*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

*** THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

A.S.No.604 of 2010

% 08.05.2026

St. Katwal Abubakar

……appellant

And:

$1. Abbavaram Subba Reddy & 9 others

….Respondents

!Counsel for the appellants : Sri Sita Ram Chaparla

^Counsel for the respondent No.6 : Sri N. Rupeswar Reddy representing Sri V.R.Reddy Kovvuri

^Counsel for the respondent Nos.7 to10 : Sri S.Noor Mohammed representing Sri O.Manoher Reddy

<Gist:

>Head Note:

? Cases referred:

1. 2025 SCC OnLine AP 3461
2. 2026 SCC OnLine AP 485
3. (2006) 2 SCC 428
4. (2009) 5 SCC 462
5. (2016) 15 SCC 322
6. (2007) 15 SCC 174
7. (1971) 1 SCC 757
8. (2024) 15 SCC 675
9. 2024 SCC OnLine SC 4105

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

A.S.No.604 of 2010

Between:

St. Katwal Abubakar

..... APPELLANT

AND

Abbavaram Subba Reddy & 9 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED : 31.03.2026

DATE OF JUDGMENT PRONOUNCED : 08.05.2026

DATE OF JUDGMENT UPLOADED : 08.05.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HONOURABLE JUSTICE BALAJI MEDAMALLI

1.	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals	Yes/No
3.	Whether Your Lordships wish to see the fair copy of the Judgment?	Yes/No

_____

RAVI NATH TILHARI,J

_____

BALAJI MEDAMALLI,J

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

A.S.No.604 of 2010

JUDGMENT: *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri Sita Ram Chaparla, learned counsel for the appellant, Sri N.Rupeswar Reddy, learned counsel representing Sri V.R.Reddy Kovvuri, learned counsel for the respondent No.6 and Sri S.Noor Mohammed, learned counsel representing Sri O.Manoher Reddy, learned counsel for the respondent Nos.7 to 10.

I. FACTS:

2. The plaintiff is the appellant and defendants are the respondents. The plaintiff filed O.S.(SR).No.792 of 2010 for specific performance of contract against the defendants/respondents to execute the registered sale deed in terms of the agreement of sale dated 05.11.2007 along with further reliefs.

3. At the stage of registration of plaint/suit, when the plaint was presented on 08.03.2010, the same was returned with the office objections, inter-alia and briefly stated:

i) on the ground of limitation i.e., to show how the suit was within the time, when the defendant Nos.3 & 4 have sold the part of the schedule property on 17.02.2004 and defendant No.1 gifted part of the suit schedule property in favour of defendant No.8 on 19.03.2004 under registered documents;

ii) as per the averments in the plaint, the suit schedule property was delivered possession to the plaintiff on 15.02.2004, but the suit document dated 02.11.2001 with the endorsement dated 15.02.2004 was silent about the delivery of possession, so it should be explained; with some other office objections.

4. The plaintiff represented the plaint on 09.03.2010 giving explanation that the plaintiff came to know about the sale of part of the suit property by the defendant Nos.3 & 4 only during the month of January, 2010, which was made behind the back of the plaintiff. The plaintiff had no knowledge about the gift deed made by defendant No.1 in favour of defendant No.3 of which also he came to know in the month of January, 2010.

5. So on the first objection, the plaintiff submitted that the suit was within limitation from the date of knowledge of the sale deed and the gift deed in January, 2010.

6. With respect to the other objection, the plaintiff submitted that the registered documents were sham and nominal documents and were never acted upon.

II. <u>Order of Rejection of Plaint dated 06.04.2020:</u>

7. Learned V Additional District Judge, Rayachoty by its judgment and decree dated 06.04.2010 rejected the plaint under Order VII Rule 11(d) of Code of Civil Procedure (in short 'CPC') recording the finding that defendant No.1 had executed a registered gift deed in favour of defendant No.8 on

19.03.2004 with respect to the suit schedule Ac.0.94 cents out of the suit schedule property and the defendant No.3 had also executed registered sale deed in favour of defendant No.8 with respect to Ac.0.44 cents in the suit schedule property. Defendant No.4 had executed a registered sale deed with respect to Ac.0.94 cents in the suit schedule property in favour of defendant No.8 on 17.02.2004.

