



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Revision Petition No. 45/2026

Smt. Champa Devi W/o Shri Kailash Paviya, Aged About 55 Years, R/o 28, Vastu Nagar, Opposite India bulls Mall, Shatabdi Circle, Kudi Bhagtasani, Jodhpur, Rajasthan.

-----Petitioner

Versus

1. Jogaram S/o Shri Girdhari Ram Ji, Aged About 57 Years, R/o Villagekudi Bhagtasani, Tehsil Luni, Jodhpur, Rajasthan
2. Geegaram S/o Shri Hemaram, Resident Of Kalyan Singh Ki Dhani, Indrana, Barmer Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Akshay Kumar Surana with
Mr. Tarun Dudia
For Respondent(s) : Mr. Abhishek Sharma with
Mr. Piyush Joshi

HON'BLE MS. JUSTICE REKHA BORANA

Order

Reportable

09/04/2026

1. The present revision petition has been filed aggrieved of order dated 29.09.2025 (Annexure-4) passed by Additional District Judge No.5, Jodhpur Metropolitan in Civil Original Suit No. 68/2024 whereby application under Order VII Rule 11 r/w Section 151, CPC (hereinafter referred to as 'the application') as filed on behalf of petitioner/defendant No.2, stood rejected.

2. The facts are that a suit for cancellation of sale deed and permanent injunction was filed by plaintiff Jogaram with the averment that he is the recorded *khatedar* of an agricultural land. As the user of the land was required to be converted to residential



and the land was required to be developed, defendant No.2 Champa Devi and one Anil Kaushik entered into an agreement with the plaintiff in the Year 2012 to undertake the said proceedings. For the purpose, plaintiff signed certain stamp papers and blank papers and handed over to them. As per the agreement, the complete expenses for conversion/development were to be borne by Champa Devi & Anil Kaushik and in lieu of the same, 13 *bighas* out of total 27 *bighas* of land was to be transferred to them by the plaintiff after receiving the due consideration.

3. It was further averred that no proceedings, whatsoever, for conversion/development were undertaken by both till the year 2021 and hence, a dispute arose between the parties. When no proceedings were undertaken by them till the month of January 2022, plaintiff demanded for the return of his original documents, on which he was threatened that they have got an agreement to sell, a development agreement and two Power of Attorneys (for short 'P/A') in their favour and would proceed on basis of the said documents. The plaintiff therefore, in the month of January 2022, orally revoked the alleged P/A and development agreement dated 05.12.2012. However, despite the same, they did not hand over the original documents back to him.

4. In that event, vide registered notice dated 02.11.2023, the plaintiff revoked/cancelled the P/A and development agreement dated 05.12.2012. A public notice to the said effect was also got published in daily newspaper dated 07.11.2023.

5. On being served with the above notice, it was informed by Champa Devi & Anil Kaushik that by virtue of P/A dated





05.12.2012, defendant No.2 had already executed a sale deed on 31.10.2023, in favour of defendant No.1 Geegaram, which was totally illegal as it was the plaintiff who was in possession of the land as a recorded *khatedar*, till the said date. Further, the sale deed was executed despite the P/A having been cancelled/revoked by the plaintiff and furthermore, no consideration amount was ever paid to the plaintiff. Meaning thereby, the sale deed in question was a sham document and was executed just to play a fraud upon the plaintiff.

6. With the above averments, the following reliefs were prayed for by the plaintiff:

“12. कि प्रार्थना वादी है कि वाद वादी बहक वादी विरुद्ध प्रतिवादीगण डिक्री किया जावे कि-

क- कि प्रतिवादीगण सं. 2 द्वारा तथाकथित रूप से वादी के मुख्त्यार की हैसियत से प्रतिवादी सं. 1 के हक में दर्शाये जा रहे आलोच्य विक्रय विलेख दिनांक 31-10-2023 को निष्पादित कर दिनांक 3-11-2023 को पुस्तक सं. 1. जिल्द सं. 27 में पृष्ठ सं. 23, क्रम सं. 202303544103548 पर उपपंजीयक लूणी के यहां पंजीयन करवाया गया है उसे निरस्त किया जावे।

