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IN THE COURT OF VIII SENIOR CIVIL JUDGE KARACHI EAST

Civil Suit No. 11607 of 2025

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Mst. Khursheed Jahan..... Plaintiff.

Versus

Shaikh Nisar Ahmed & others..... Defendants.

Mr. Mansoor Ali Jatoi Advocate for Plaintiff.

Mr. S. Shamim Ahmed Riazi Advocate for Defendant No. 1 & 2.

ORDER

28.07.2026

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1. By this order, I will dispose the Application U/O VII Rule 11 CPC moved by defendant No. 1 & 2. Upon notice plaintiff filed his Counter Affidavit. Learned counsel for the defendants also filed rejoinder.

2. The brief facts necessary for disposal of the instant application are that the plaintiff has instituted the present suit seeking **Declaration, Cancellation of Documents, Permanent Injunction, Possession and Damages** in respect of the suit property. It is the case of the plaintiff that she is

the lawful owner of the suit property by virtue of registered title documents and that various documents relied upon by the defendants are forged, fabricated and have been fraudulently created. It is further alleged that on the strength of such documents the defendants succeeded in obtaining possession of the suit property through rent proceedings, whereafter the plaintiff has approached this Court for declaration of her title, cancellation of the impugned documents and other consequential reliefs.

3. Learned counsel for the applicants/defendants argued that the plaint is liable to be rejected under Order VII Rule 11 C.P.C. on several grounds. It is contended that the suit is barred by Sections 42 and 56 of the Specific Relief Act, that the plaint discloses no cause of action, that the suit is hopelessly barred by limitation, and that the plaintiff has neither any legal character nor locus standi to maintain the present proceedings. It is further argued that the plaintiff has concealed material facts and has filed the present suit merely to frustrate the orders already passed in the rent proceedings. Learned counsel further submitted that the defendants are owners of the suit property by virtue of registered documents and that Rent Case No.57 of 2018, Execution Application No.25 of 2018 and proceedings under Section 12(2) C.P.C. are already pending or have attained finality. It is also argued that the plaintiff has previously availed different remedies and, therefore, the present suit is not maintainable.

4. Conversely, learned counsel for the plaintiff opposed the application and submitted that while deciding an application under Order VII Rule 11 C.P.C., only the averments contained in the plaint together with the documents annexed therewith can be looked into and the defence raised by the defendants is wholly irrelevant at this stage. It is argued that the plaint discloses a complete cause of action supported by a continuous chain of title and specific allegations of fraud and forgery against the defendants. Learned counsel further contended that the questions regarding genuineness of title documents, alleged forged conveyance deed, power of attorney, gift deed, revenue record and other documents are seriously disputed questions of fact which cannot be decided without recording evidence. It is also argued that limitation is a mixed question of law and fact, particularly where allegations of fraud have been pleaded, and that the suit is not barred either by Sections 42 or 56 of the Specific Relief Act as the plaintiff has sought all consequential reliefs including cancellation of documents, possession, permanent injunction and damages.

5. I have given anxious consideration to the rival submissions and have examined the material available on record. Before advertng to the merits of the controversy, it would be advantageous to reiterate the settled principle governing the exercise of jurisdiction under Order VII Rule 11 C.P.C. It is now well settled through a consistent line of judicial pronouncements that while considering an application under Order VII Rule 11 C.P.C., the Court is required to confine itself exclusively to the averments made in the plaint and the documents annexed thereto. The defence taken by the defendants, however plausible, cannot be considered at this preliminary stage. Likewise, where

determination of the controversy requires appreciation of evidence or adjudication upon disputed questions of fact, rejection of plaint would not be justified.

6. A meaningful reading of the plaint shows that the plaintiff has specifically pleaded her source of title, narrated the circumstances under which she claims to have been unlawfully deprived of the suit property through rent proceedings and has sought cancellation of several documents on the allegation that they are forged and fabricated. Whether those documents are genuine or forged, whether the rival title documents are legally valid, whether the plaintiff or the defendants have a better title over the suit property, and whether the possession obtained in the rent proceedings was lawful, are all questions which cannot be adjudicated merely on the basis of pleadings and necessarily require recording of evidence.

