Section 115 C.P.C, the applicants/defendants have challenged the order dated 20.12.2022 passed by the learned Vth Additional District Judge, Sukkur in Civil Appeal No.73 of 2020, whereby the learned appellate Court allowed the appeal filed by the respondent/plaintiff, set aside the order dated 18.09.2020 passed by the learned 1<sup>st</sup> Senior Civil Judge, Sukkur in F.C Suit No.222 of 2018, and remanded the suit to the trial Court with direction to record written statements, frame issues and proceed with trial.

2. The controversy arises out of a suit for recovery of damages amounting to Rs.3,36,75,000/- instituted by the respondent/plaintiff against the present applicants/defendants. The defendants filed an application under Order VII Rule 11 C.P.C seeking rejection of the plaint on the grounds that the plaint did not disclose any cause of action, that the claim was speculative and legally untenable, and that the suit was barred by law. The learned trial Court, after examining the pleadings, allowed the application and rejected the plaint. However, the learned appellate Court set aside the said order and remanded the matter, holding that the trial Court had prematurely examined evidentiary aspects of the claim.

3. The applicants/defendants have invoked the revisional jurisdiction of this Court, contending that the learned appellate Court failed to apply the settled principles governing Order VII Rule 11 C.P.C, and that the plaint, even if taken at face value, does not disclose any legally sustainable cause of action.

4. The learned counsel for the parties were heard at length and with their able assistance, the record was gone through.

5. It is a well-established principle of civil jurisprudence that while deciding an application under Order VII Rule 11 C.P.C, the Court is required to examine only the averments contained in the plaint and the documents relied upon therein. The defence of the defendant is irrelevant at this stage. However, the Court is equally obliged to determine whether the facts pleaded, even if assumed to be correct, disclose a legally recognizable cause of action entitling the plaintiff to the relief claimed. The purpose of this provision is to prevent misuse of the judicial process and to ensure that Courts are not compelled to undertake a full-fledged trial in cases where the plaint itself reveals that the suit is vexatious, ill-conceived, or barred by law.

6. A meaningful reading of the plaint shows that the respondent/plaintiff has narrated a prolonged history of disputes relating to: internal affairs and elections of Sukkur Motor Works Association; alleged illegal subdivision of Plot No.329-A; disputes regarding possession of the property; criminal complaints and FIRs; constitutional petitions before the High Court; proceedings under the Illegal Dispossession Act, 2005. On the basis of these events, the plaintiff has sought recovery of Rs.3,36,75,000/- from the defendants under various heads including: alleged litigation expenses and professional fee of counsel, alleged loss of business, alleged damage to reputation, alleged mental torture and harassment.

7. A careful scrutiny of the plaint reveals that the narrative presented by the plaintiff does not crystallize into a definite civil cause of action for

recovery of damages. The plaint essentially recounts disputes arising from the administration and electoral affairs of the Sukkur Motor Works Association. These disputes are inherently matters concerning the internal management of a society and cannot automatically give rise to a personal monetary claim against individual members or office-bearers unless a specific legal wrong giving rise to damages is clearly pleaded. The plaint also acknowledges that possession of Plot No.329-A was eventually restored to the plaintiff. Once possession stood restored, the foundational basis for claiming damages on account of dispossession became substantially diluted unless specific and legally cognizable tortious conduct resulting in measurable loss was pleaded, which is conspicuously absent.

8. A substantial component of the plaintiff's claim relates to litigation expenses and professional fees allegedly incurred in various proceedings before different forums. It is a settled principle that litigation expenses incurred in earlier proceedings cannot ordinarily constitute an independent cause of action for recovery of damages through a separate suit. The law provides specific mechanisms for awarding costs within the proceedings in which such expenses are incurred. The plaint does not disclose any contractual obligation, statutory liability, or legally recognized tort which would render the defendants liable to reimburse such litigation expenses through a separate damages suit.

9. The plaintiff has further claimed damages on account of alleged mental torture, harassment and loss of reputation. Such claims, in order to be legally maintainable, must be supported by material facts constituting a recognized cause of action such as defamation, malicious prosecution, or another actionable civil wrong. The plaint, however, does not disclose any specific defamatory statement, malicious prosecution proceeding, or other legally actionable conduct attributable to the defendants which would justify

a decree of damages under these heads. Generalized allegations of harassment or mental distress, unaccompanied by the essential ingredients of a recognized civil wrong, cannot sustain a claim for damages.

10. The monetary figures claimed in the plaint appear to be unilaterally assessed and speculative, lacking any objective legal basis. Civil law requires that a claim for damages must arise from a clearly pleaded legal injury caused by the defendant's wrongful act. The plaint in the present case merely aggregates various grievances and assigns monetary values to them without establishing the juridical nexus necessary for a decree of damages.

11. The learned appellate Court set aside the order of rejection primarily on the ground that the trial Court had examined evidentiary aspects such as absence of documentary proof of professional fees or medical records. While it is correct that evidentiary evaluation ordinarily falls within the domain of trial, the appellate Court failed to consider the more fundamental issue, namely, whether the plaint itself disclosed a legally sustainable cause of action. The appellate Court thus misdirected itself by treating the matter as one concerning proof of claim, whereas the real issue was the existence of a legally cognizable claim. Once it is found that the plaint does not disclose a cause of action in law, the Court is not required to permit the parties to undergo a futile trial merely to establish facts that cannot ultimately give rise to enforceable relief.

12. The plaint reflects a protracted rivalry among members of the Association, resulting in multiple proceedings before various forums. Civil Courts cannot be permitted to become instruments for prolonging factional disputes through speculative damages claims unsupported by a recognized legal foundation. Allowing such suits to proceed to trial would undermine the very object of Order VII Rule 11 C.P.C, which is designed to prevent misuse of the judicial process.

13. For the foregoing reasons, this Court is satisfied that: the plaint does not disclose a legally sustainable cause of action, the damages claimed are speculative and unsupported by material facts constituting a recognized civil wrong the suit appears to be an attempt to convert organizational disputes and prior litigation into a monetary claim. The learned trial Court therefore rightly exercised its jurisdiction in rejecting the plaint under Order VII Rule 11 C.P.C. The learned appellate Court, in setting aside the said order and remanding the suit, committed material irregularity in the exercise of jurisdiction, warranting interference by this Court. Consequently, the Civil Revision Application is allowed. The impugned order dated 20.12.2022 passed by the learned Vth Additional District Judge, Sukkur in Civil Appeal No.73 of 2020 is set aside. The order dated 18.09.2020 passed by the learned 1<sup>st</sup> Senior Civil Judge, Sukkur in F.C. Suit No.222 of 2018, whereby the plaint was rejected under Order VII Rule 11 C.P.C, is restored and maintained. No order as to costs.

**J U D G E**