

DIVISIONAL JUDICIAL SEMINAR

DURGDIVISION : 11 APRIL 2026

(DISTRICTS- DURG, RAJNANDGAON, BALOD, BEMETARA, KABIRDHAM)



ON

**Doctrine of Competency of Court
under Order & rule 10 and the power to
reject a plaint at the threshold under
Order 7 rule 11 of CPC- A Judicial Duty
or Discretionary Power.**

Submitted by-

**District and Sessions Court
Rajnandgaon, Chhattisgarh**

Under the Guidance of

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CHAPTER I

INTRODUCTION

The administration of civil justice under the Code of Civil Procedure, 1908 (hereinafter “CPC”) is founded upon the principle that only those disputes which are legally maintainable and instituted before a competent forum should proceed to adjudication. However, the contemporary reality of civil courts reveals an ever-increasing docket burden, much of which arises from suits that are either inherently untenable or instituted before courts lacking jurisdiction. This not only delays adjudication of genuine disputes but also undermines the efficiency and credibility of the judicial process.

At the threshold stage of institution of a suit, the CPC provides specific mechanisms to ensure procedural discipline and judicial efficiency. Order VII Rule 10 empowers the court to return a plaint presented before it when it lacks territorial or pecuniary jurisdiction, thereby reinforcing the doctrine of competency of court. Order VII Rule 11, on the other hand, mandates rejection of a plaint where it suffers from fundamental legal infirmities, such as absence of cause of action or where the suit is barred by law. These provisions are designed to operate as preliminary filters, preventing misuse of judicial process and ensuring that only legally sustainable claims proceed to trial.

Despite the clarity of the statutory scheme, it is often observed in practice that trial courts exhibit reluctance in invoking these provisions at the initial stage. Plaints are routinely admitted and suits are allowed to proceed, even where foundational defects are apparent on the face of the record. Issues relating to jurisdiction or maintainability are frequently deferred to later stages of trial, resulting in unnecessary recording of evidence, prolonged litigation, and multiplicity of proceedings. Such an approach not only burdens the judicial system but also defeats the very object of Order VII Rules 10 and 11 CPC.

This scenario gives rise to a fundamental doctrinal question: whether the powers conferred under Order VII Rule 10 and Order VII Rule 11 CPC are discretionary in nature, allowing the court to exercise them at its convenience, or whether they impose a mandatory judicial duty upon the court to act at the threshold whenever the conditions prescribed therein are satisfied. The answer to this question has significant implications for the functioning of trial courts, as it determines whether the court acts as a passive forum or as an active gatekeeper of civil litigation.

Judicial pronouncements of the Supreme Court have consistently emphasised the need for meaningful scrutiny of pleadings at the inception stage. Courts have cautioned against permitting clever drafting to create an illusion of a cause of action and have underscored the obligation of the court to terminate vexatious or legally barred litigation at the earliest possible stage. At the same time, jurisprudence has also evolved safeguards to ensure that the power of rejection is not exercised in a manner that stifles legitimate claims or results in premature adjudication of disputed questions of fact. Thus, the exercise of power under Order VII Rule 11 is both mandatory in its foundation and controlled in its application.

Similarly, the doctrine of competency of court under Order VII Rule 10 is rooted in the fundamental principle that a court without jurisdiction cannot adjudicate a dispute. Jurisdictional defects strike at the very root of judicial authority, rendering any decree passed without jurisdiction a nullity in the eyes of law. Therefore, the obligation to return a plaint presented before an incompetent court is not merely procedural but goes to the core of the rule of law and orderly administration of justice.

In this backdrop, the present paper seeks to examine the nature and scope of powers under Order VII Rule 10 and Order VII Rule 11 CPC through a doctrinal and analytical lens. It aims to determine whether these provisions confer discretionary authority or impose mandatory obligations upon courts, and how

judicial interpretation has shaped their application. The study also endeavours to analyse the interplay between jurisdictional competence and maintainability of suits, and to identify the practical challenges faced by trial courts in exercising these powers.

The central thesis of this paper is that both Order VII Rule 10 and Order VII Rule 11 CPC embody **judicial duties rather than mere discretionary powers**, and that their proper and timely application is essential for effective administration of civil justice. The trial court, at the stage of institution of a suit, is not expected to act as a passive recipient of pleadings but as a vigilant authority entrusted with the responsibility of filtering litigation at its inception. The failure to exercise these powers where warranted results not only in procedural inefficiency but also in perpetuation of abuse of process.