ख- कि प्रतिवादीगण को जरिये स्थाई निषेधाज्ञा से पाबन्द फरमाया जावे कि वे स्वयं अथवा किसी रिश्तेदार, एजेन्ट, मुख्त्यार कारीगर, मजदूर ठेकेदार या अन्य किसी के मार्फत वादी को वादग्रस्त भूमि से न तो बेदखल करे अथवा करवावे अथवा न ही वादी के वादग्रस्त भूमि के उपयोग व उपभोग में किसी प्रकार बाधा डाले न ही वादग्रस्त भूमि या उसके किसी हिस्से का प्रतिवादीगण आगे किसी अन्य व्यक्ति को बैचान, हस्तान्तरण या अन्य व्ययन करे अथवा करवावे।



ग- हर्जा खर्चा दीगर दादरसी लाभप्रद वादी वादी को प्रतिवादीगण से दिलवाया जावे।"

7. An application under Order VII Rule 11, CPC was filed on behalf of defendant No.2 on the following grounds:

- (i) The land in question was an agricultural land and the relief for injunction as prayed for by the plaintiff was within the domain of a Revenue Court.
- (ii) The plaintiff had no right to pray for cancellation of the sale deed as on the date of filing of the suit, he was not the recorded *khatedar* as the land stood mutated in favour of defendant No.1. Therefore, without the declaration of his *khatedari* rights by a competent Revenue Court, the plaintiff could not have laid the present suit for cancellation of sale deed.
- (iii) No cause of action accrued to the plaintiff and it was a clear case of clever drafting. The plaintiff on the one hand averred that P/A was revoked orally in the Year 2022, and on the other hand, in his notice dated 02.11.2023, specifically admitted the execution of P/A and development agreement on 05.12.2012 and revoked the same with immediate effect vide the said notice. The said notice did not even whisper about the earlier alleged oral revocation in the month of January 2022. Hence, the present suit is a classic example of vexatious litigation wherein an illusory cause of action has been tried to be created by the plaintiff.
- (iv) It is the settled position of law that if a document has been executed in writing, the revocation of the same also





has to be in writing and cannot be orally revoked. The revocation/cancellation of P/A dated 05.12.2012 was evidently vide written notice dated 02.11.2023. Meaning thereby, it remained in existence on 31.10.2023 when the sale deed in question was executed. The same being in total consonance with law, no cause arises to the plaintiff and the plaint deserves to be rejected.

8. The learned Trial Court while rejecting the application, observed that the suit in question is for cancellation of sale deed and no issue regarding the *khatedari* rights has been raised. Therefore, it is the Civil Court which has the jurisdiction to entertain the suit.

9. So far as the cause of action is concerned, the Court observed that it was specifically pleaded by the plaintiff that he is the *khatedar* tenant of the land in question and despite the P/A been revoked on 02.11.2023, the sale deed was executed on 03.11.2023. The said pleadings did reflect a cause of action having accrued to the plaintiff and hence, the plaint was not liable to be rejected.

10. Counsel for the petitioner submitted that the learned Trial Court erroneously recorded a finding to the effect that the sale deed in question was executed on 03.11.2023 whereas it was the date on which it was registered. So far as the execution is concerned, the same was executed on 31.10.2023 itself and was even presented before the Registrar on the said date. The same evidently being prior to the alleged revocation of the P/A vide notice dated 02.11.2023, was perfectly valid.





11. Counsel submitted that the above facts have been pleaded by the plaintiff himself in the plaint and a bare reading of the said pleadings makes it crystal clear that no cause of action accrued to the plaintiff. Counsel while relying upon the Hon'ble Apex Court judgment in **Raghwendra Sharan Singh Vs. Ram Prasanna Singh (Dead) by LRs.; 2020 (16) SCC 601** submitted that the plaint deserved to be rejected at the threshold.

12. Per contra counsel for the respondent submitted that it was specifically averred by the plaintiff that the P/A was orally revoked in the month of January 2022 and hence, the sale deed, even if deemed to have been executed on 31.10.2023, was subsequent to the said date. In view of the said pleading, the learned Trial Court rightly concluded that a cause of action did accrue to the plaintiff and hence, rightly rejected the application as filed on behalf of defendant No.2.

13. Counsel further submitted that no sale consideration was received by the plaintiff and therefore too, a sale without consideration was even otherwise void.