8. Based on the execution of those registered documents out of the plaint schedule property, learned V Additional District Judge held that as per Section 3 of the Transfer of Property Act (in short 'the T.P.Act'), the plaintiff shall be deemed to have notice of those registered documents on the date of execution of those documents and consequently, the suit ought to have been filed on or before 17.02.2007 within three years from 17.02.2004, the dates of the registered documents created by the defendants, as per Article 54 of the Limitation Act. So, the suit was barred by limitation and the plaint was rejected.

III. <u>Submission of learned counsels:</u>

i) <u>For Appellants:</u>

9. Learned counsel for the appellant submitted that the decree rejecting the plaint under Order 7 Rule 11(d) CPC is unsustainable. He submitted that as per the plaint averments plaintiff had clearly stated that those sale deeds and gift deed though registered but were between close family members. The plaintiff had no knowledge of those transactions and the plaintiff acquired knowledge at the end of January, 2010. So, the plaint presented on

08.03.2010 was within the period of limitation of 3 years under Article 54 of the Limitation Act (applying the 2nd part). Learned counsel further submitted that the knowledge could not be attributed to the plaintiffs by invoking the provision under Section 3 of the Transfer of Property Act. The plaintiffs had specifically disclosed the date of actual knowledge. He submitted that acquiring the knowledge of the execution of those registered documents in favour of defendant No.8, the plaintiff served a legal notice dated 01.02.2010 to defendant Nos.1 to 7 calling upon the defendant Nos.1 to 4 to receive balance of the sale consideration and to execute the registered sale deed in favour of plaintiff pursuant to the agreement of sale. Those notices were received by the defendants and a reply notice dated 15.02.2010 was also given by them. He further submitted that the plaintiff was delivered possession over the suit schedule property and in evidence of his possession, he had filed certain photographs as document No.4 along with the plaint. The aforesaid averments with respect to the legal notice and reply of the defendants, as also the possession with the plaintiff were clearly stated in the plaint.

10. Learned counsel for the appellant submitted that the question whether the possession was delivered or not and as to whether the plaintiff had knowledge of the execution of registered sale deed, on a date prior to the date disclosed in the plaint or the date of deemed notice of execution of registered document, all are the questions which need trial and adjudication during the trial based on the evidence. Consequently based on Section 3, the notice could not be attributed when in the plaint the date of actual notice was clearly

disclosed. The learned Trial court should not have rejected the plaint under Order 7 Rule 11(d) as it could not be rejected at the preliminary stage but required consideration during trial. The learned Trial Court should have registered the plaint and allotted the regular number to the original suit.

11. Learned counsel placed reliance in the cases of ***Gummadi Usha Rani v. Guduru Venkateswara Rao*** [1]and ***Mikkilineni Yujaya Dinesh Babu v. Pasala Satyavathi***[2].

ii) <u>For Respondents:</u>

12. Learned counsel for the respondents submitted that the plaint had rightly been rejected under Order 7 Rule 11(d) CPC. The suit was barred by limitation. They submitted that the period of limitation of three years under Article 54 of the Limitation Act was rightly considered from the date of notice of the registered sale deeds and the gift deed of the plaint schedule property by the defendants, invoking Section 3 of the Transfer of Property Act and Article 54 of the limitation Act on the date of presentation of the plaint. They submitted that there is no illegality in the judgment of the learned Trial Court and the appeal deserved to be dismissed.

IV) <u>Points for determination:</u>

13. The points for consideration and determination are as follows:

i) whether the plaint could be rejected under Order 7 Rule 11(d) CPC as suit barred by law, on the ground it has been so rejected?;

[1] 2025 SCC OnLine AP 3461
[2] 2026 SCC OnLine AP 485

ii) whether the judgment and decree rejecting the plaint is legally sustainable or it calls for interference?

