

Present:
Mr. Justice Md. Salim

CIVIL REVISION NO.1758 OF 2025

Shyamal Kantyi Dutta
..... Defendant-Petitioner.

-VERSUS-

Arunangshu Dutta and others
..... Plaintiff-Opposite Parties.
No one appears
----- For the petitioner.
Mr. Tushar Kanti Roy, Advocate
----- For the opposite parties.

The September 4, 2025.

By this Rule, the opposite parties were called upon to show cause as to why the impugned Judgment and order dated 06.03.2025 passed by the learned Additional District Judge, 6th Court, Chattogram in Civil Revision No.36 of 2024, rejecting the revisional application and affirming the order dated 23.01.2024 passed by the learned Joint District Judge, Patia, Chattogram in Other Class Suit No.262 of 2019 rejecting the application under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint should not be set aside and or pass such other or order or orders as to this court seem fit and proper.

It appears that the plaintiff-opposite party instituted Other Class Suit No. 262 of 2019 before the Joint District Judge, Patia, Chattogram, praying for a declaration of title in

the ½ portion of the suit land, cancellation of sale deeds dated 14.06.1999, 28.09.2002, 20.02.1997, and 27.01.2016, and for recovery of khas possession.

During the pendency of the above-mentioned suit, the defendants entered an appearance before the court and filed an application under Order VII, Rule 11 of the Code of Civil Procedure for the rejection of the plaint.

The plaintiff-opposite party contested the same by filing a written objection and denying all the material allegations against him.

Subsequently, the learned Joint District Judge of Patia, Chattogram, rejected the application by Judgment and order dated January 23, 2024.

Being aggrieved, the defendant petitioner preferred Civil Revision No. 36 of 2024 before the District Judge of Chattogram. Eventually, the learned Additional District Judge of the 6th Court, Chattogram, rejected the Civil Revision, affirming the Judgment and order dated January 23, 2024, passed by the trial court below.

Being aggrieved, the defendants-petitioners filed the present Civil Revision before this court and obtained the instant Rule and order of stay.

We have anxiously considered the submissions advanced by the Bar, perused the plaint, Judgment, and

order, and the application under Order VII, Rule 11 of the Code of Civil Procedure, and other materials on record, in view of the averments made in the plaint and the relief sought for.

The pertinent question is whether the learned Additional District Judge committed any illegality in rejecting the application under Order VII, Rule 11 of the Code of Civil Procedure, while the suit was fixed for the submission of written statements by the defendants.

The cardinal settled principle of law is that in deciding whether the plaint should be rejected, the court must consider only the plaint. The court must apply its mind to the averments made in the plaint itself as a whole, assuming all the averments made therein to be corrected, without considering the possible defense plea. In other words, the court can reject the plaint only when it concludes that even if all the allegations made in the plaint are still proven, the plaintiffs would not be entitled to any relief. In this regard, the case of Bangladesh Jatiys Samabaya Shilpa Samity Ltd. Vs Shan Hosiery, Proprietor Md Abu Taleb, reported in 12 BLT (AD) 253, 10 BLC(AD)8, it was held that:-

“With regard to rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure, the High Court Division rightly found that in deciding the question as to whether a plaint is liable to be

rejected, the court is always required to peruse the plaint only and court is not permitted to travel beyond the plaint to dig out grounds to reject the plaint which is a settled principle of law.”

Further, it is noted that it is the cardinal settled proposition of the law that a plaint of a suit cannot be rejected before filing the written statement. In this regard, the case of *Manzur Murshed Khan and Ors Vs. Bangladesh Bank and Ors* reported in 72 DLR (HCD) 744, it was held that:-

“Further, after scrutinizing the series of decisions of our Apex Court in respect of Order VII, rule 11 of the Code of Civil Procedure, we may refer some of decisions reported in 39 DLR(AD) 1, 42 DLR(AD) 244, 49 DLR 531, 564, 53 DLR(AD) 62, 54 DLR(AD) 125 and 57 DLR(AD) 18 wherein the principles laid down as under:

- (i) The well settled principle of laws relating to Order VII, rule 11 are the plaint can be rejected only on reference to plaint itself as whether it is barred in any of the four clauses of Order VII, rule 11 of the Code of Civil Procedure.
- (ii) Plaint cannot be rejected on defense material as well as on mixed question of law and fact.

(iii) Where evidence is required and where there is material, plaint cannot be rejected.

(iv) Plaint can be rejected if it does not disclose a cause of action and barred by any law.

(v) There is no hard and fast Rule when an application for rejection of plaint is to be filed but ends of justice demands that it must be filed at the earliest opportunity.

(vi) Plaint cannot be rejected before filing of the written statement.

In the instant case, it is evident from the record that the plaintiff-opposite party filed the suit for a declaration of title in the ½ portion of the suit land, cancellation of sale deeds dated 14.06.1999, 28.09.2002, 20.02.1997, and 27.01.2016, and for recovery of khas possession. Furthermore, the averments in the plaint reveal nothing to indicate that any of the law bars the suit. On the other hand, no written statement has yet been submitted by the defendant, for whom the court would analyze whether there are ingredients of rejection of the plaint.

In view of the above facts and circumstances of the case and on the materials on record, we are of the view that the learned Additional District Judge, 6th Court, Chattogram, rightly and justifiably says that the question of maintainability of the suit might be determined at the trial, and concurred

with the view of the trial Court. Therefore, we do not find any illegality in the impugned Judgment and order calls for interference under Section 115 (1) of the Code of Civil Procedure.

Resultantly, the Rule is discharged without any order as to costs.

The order of stay granted at the time of issuance of the Rule by this court stands vacated.

Communicate this Judgment.

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(MD. SALIM, J).