

**IN THE SUPREME COURT OF BANGLADESH**  
**HIGH COURT DIVISION**  
**(CIVIL REVISIONAL JURISDICTION)**

**Present:**

Mr. Justice Md. Khairul Alam

**Civil Revision No. 2641 of 2023**

Md. Alimuddin

-Petitioner.

-Versus-

Md. A. Jalil and others.

..... Opposite Parties.

Mr. Md. Alamgir Mostafizur Rahman, Advocate  
..... For the petitioner.

Mr. Md. Belal Hossain, Advocate  
..... For the opposite parties No.1-2.

Heard on: 22.05.2025, 28.05.2025 and  
**Judgment on: 02.06.2025.**

This Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 11.05.2023 passed by the learned Additional District Judge, 2nd Court, Naogaon in Civil Revision No. 22 of 2022 allowing the civil revision and thereby reversing the order dated 24.04.2022 passed by the learned Assistant Judge, Niyamatpur, Naogaon in Other Class Suit No. 43 of 2020 rejecting the application filed under Order VII Rule 11 and section 151 Code of Civil Procedure for rejection of the plaint should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Relevant facts for disposal of the Rule are that the present petitioner filed a suit before the Court of Assistant Judge, Niyamatpur, Naogaon for permanent injunction stating, inter alia, that the government is the recorded owner of the suit property, but Ayen Ullah, father in law of the plaintiff had been possessing the same from the period of

Zamindar. In 1967-68 the plaintiff married the elder daughter of Ayen Ullah and since then the plaintiff has been possessing the land by erecting a house thereon. Ayen Ullah, father-in-law of the plaintiff was the owner of plot no. 2090, a contiguous land to the suit land, who transferred 5 decimals of the land to the plaintiff vide deed no. 5825 dated 26.6.1997. The plaintiff has been possessing the said land with the suit land combinedly. On 25.7.2020 defendants No. 1 and 2 disclosed that they got a lease of the suit property from the government and threatened the plaintiff to dispossess from the suit property. The plaintiff has been possessing the suit property from 1967-68 and acquired title over the property by way of adverse possession. The defendants threatened him to dispossess, hence the suit.

In the said suit, defendants No. 1 and 2 filed an application under Order VII rule 11 of the Code of Civil Procedure for rejection of the plaint stating, inter alia, that the plaintiff has no right, title, or interest in the suit land, therefore the suit is an abuse of the process of the Court and the plaint is liable to be rejected.

The learned Assistant Judge, Niyamatpur, Naogaon after hearing the parties by the order dated 24.04.2022 rejected the said application holding, inter alia, that since the plaintiffs claimed the title of the suit property by way of adverse possession which was a subject to be adjudicated in trial by adducing evidence, therefore, the same could not be a ground to reject the plaint.

Against the said order the present petitioner filed Civil Revision No. 22 of 2022 before the Court of District Judge, Naogaon which was eventually heard by the learned Additional District Judge, 2<sup>nd</sup> Court, Naogaon who by the impugned judgment and order dated 11.05.2023

allowed the same holding, inter alia, that since the plaintiff had no right, title and interest over the suit property, therefore, there is no cause of action for the suit and the suit should be buried at its inception and thereby rejected the plaint.

Being aggrieved thereby the petitioner filed this civil revisional application and obtained the Rule.

Mr. Md. Alamgir Mostafizur Rahman, the learned Advocate appearing for the petitioners submits that the revisional court below erred in law and facts in passing the impugned judgment and order. He next submits that the real question in controversy between the parties, cannot be adjudicated without evidence, so the learned trial court rightly rejected the application, but the learned First Revisional Court on the misconception of the law passed the impugned judgment and order and as such the same is liable to be set aside.

On the other hand, Mr. Md. Belal Hossain, the learned Advocate appearing for the opposite parties submits that the plaintiff has no right, title, or interest in the suit land and therefore, there is no cause of action of the suit and the revisional Court below rightly passed the impugned judgment and order to prevent the abuse of the process of the Court.

Heard the learned Advocate for the contending parties and perused the revisional application and other materials on record.

Admittedly, the impugned order was passed under Order VII rule 11 of the Code of Civil Procedure which runs as follows:

*“11. The plaint shall be rejected in the following cases:-*

*(a) where it does not disclose a cause of action:*

*(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:*

*(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:*  
*(d) where the suit appears from the statement in the plaint to be barred by any law.”*

On a plain reading of the provision, it appears that a plaint can only be rejected if (1) the plaint does not disclose a cause of action; (b) the plaintiff failed to correct the valuation of the suit within a time fixed by the Court; (c) the plaintiff failed to pay the deficit stamp-paper within the time allowed by the Court; and (d) the suit appears from the statement in the plaint to be barred by any law.

I have carefully pursued the application filed by the petitioner before the trial Court under Order VII rule 11 of the Code of Civil Procedure and do not find any grounds for rejection of the plaint. The sole ground taken in the said application was that the plaintiff had no right, title, or interest in the suit land i.e. there is no cause of action for the suit.

As per the above provision of law, the plaint shall be rejected where the plaint does not disclose a cause of action. The plea that there is no cause of action for the suit or that the cause of action for the suit is false or baseless is not the same as to say that the plaint does not disclose any cause of action.

In the present case, admittedly, the plaint discloses a cause of action. The correctness of the allegation constituting the cause of action is a matter of evidence as rightly held by the trial court and the same is beyond the purview of Order VII rule 11 of the Code of Civil Procedure.

The learned Additional District Judge, 2nd Court, Naogaon without considering this aspect of the case passed the impugned judgment and order, therefore, I am of the opinion that the learned Additional District Judge, 2nd Court, Naogaon has committed an error of law resulting in an error in passing the impugned judgment and order.

In the above facts and circumstances, I find substance in this revisional application.

In the result, the Rule is made absolute without any order as to costs.

The impugned judgment and order dated 11.05.2023 passed by the learned Additional District Judge, 2nd Court, Naogaon in Civil Revision No. 22 of 2022 is hereby set aside and the order dated 24.04.2022 passed by the learned Assistant Judge, Niyamatpur, Naogaon in Other Class Suit No. 43 of 2020 rejecting the application filed under Order VII Rule 11 and section 151 for rejection of the plaint is hereby upheld.

The learned Assistant Judge, Niyamatpur, Naogaon is hereby directed to dispose of Other Class Suit No. 43 of 2020 as early as possible.

The order of stay granted earlier by this court is hereby recalled and vacated.

Send a copy of this judgment and order to the concerned court at once.

Kashem/BO