V. <u>Analysis:</u>

14. We have considered the aforesaid submissions and perused the material on record.

A) <u>Limitation: Article 54 of Limitation Act:</u>

15. First, we shall consider, what is the period of limitation for filing a suit for a specific performance of contract. Article 54 of the Limitation Act provides period of limitation of three years, and the limitation starts to run from different points of time, depending on the different situation, as contemplated under Article 54.

16. Article 54 of the Limitation Act reads as under:

"THE SCHEDULE
Period of Limitation
[See Sections 2(j) and 3]
First Division-Suits

Description of suit	Period of limitation	Time from which period limitation begins to run
*	*	*
Part II- Suits Relating To Contracts		
*	*	*
54. For specific performance of a contract.	Three Years	The date fixed for the performance, Or, if no such date is fixed, when the plaintiff has notice that performance is refused.

17. Article 54 of the Limitation Act is in two parts with respect to time from which the period of limitation begins to run. It provides a period of three years to institute a suit for specific performance of contract. The period would start

running from the date fixed for the performance. If any such date is not fixed the period of limitation would start running when the plaintiff had noticed that the performance has been refused.

18. In ***R.K. Parvatharaj Gupta v. K.C. Jayadeva Reddy***[3], the Hon'ble Supreme Court has held that in terms of the Article 54, a suit for specific performance of a contract is required to be filed within three years. In the event no date is fixed for the performance, from the date when the plaintiff has notice that the performance is refused. Paragraph 10 of this judgment is reproduced as under:—

> "10. In terms of the said Article, a suit for specific performance of a contract is required to be filed within three years; in the event no date is fixed for the performance, within a period of three years from the date when the plaintiff has notice that performance is refused."

19. In ***Ahmmadsahab Abdul Mulla (2)(D) By(LRs) v. Bibijan***[4], the Hon'ble Supreme Court held that the expression 'date' used in Article 54 of the Schedule to the Limitation Act, is a crystallized notion. When a date is fixed it means there is a definite date fixed for doing a particular act. The expression 'date' is definitely suggestive of a specified date in the calender. Again, 'when the plaintiff has notice that performance is refused', there is a definite point of time and that is when the plaintiff has notice of refusal. It is relevant to reproduce paragraphs 11 and 12 of the judgment as under:—

> "11. The inevitable conclusion is that the expression 'date fixed for the performance' is a crystallized notion. This is clear from the fact that the second

[3] (2006) 2 SCC 428
[4] (2009) 5 SCC 462

part “time from which period begins to run” refers to a case where no such date is fixed. To put it differently, when date is fixed it means that there is a definite date fixed for doing a particular act. Even in the second part the stress is on ‘when the plaintiff has notice that performance is refused’. Here again, there is a definite point of time, when the plaintiff notices the refusal. In that sense both the parts refer to definite dates. So, there is no question of finding out an intention from other circumstances.

12. Whether the date was fixed or not the plaintiff had notice that performance is refused and the date thereof are to be established with reference to materials and evidence to be brought on record. The expression ‘date’ used in Article 54 of the Schedule to the Act definitely is suggestive of a specified date in the calendar. We answer the reference accordingly. The matter shall now be placed before the Division Bench for deciding the issue on merits.”

20. In ***Madina Begum v. Shiv Murti Prasad Pandey***[5], the Hon'ble Supreme Court reiterated the same principle, in paragraphs 18 to 20 of the report, as under:—

18. In Ahmadsahab Abdul Mulla (2) (Dead) v. Bibijan, (2009) 5 SCC 462, the following question was considered by a three judge Bench of this Court:“Whether the use of the expression “date” used in Article 54 of the Schedule to the Limitation Act, 1963 (in short “the Act”) is suggestive of a specific date in the calendar?”