7. Much emphasis has been laid by the learned counsel for the defendants upon the judgment passed by the Honourable Supreme Court of Pakistan in **Civil Petition No.490-K of 1990**, which was dismissed vide order dated **26.05.1991**. According to the defendants, since the plaintiff of the present suit was the petitioner in the said proceedings, the present suit is barred and not maintainable. I have carefully examined the said contention. Prima facie, it appears that the defendants in the present suit were not parties to the aforesaid litigation. Therefore, merely because the Civil Petition filed by the present plaintiff was dismissed by the Honourable Supreme Court in the year 1991, it cannot automatically be concluded that the plaintiff is precluded from instituting the present suit against different parties on the basis of an independent cause of action. Whether the earlier proceedings have any binding effect upon the present controversy is itself a matter requiring adjudication during trial and cannot constitute a ground for rejection of the plaint at the threshold.

8. It has further been argued that the defendants had initiated proceedings under Section 22-A Cr.P.C. which were allowed by the learned 12th Additional District Judge, Karachi East. However, it is an admitted position that the said order was challenged by the plaintiff through Criminal Miscellaneous Application No.943 of 2025 before the Honourable High Court of Sindh at Karachi. The Honourable High Court set aside the order passed by the learned Additional District Judge. A perusal of the observations made by the Honourable High Court reveals that in paragraph No.10 it was observed that the documents produced by the plaintiff prima facie established her lawful title and long-standing possession. More importantly, in paragraph No.11 the Honourable High Court categorically held that the findings recorded by the learned Additional District Judge regarding alleged forgery, bogus documents, illegal occupation, cancellation of power of attorney and validity of gift deeds were matters which could only be adjudicated by a competent Civil Court after recording evidence and not in summary proceedings under Section 22-A Cr.P.C.

9. The observations made by the Honourable High Court clearly demonstrate that the controversy between the parties revolves around disputed documents and rival claims of title, the authenticity and legal effect whereof cannot be conclusively determined without recording oral as well as documentary evidence. This Court is in respectful agreement with the aforesaid observations. Once the superior Court itself has observed that such disputed questions require adjudication by a competent Civil Court after recording evidence, rejection of the plaint under Order VII Rule 11 C.P.C. would be wholly inappropriate.

10. The objection regarding limitation also does not persuade this Court to reject the plaint at this stage. It is a settled proposition of law that where the plea of limitation depends upon disputed facts, particularly in cases involving allegations of fraud, concealment of documents or discovery of subsequent events, the question of limitation becomes a mixed question of law and fact. Such issue can only be effectively determined after framing of issues and recording of evidence. Consequently, the plaint cannot be rejected merely on the basis of the plea of limitation.

11. Likewise, the objections that the suit is barred under Sections 42 and 56 of the Specific Relief Act, that the plaintiff has no locus standi or that the plaint discloses no cause of action are also matters which cannot be accepted at this stage. A meaningful reading of the plaint discloses that the plaintiff has sought declaration along with consequential reliefs including cancellation of documents, possession, permanent injunction and damages. The plaint, therefore, cannot be said to be devoid of cause of action nor can it be held, on its face, to be barred by any law.

12. It is by now a settled principle that rejection of a plaint is an exception and not the rule. Unless the plaint itself, on its plain reading, falls squarely within any of the clauses of Order VII Rule 11 C.P.C., the Court should refrain from terminating the lis without trial. In the present case, determination of the rights of the parties necessarily depends upon appreciation of disputed facts and evidence. Such exercise cannot be undertaken while deciding an application under Order VII Rule 11 C.P.C.

13. In view of above facts and circumstances, I am of the considered opinion that the present Application U/O VII Rule 11 C.P.C. is devoid of merit and is not maintainable. The same is accordingly dismissed.

14. Needless to observe that any observations made herein are purely tentative and confined to the disposal of the present application and shall not prejudice either party at the time of final adjudication of the suit on merits.

Announced in open Court.

Given under my hand and seal of this Court.

This is 28st day of July, 2026.

(Ateeq-ur-Rehman)

VIII-SENIOR CIVIL JUDGE

KARACHI EAST



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