14. Heard the Counsels. Perused the record.

15. So far as the rejection of the application by the learned Trial Court on the count that the plaint did not raise any issue pertaining to *khatedari* rights is concerned, the same is in consonance with the material available on record. Evidently, the suit in question was for cancellation of sale deed on ground of fraud and no relief for declaration of any *khatedari* rights qua an agricultural land was prayed for by the plaintiff. He rather pleaded himself to be the recorded *khatedar* of the land in question. Order





impugned hence, does not deserve any interference to that extent.

16. But then a bare reading of the plaint reflects that no cause of action can be concluded to have accrued to the plaintiff. The position of law on Order 7 Rule 11, CPC is well settled. As held by Hon'ble the Apex Court in ***Dahiben Vs. Arvinbhai Kalyanji Bhanusali; (2020) 7 SCC 366***, 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. Therein, the Court observed that having regard to Order 7 Rule 14, CPC, the documents filed along with the plaint are required to be taken into consideration for deciding application under Order 7 Rule 11(a), CPC. When a document referred to in the plaint forms the basis of the plaint, it should be treated as a part of the plaint. The Court therein, proceeded on to observe and hold as under:

"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.

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, (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., (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 7 Rule 11 CPC."

17. Testing on the touchstone of the above settled position of law, this Court would proceed on to scrutinize the averments as made in the plaint and the averments as made in the documents as relied upon and annexed with the plaint. In Para-4 of the plaint, it has been averred as under:

"4. यह है कि चम्पादेवी व अनिल कोशिक की नियत में शुरू से ही खोट थी एवं वे वादी का येन केन प्रकारेण से नुकसान कारित करने पर उतारू थे एवं अपनी हरकतों से बाज नहीं आ रहे थे। जिस कारण वादी द्वारा चम्पादेवी व अनिल कोशिक द्वारा तथाकथित रूप से दर्शाये जा रहे आम मुख्त्यारनामा, विकास एवं समर्वधन अनुबन्ध पत्र दिनांक 5-12-2012 को अपने अधिवक्ता के जरिये रजिस्टर्ड ए/डी नोटिस के द्वारा दिनांक 2-11-2023 को निरस्त





करते हुए स्वयं द्वारा निष्पादित उपरोक्त दोनों ही दस्तावेजात को ही पुनः लिखित रूप से निरस्त कर दिया। जिसकी सूचना भी वादी द्वारा दैनिक समाचार पत्र में दिनांक 7-11-2023 को प्रकाशित करवा दी।"

18. In notice dated 02.11.2023, it was averred as under:

"2. यह है कि मेरे मुवक्किल ने अपनी उक्त कृषि भूमि में से रकबा 6 बीघा बाबत् एक आम मुख्त्यारनामा दिनांक 05/12/2012 को तथा एक विकास एवं सर्वेधन अनुबन्ध पत्र दिनांक 05/12/2012 को निष्पादित कर आपको प्रदान किया था।

3. यह है कि वर्तमान में मेरे मुवक्किल को अपनी उक्त कृषि भूमि बाबत् किसी प्रकार की कोई कार्यवाही नहीं करनी है तथा मेरा मुवक्किल द्वारा आपके पक्ष में निष्पादित किये गये आम मुख्त्यारनामा दिनांक 05/12/2012 तथा विकास एवं सर्वेधन अनुबन्ध पत्र दिनांक 05/12/2012 को **तुरन्त प्रभाव से निरस्त व रद्द करता है** तथा आपसे आग्रह करता है कि आप मेरे मुवक्किल के उपरोक्त आम मुख्त्यारनामा व विकास एवं सर्वेधन अनुबन्ध पत्र को किसी भी रूप में उपयोग नहीं करे तथा इन दस्तावेजात की मूल प्रति यह नोटिस प्राप्त होते ही वापस सुपुर्द कर देवे।"

19. A joint reading of the above averments makes it crystal clear that the execution of P/A by the plaintiff in favour of defendant No.2 Champa Devi has not been disputed or denied. Rather, it is an admitted case of the plaintiff that both P/A and development agreement were executed by him on 05.12.2012.

20. The case of the plaintiff is that the said P/A was revoked/cancelled orally in Year 2022 and subsequently, in writing, vide notice dated 02.11.2023. Therefore, P/A holder did not have





any right to execute the sale deed in favour of defendant No.1 on 03.11.2023.