19. While answering this question on a reference made to the three judge Bench, this Court considered the meaning of the word “date” and “fixed” appearing in Article 54. Upon such consideration, this Court held that the expression “date fixed for the performance” is a crystallized notion. When a date is fixed it means there is a definite date fixed for doing a particular act. Therefore, there is no question of finding out the intention from other circumstances. It was reiterated that the expression “date” is definitely suggestive of a specified date in the calendar. Paragraphs 11 and 12 of the Report in this regard are of importance and they read as follows:—

“11. The inevitable conclusion is that the expression “date fixed for the performance” is a crystallized notion. This is clear from the fact that the

[5] (2016) 15 SCC 322

second part "time from which period begins to run" refers to a case where no such date is fixed. To put it differently, when date is fixed it means that there is a definite date fixed for doing a particular act. Even in the second part the stress is on "when the plaintiff has notice that performance is refused". Here again, there is a definite point of time, when the plaintiff notices the refusal. In that sense both the parts refer to definite dates. So, there is no question of finding out an intention from other circumstances.

12. Whether the date was fixed or not the plaintiff had notice that performance is refused and the date thereof are to be established with reference to materials and evidence to be brought on record. The expression "date" used in Article 54 of the Schedule to the Act definitely is suggestive of a specified date in the calendar. We answer the reference accordingly. The matter shall now be placed before the Division Bench for deciding the issue on merits."

20. Quite independently and without reference to the aforesaid decision, another Bench of this Court in Rathnavathi v. Kavita Ganashamdas, (2015) 5 SCC 223 came to the same conclusion. It was held in paragraph 42 of the Report that a mere reading of Article 54 would show that if the date is fixed for the performance of an agreement, then non-compliance with the agreement on the date would give a cause of action to file a suit for specific performance within three years from the date so fixed. But when no such date is fixed, the limitation of three years would begin when the plaintiff has notice that the defendant has refused the performance of the agreement. It was further held, on the facts of the case that it did not fall in the first category of Article 54 since no date was fixed in the agreement for its performance."

21. In ***Janardhanam Prasad v. Ramdas***[6], the Hon'ble Supreme Court held that the Court, in applying the period of limitation, would first inquire as to whether any time was fixed for performance of agreement of sale. If it was so fixed, the suit must be filed within the period of three years, failing which the same would be barred by limitation. Where, however, no time for performance was fixed it is for the Courts to find out the date on which the plaintiff had

[6] (2007) 15 SCC 174

notice that the performance was refused and on arriving at a finding in that behalf, to see whether the suit was filed within three years thereafter.

22. At this stage, we make it clear that, the learned Trial Court has proceeded, considering the 2nd part and has held that the limitation period of three years started from the date of deemed notice of registered sale deeds and the gift deed by the defendant Nos.1 to 4, of the suit schedule property. In other words the learned Trial Court has taken the registered sale deeds etc by the defendant Nos.1 to 4, in favour of other defendant as 'refusal' of performance and 'registration' as notice of the fact of refusal invoking Section 3 of the Transfer of Property Act to the plaintiff and applying second part of Article 54 held the suit as barred by law of limitation.

23. The learned Trial Court has not rejected the plaint referring to the first part or on first limb of Article 54 of Limitation Act as it observed that in view of the plaint the time was not the essence of the contract.

24. Before us also the submissions were advanced based on the second limb of Article 54. Consequently, we have proceeded to decide the appeal based on the second limb of Article 54 of the Limitation Act.

B) <u>Notice of a fact:</u>

<u>Section 3 of Transfer of Property Act</u>

25. Section 3 of the Transfer of Property Act reads as under:

> "3. **Interpretation-clause**.—In this Act, unless there is something repugnant in the subject or context,—

"immoveable property" does not include standing timber, growing crops or grass: "instrument", means a non-testamentary instrument:

["attested", in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgement of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary:]

"registered" means registered in [any part of the territories] to which this Act extends] under the law8 for the time being in force regulating the registration of documents:

"attached to the earth" means—

(a) rooted in the earth, as in the case of trees and shrubs;

(b) imbedded in the earth, as in the case of walls or buildings; or

(c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached:

["actionable claim" means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accuring, conditional or contingent:]

["a person is said to have notice"] of a fact when he actually knows that fact, or when, but for wilful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it.

Explanation I.—**Where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration** or, 2 [where the property is not all situated in one sub-district, or

where the registered instrument has been registered under sub-section (2) of section 30 of the Indian Registration Act, 1908 (16 of 1908), from the earliest date on which any memorandum of such registered instrument has been filed by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated]:

Provided that—

(1) the instrument has been registered and its registration completed in the manner prescribed by the Indian Registration Act, 1908 (16 of 1908) and the rules made thereunder,

(2) the instrument [or memorandum] has been duly entered or filed, as the case may be, in books kept under section 51 of that Act, and

(3) the particulars regarding the transaction to which the instrument relates have been correctly entered in the indexes kept under section 55 of that Act.

Explanation II.—Any person acquiring any immoveable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof.

Explanation III.—A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that fact is material:

Provided that, if the agent fraudulently conceals the fact, the principal shall not be charged with notice thereof as against any person who was a party to or otherwise cognizant of the fraud.]"

26. Section 3 of the Transfer of Property Act, thus provides that "a person is said to have notice" of a fact when he actually knows that fact, or when, but for wilful abstention from an enquiry or search, which he ought to have made, or gross negligence, he would have known it. As per this provision a person is said to have notice of a fact, under the circumstances mentioned in Section 3 of Transfer of Property Act. So, to attract Section 3, and impute deemed notice, the existence of those circumstances are required to be proved, if the

date of actual knowledge of fact is not to be believed. Such, can be proved only during trial and on such proof only Section 3 of Transfer of Property Act can be attracted to deny the date of actual knowledge stated in the plaint.

27. In ***Ahmedabad Municipal Corporation of the city of Ahmedabad v. Haji Abdulgafur Haji Hussenbhai***[7], the Hon'ble Apex Court held that constructive notice under Section 3 of Transfer of Property Act is a question of fact or at best mixed question of fact and law which falls to be determined on the evidence and under the facts and circumstances of each and every case.

28. In ***Ahmedabad Municipal Corporation of the city of Ahmedabad*** (supra) it was held in para 10 & 11 as under:

> "**10.** According to Section 3 of the Transfer of Property Act which is described as interpretation clause, a person is said to have notice of a fact when he actually knows that fact or when but for wilful abstention from an enquiry or search which he ought to have made or gross negligence he would have known it. There are three explanations to this definition dealing with three contingencies when a person acquiring immovable property is to be deemed to have notice of certain facts. Those explanations are:
>
> > "*Explanation I.*—Where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument any person acquiring such property or any part of, or share or interest in such property shall be deemed to have notice of such instrument as from the date of registration or, where the property is not all situated in one sub-district, or where the registered instrument has been registered under sub-section (2) of Section 30 of the Indian Registration Act, 1908, from the earliest date on which any memorandum of such registered instrument has been filed by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated:

[7] (1971) 1 SCC 757

Provided that—

(*1*) the instrument has been registered and its registration completed in the manner prescribed by the Indian Registration Act, 1908, and the rules made thereunder,

(*2*) the instrument or memorandum has been duly entered or filed, as the case may be, in books kept under Section 51 of that Act, and

(*3*) the particulars regarding the transaction to which the instrument relates have been correctly entered in the indexes kept under Section 55 of that Act.

Explanation II.—Any person acquiring any immovable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof.

Explanation III.—A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that fact is material:

Provided that, if the agent fraudulently conceals the fact, the principal shall not be charged with notice thereof as against any person who was a party to or otherwise cognizant of the fraud."

11. Now the circumstances which by a deeming fiction impute notice to a party are based, on his wilful abstention to enquire or search which a person ought to make or, on his gross negligence. This presumption of notice is commonly known as constructive notice. Though originating in equity this presumption of notice is now a part of our statute and we have to interpret it as such. Wilful abstention suggests conscious or deliberate abstention and gross negligence is indicative of a higher degree of neglect. Negligence is ordinarily understood as an omission to take such reasonable care as under the circumstances is the duty of a person of ordinary prudence to take. In other words it is an omission to do something which a reasonable man guided by considerations which normally regulate the conduct of human affairs would do or doing something which normally a prudent and reasonable man would not do. The question of wilful abstention or gross negligence and, therefore, of constructive notice considered from this point of view is generally a question of fact or at best mixed question of fact and law depending primarily on the facts and circumstances of each case and except for cases directly falling within the three explanations, no inflexible rule can be laid down to serve as a straight-jacket covering all possible contingencies. The question one

has to answer in circumstances like the present is not whether the purchaser had the means of obtaining and might with prudent caution have obtained knowledge of the charge but whether in not doing so he acted with wilful abstention or gross negligence. Being a question depending on the behaviour of a reasonably prudent man, the Courts have to consider it in the background of Indian conditions. Courts in India should, therefore, be careful and cautious in seeking assistance from English precedents which should not be blindly or too readily *followed."*