21. So far as the alleged oral revocation of the P/A in the month of January 2022 is concerned, this Court is of the clear opinion that the same, even if accepted, would be of no consequence. It is the settled position of law that a contract or disposition which is required to be in writing and has been reduced to writing, its terms cannot be modified or altered or substituted by oral contract or disposition. As held by Hon'ble the Apex Court in **S. Saktivel (Dead) by LRs Vs. M. Venugopal Pillai & Ors.; (2000) 7 SCC 104**, no parol evidence will be admissible to substantiate such an oral contract or disposition. A document which, for its validity or effectiveness is required by law to be in writing, no modification or alteration or substitution of such written document is permissible by parol evidence and it is only by another written document that the terms of earlier written document can be altered, rescinded or substituted. Therein, the Court while considering the provision of Section 92 of The Evidence Act, 1872 observed as under:

*"A perusal of the aforesaid provision shows that what Section 92 provides is that when the terms of any contract, grant or other disposition of property, or any matter required by law to be reduced in the form of a document, have been proved, **no evidence of any oral agreement or statement is permissible for the purpose of contradicting, varying, adding or subtracting from the said written document.** However this provision is subject to provisos (1) to (6) but we are not concerned with other provisos except proviso (4), which is relevant in the present case. The question then is whether the defendant-appellant can derive any benefit out of proviso (4) to Section 92 for setting up oral arrangement*





arrived at in the year 1941 which has the effect of modifying the written and registered disposition. Proviso (4) to Section 92 contemplates three situations, whereby:

(i) The existence of any distinct subsequent oral agreement to rescind or modify any earlier contract, grant or disposition of property can be proved.

(ii) **However, this is not permissible where the contract, grant or disposition of property is by law required to be in writing.**

(iii) No parol evidence can be let in to substantiate any subsequent oral arrangement which has the effect of rescinding a contract or disposition of property which is registered according to the law in force for the time being as to the registration of documents.”

22. It is also the settled position of law that if any right is transferred vide a written document, the revocation of such document also has to be in writing and such revocation/cancellation ought to be brought to the notice of the party in whose favour the right was sought to be transferred.

[Amar Nath Vs. Gian Chand; 2022 (11) SCC 460].

23. In view of above settled position of law, the alleged oral revocation of P/A by the plaintiff can be of no consequence.

24. Once it been held that the plaintiff did execute a P/A in favour of defendant No.2, the natural and legal consequence is that defendant No.2 was entitled to execute a sale deed by virtue of the said P/A. The issue now is - Whether the sale deed in question was executed by the P/A holder prior to the revocation of P/A or not?

25. As it has already been held that the alleged oral revocation is of no consequence, this Court would now revert to the pleadings





qua written revocation of P/A. As per the averments made in the plaint, the P/A was revoked vide written notice dated 02.11.2023. So far as the execution of the sale deed on 31.10.2023 is concerned, the same is not disputed. In para 7 of the plaint it has specifically been averred as under:-

"लेकिन प्रतिवादीगण ने आपस में षडयन्त्रपूर्वक प्रतिवादी सं० 2 द्वारा वादी का स्वयं को आम मुख्त्यार दर्शाते हुए दिनांक 31-10-2023 को आलोच्य विक्रय विलेख निष्पादित कर दिनांक 3-11-2023 को पुस्तक सं० 1, जिल्द सं० 27 में पृष्ठ सं० 23, क्रम सं० 202303544103548 पर पंजीबद्ध करवाया गया है।"

26. In view of the above, when it is an admitted fact that the sale deed was executed on 31.10.2023, the observation made by the learned Trial Court that the sale deed was executed on 03.11.2023, is on the face of it, erroneous. It is only the registration of the said deed which was made on 03.11.2023. In that event, the sale deed executed on 31.10.2023 was perfectly valid as the P/A had not been revoked and remained in existence till the said date.

27. From the over all facts and analysis as made in the preceding paras, this Court is of the clear opinion that the plaint in question is the best example of frivolous and vexatious litigation. It is a clear case of clever drafting whereby an illusory cause of action has been sought to be created by the plaintiff. As is the settled position of law, whenever and wherever, the Court finds that the litigation is a frivolous and vexatious one and the pleadings as made comprise of the illusory facts so as to create an illusory cause of action, the same deserves to be nipped in the bud.