C. Rejection of Plaint:

Order 7 Rule 11 CPC

29. We shall refer to the provision of Order 7 Rule 11 CPC which reads as under:

> **"11. Rejection of plaint**.— **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 returned 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;**
>
> (e) where it is not filed in duplicate;
>
> (f) where the plaintiff fails to comply with the provisions of rule 9
>
> Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the

requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

30. In ***Shri Mukund Bhavan Trust v. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle*** [8] on the scope of Order 7 Rule 11 CPC the Hon'ble Apex Court held as under:

> **12.** The law applicable for deciding an application filed under Order 7 Rule 11CPC was outlined by this Court in the decision in *Dahiben* v. *Arvindbhai Kalyanji Bhanusali* [*Dahiben* v. *Arvindbhai Kalyanji Bhanusali*, {(2020) 7 SCC 366 : (2020) 4 SCC (Civ) 128} and the same read as follows: (SCC pp. 377-81, paras 23-29)
>
> "*23. - 23.1.** * *
>
> *23.2*. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.
>
> *23.3*. The underlying object of Order 7 Rule 11(*a*) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(*d*), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.
>
> *23.4*. In *Azhar Hussain* v. *Rajiv Gandhi* [*Azhar Hussain* v. *Rajiv Gandhi*, 1986 Supp SCC 315. Followed in *Manvendrasinhji Ranjitsinhji Jadeja* v. *Vijaykunverba*, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words: (SCC p. 324, para 12)
>
> '*12*. … The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the Court, and exercise the mind of the

[8] (2024) 15 SCC 675

> respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action.'
>
> *23.5*. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.
>
> *23.6*. Under Order 7 Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [*Liverpool & London S.P. & I Assn. Ltd.* v. *M.V. Sea Success I*, (2004) 9 SCC 512] read in conjunction with the documents relied upon, or whether the suit is barred by any law.
>
> ……."

31. It is thus well settled in law that the consideration of the application under Order 7 Rule 11 CPC by the Court or even *suo-moto* at the stage of registration or at any stage of the suit can be made, only on the plaint averments and the material along with the plaint, which alone are required to be taken into consideration. If on the meaningful reading of the plaint along with the material, taking those averments as correct if the Court comes to the conclusion that ex-facie the suit is barred then the plaint shall be rejected at the initial stage. But, if there are disputed questions of fact or even the plaint averments require investigation and adjudication, as in the present case also, on the aspects of limitation; the time from which the period of limitation would start to run; the same can be decided only on the basis of the evidence during trial. The plaint then cannot be rejected at the initial stage. Such question is to be decided by framing necessary issue, relating to the suit being barred by law

of limitation or by any other law for the time being in force and after giving an opportunity of hearing to the parties.

32. In ***Gummadi Usha Rani*** (supra), this Court considered the scope of the rejection of the plaint at the stage of registration under Order 7 Rule 11 CPC on the ground that the suit was barred by limitation. On consideration of various judgments of the Hon'ble Apex Court it was held that if the question of limitation and the suit being barred by limitation is a mixed question of law and fact it could be decided only during trial. It was held that a question of limitation, though generally a mixed question of law and fact, but if on the plaint averments it can be said that the suit is hopelessly barred by limitation, then the plaint can also be rejected under Order 7 Rule 11 CPC.

33. In ***Daliben Valjibhai v. Prajapati Kodarbhai Kachrabhai***[9], the Hon'ble Apex Court held as under:

> **11.** This Court had to deal with a similar situation in *P.V. Guru Raj Reddy* v. *P. Neeradha Reddy* {(2015) 8 SCC 331}. A suit instituted by the plaintiff in the year 2002 for cancellation of sale deed of year 1979 on the ground that the knowledge of fraud was acquired only in 1999, was objected to by the defendant in an application under Order 7 Rule 11 on the ground that it is barred by limitation. This Court held:
>
> > *"5. Rejection of the plaint under Order 7 Rule 11 of CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order 7 Rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that have to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order 7 Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly*

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immaterial. It is only if the averments in the plaint ex facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.

6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie disclose that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order 7 Rule 11 the stand of the defendants in the written statement would be altogether irrelevant."

(emphasis supplied)

12. Further, in *Chhotanben* v. *Kirtibhai Jalkrushnabhai Thakkar {(2018) 6 SCC 422}* where again a suit for cancellation of sale deed was opposed through an application under Order 7 Rule 11, on ground of limitation, this Court specifically held that limitation in all such cases will arise from date of knowledge. The relevant portion is as follows:

"15. What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order 7 Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10-1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant-plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1 and 2) calling upon them to stop interfering with their possession and to partition the

property and provide exclusive possession of half (½) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7 Rule 11(d). That view commends to us.

…

19. In the present case, we find that the appellant-plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed executed by original Defendants 1 and 2 by keeping them in the dark about such execution and within two days from the refusal by the original Defendants 1 and 2 to refrain from obstructing the peaceful enjoyment of use and possession of the ancestral property of the appellants. We affirm the view taken by the trial court that the issue regarding the suit being barred by limitation in the facts of the present case, is a triable issue and for which reason the plaint cannot be rejected at the threshold in exercise of the power under Order 7 Rule 11(d) CPC."

(emphasis supplied)"

34. In ***Gummadi Usha Rani*** (supra) this Court further held that when there is a specific averment in the plaint with respect to the suit being within the limitation from the date of knowledge and that date of knowledge is also mentioned, it would not be a case for rejection of the plaint under Order 7 Rule 11 CPC at the stage of registration. The plea of limitation, the date of knowledge and from what date the period of limitation would begin to run would be the subject matter of determination only on the evidence during trial. It was also held that at the stage of registration of the plaint, knowledge could not be imputed to the plaintiffs only because of the registration of the sale deeds which also require proof during trial unless admitted and from such date

of knowledge *ex-facie* the suit is barred by law of limitation. Paragraph Nos.31 & 32 of ***Gummadi Usha Rani*** (supra) read as under:

> "31. **We are of the view that at this stage knowledge could not be imputed to plaintiffs only because of the registration of the sale deeds.** At this stage only the plaint averments are to be considered and are to be taken as true and correct on their face value. A perusal of the plaint, inter alia, shows that in para-IV, the cause of action, the plaintiffs have given in detail as to when the cause of action arose for the first time and thereafter continuously on different dates. In para –VIII Limitation, the plaintiffs stated that the 1st plaintiff was cross-examined on 15.12.2021 inO.S.No.372 of 2015, wherein she was posed certain questions, which lead the plaintiffs to investigate into the issue. In the 1st week of January, 2022, when the plaintiffs came to know that the defendants created, concocted void-abinitio documents without knowledge and consent of the plaintiffs. In the month of February, 2023, the defendants 6 and 7 occupied the plaint schedule properties. Hence, the claim of the plaintiffs was within the limitation.
>
> 32. So, **in view of clear averments with respect to the cause of action, and limitation, i.e the date of knowledge of the void, abinitio documents, it could not be recorded** by the learned II Additional District Judge that **the suit was barred by limitation. Registration of a document no doubt is notice to the whole world but that can be rebutted by the person by proving the actual date of knowledge. When there was a specific averment in the plaint with respect to the suit being within the limitation from the date of the knowledge as stated therein, it was not a case for rejection of the plaint under Order 7 Rule 11 CPC at the stage of registration.** The plea of limitation, the date of knowledge, and from what date he period of limitation would begin to run, in the present case, was the subject matter of determination only on evidence, during trial and not at this stage of registration of plaint."