28. In **Rajendra Bajoria Vs. Hemant Kumar Jalan; 2022 (12) SCC 641** Hon'ble the Apex Court while dealing with the issue, observed and held as under:

"15. It could thus be seen that this Court has held that reading of the averments made in the plaint should not only be formal but also meaningful. It has been held that **if clever drafting has created the illusion of a cause of action, and a meaningful reading thereof would show that the pleadings are manifestly vexatious and meritless, in the sense of not disclosing a clear right to sue, then the court should exercise its power under Order VII Rule 11 of CPC . It has been held that such a suit has to be nipped in the bud at the first hearing itself.**

... ..

... ..

17. It could thus be seen that the court has to find out as to whether in the background of the facts, the relief, as claimed in the plaint, can be granted to the plaintiff. It has been held that if the court finds that none of the reliefs sought in the plaint can be granted to the plaintiff under the law, the question then arises is as to whether such a suit is to be allowed to continue and go for trial. This Court answered the said question by holding that such a suit should be thrown out at the threshold. This Court, therefore, upheld the order passed by the trial court of rejecting the suit and that of the appellate court, thereby affirming the decision of the trial court. This Court set aside the order passed by the High Court, wherein the High Court had set aside the concurrent orders of the trial court and the appellate court and had restored and remanded the suit for trial to the trial court."





29. Same view has been reiterated by this Court in **Rajasthan State Srigananagar Sugar Mills Ltd. Vs. Ajeet Singh; (2023) 3 RLW 2123** whereby the Court held as under:

"19. In the matter of **Pukhraj Soni v. Nisha Citlangiya; S.B. Civil Second Appeal No. 103/2018 (decided on 24.10.2018)** a Coordinate Bench of this Court while relying upon the earlier decision in **Temple of Thakur Shri Mathuradassji Chhota Bhandar v. Kanhaiyalal, (2008) 4 CivCC 133**, held as under:

"The frivolous litigations are required to be nibbed in the bud at the earliest possible stage to safeguard the rights of adversary in facing the litigation and prolonging his agony. In such cases, even in absence of available grounds under various clauses of Rule 11 of Order 7 CPC Court can very well invoke inherent powers under Section 151 CPC."

30. In view of the above settled position of law, this Court is of the clear opinion that the plaint in question deserves to be rejected and the application under Order VII Rule 11, CPC as preferred by defendant No.2 deserves to be allowed.

31. So far as the ground raised by the plaintiff regarding the non receipt of the consideration amount is concerned, the same definitely cannot be a ground for cancellation of a sale deed. Any such averment can although entitle the plaintiff to file a suit for recovery of the consideration amount, but non receipt of the consideration amount cannot entitle a person to claim for cancellation of the sale deed. The said view has been reiterated by this Court in **Smt. Sarla Pareek Vs. Sawal Ram & Anr.; S.B. Civil First Appeal No. 105/2026** (decided on 16.03.2026) while relying upon the Apex Court judgment in **Dahiben Vs.**





**Arvinbhai Kalyanji Bhanusali (Gajra) (Dead) through LRs
& Ors.; 2020 (7) SCC 366.** The Court held as under:

"10. The answer to the above issue can be found in *Dahiben (supra)*, wherein the Court held that even if the averments of the plaintiffs are taken to be true that the entire sale consideration had not in fact been paid, it could not be a ground for cancellation of the sale deed. The Court observed that therein, the plaintiffs may have other remedies in law for recovery of the balance consideration but could not be granted the relief of cancellation of registered sale deed. The Court further held that in such matters, the plaint is liable to be rejected under Order 7 Rule 11 (a), CPC."

32. As a consequence of the above analysis, observations and findings, the present revision petition stands **allowed**. Order impugned dated 29.09.2025 is hereby quashed and set aside. The plaint as preferred by the plaintiff is hence, **rejected**.

33. Needless to observe that if an appropriate application is preferred by the plaintiff before the Trial Court for refund of the court fee as paid by him on the plaint, learned Trial Court shall be under an obligation to pass appropriate orders for refund of the same, in accordance with law.

34. Stay application and all pending applications, if any, stand **disposed of**.

(REKHA BORANA),J

18-Mak/rahul/-