D. <u>Application in the facts of this case:</u>

35. In the present case the rejection of the plaint is on the ground that the suit is barred by law under Article 54 of the Limitation Act and for that, the learned Trial Court has taken into consideration Section 3 of the Transfer of

the Property Act and imputed the knowledge of refusal as the registered sale deed and gift deed of the property subject of the agreement of sale, were registered documents. Learned counsel for appellant submitted that those registered documents were amongst the family members and were behind the back of the plaintiff. The plaintiff could not and did not acquire knowledge but became aware only in the month of January, 2010. So, the legal notice was given for execution of sale deed and when the same was not honoured the suit was filed. The suit was thus stated to be within three years from the date of knowledge of refusal in January, 2010.

36. In the present case as per the plaint averments the plaintiffs actually came to know of the registered sale deed and the gift deed in the month of January, 2010. The Learned Trial Court imputed the notice of that fact from the date of the registered documents. It cannot be at this stage, which is not as per the plaint averments. Specific plaint averment is of actual knowledge of that fact of registered documents in January, 2010. To impute the knowledge or notice of registered documents from the date of registration i.e, a date other than the date of actual knowledge mentioned in the plaint, would require a finding that, the plaintiff would have known it, but it was his wilful abstention from an enquiry or search which he ought to have made, or because of his gross negligence that he could not know. So, to impute the notice of registered sale deed and the gift deed, from the date of registration and not from the date of disclosed actual knowledge as stated in the plaint, many questions required determination which could be answered only on the evidence to be led during

trial and not at the summary stage under Order 7 Rule 11 CPC. At this stage it is the actual knowledge disclosed in the plaint which should be taken i.e., at the end of January, 2010, on the face of plaint averments without holding any enquiry, taking it to be correct on its face value for the purpose of Order 7 Rule 11(d) CPC and from that date, on the face of the plaint averment the suit was within the period of limitation of three years under Article 54 of the Limitation Act.

37. The learned Trial Court appears to have been much impressed by the Explanation I to Section 3 of the Transfer of Property Act. It provides that where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in such property shall be deemed to have notice of such instrument as from the date of registration. We are of the view that the learned Trial Court fell into an error of law in attracting Explanation I at this stage. We reiterate that to apply Explanation I to impute deemed notice of the registered document with respect to the immovable property also, the same consideration would arise i.e., the finding is to be recorded that, the date of actual knowledge mentioned in the plaint is not correct, and that person had the notice or knowledge of the registration on a date he would have known it but for his wilful abstention from enquiry or search which ought to have been made or because of gross negligence he could not know. If the plaintiff succeeds in proving the date of actual knowledge he cannot be imputed deemed notice by virtue of the Explanation I.

38. The expression used in Article 54 of Limitation Act is the 'notice that the performance is refused'. The same is to be considered based on the plaint averments for the purpose of Order 7 Rule 11 CPC. Here, the performance was said to be refused in the plaint by the reply notice of the defendants. So, on the plaint averment that should be taken as the notice of refusal of performance. However, the learned Trial Court without observing any such 'refusal' against the plaintiff from the plaint, rejected the plaint under Order 7 Rule 11 CPC, merely on the ground of deemed notice from the date of registration of the registered documents, which cannot be sustained in the eyes of law.

VI. Conclusions:

39. Thus considered on Point A, we hold that the plaint could not be rejected under Order 7 Rule 11(d) CPC at the stage of Registration and on Point B, we hold that the impugned order cannot be sustained which deserves to be set aside.

VII. Result:

40. In the result:

a) The appeal is allowed and the judgment and decree dated 06.04.2010 under challenge in the appeal is set aside.

b) The plaint shall stand revived. The suit shall be registered by the learned Trial Court and shall be proceeded in accordance with law.

41. However, we make it clear that if during trial, the question is raised or arises regarding the suit being barred by limitation, may be under the first limb or/and the second limb of Article 54 of the Limitation Act, the said question will be decided by the learned trial Court in accordance with law, without being influenced by any of the observations made in this judgment.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

BALAJI MEDAMALLI,J

Dated: 08.05.2026
Note: L.R. copy be marked
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

A.S.No.604 of 2010

Dated: .05.2026
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