Accordingly, this paper proceeds to analyse the statutory framework, judicial precedents, doctrinal nuances, and practical implications of these provisions, with a view to reinforcing their role as indispensable tools in ensuring judicial discipline and efficiency in civil adjudication.



CHAPTER II

STATUTORY SCHEME UNDER THE CODE OF CIVIL PROCEDURE, 1908

The Code of Civil Procedure, 1908 (hereinafter “CPC”) lays down a comprehensive procedural framework governing the institution and adjudication of civil disputes. Within this framework, Order VII assumes particular significance as it regulates the presentation and scrutiny of plaints at the very inception of a suit. The stage of institution is not merely a procedural entry point but constitutes a critical juncture at which the court must determine whether it ought to assume jurisdiction over the lis. The provisions contained in Order VII are thus designed to ensure that only those suits which satisfy foundational legal requirements proceed further in the judicial process.

Order VII, when read as a whole, reflects a carefully structured legislative intent to impose discipline at the threshold. It requires that a plaint must disclose a cause of action, be properly valued, comply with court fee requirements, and be presented before a court of competent jurisdiction. These conditions are not directory in nature; rather, they form the basis upon which the court’s jurisdiction to entertain the suit is triggered. The scheme, therefore, balances the right of a litigant to approach the court with the obligation of the court to prevent misuse of its process.

Within this scheme, Order VII Rule 10 and Order VII Rule 11 occupy a central position. These provisions function as threshold control mechanisms, enabling the court to examine, at the earliest stage, whether the suit is instituted before a competent forum and whether it is legally maintainable. While Rule 10 addresses the question of jurisdiction, Rule 11 concerns itself with the intrinsic validity of the plaint. Together, they constitute a dual filtering process that operates before the court proceeds to adjudicate the merits of the dispute.

Order VII Rule 10 provides that where a plaint is presented before a court which lacks jurisdiction, the same shall be returned for presentation to the proper court. The language employed in the provision is imperative, indicating that the court has no discretion to retain a plaint once it is found that jurisdiction is absent. The rule applies to all forms of jurisdictional defects, including territorial, pecuniary, and subject-matter jurisdiction. The underlying rationale is that jurisdiction is a condition precedent to the exercise of judicial power; a court cannot adjudicate a matter unless it is legally competent to do so. Significantly, the provision permits return of plaint at any stage of the suit, thereby recognising that jurisdictional defects may be noticed even after the proceedings have progressed. The effect of return of plaint is not to terminate the suit but to redirect it to the appropriate forum, thereby preserving the litigant's right while maintaining jurisdictional discipline.

Order VII Rule 11, on the other hand, mandates rejection of the plaint in specified circumstances where the defect goes to the root of maintainability. The provision enumerates grounds such as absence of cause of action, undervaluation of relief, insufficiency of court fee, and where the suit appears from the statements in the plaint to be barred by law. The use of the expression "shall be rejected" clearly indicates that once the conditions prescribed under the rule are satisfied, the court is bound to reject the plaint. Unlike Rule 10, which concerns the forum, Rule 11 addresses the very foundation of the suit and results in its termination at the threshold.

The scope of enquiry under Rule 11 is limited but precise. The court is required to examine the averments contained in the plaint and the documents relied upon by the plaintiff, without entering into the defence of the defendant. The exercise is not to be mechanical or formal; rather, the court must undertake a meaningful reading of the plaint to determine whether it discloses a real cause of action or is barred by law. At the same time, the provision recognises that certain defects, such as undervaluation or insufficient court fee, are curable in nature, and

therefore an opportunity is required to be granted to the plaintiff before rejection is ordered on those grounds.

A clear distinction emerges between Rule 10 and Rule 11 in terms of their object and operation. Rule 10 is concerned with the competency of the court and ensures that the suit is instituted before the proper forum. It does not touch upon the merits or maintainability of the claim. Rule 11, in contrast, is directed at the sustainability of the plaint itself and authorises the court to terminate proceedings where the plaint is fundamentally defective. While the former preserves the continuity of the suit by facilitating its presentation before the appropriate court, the latter brings the proceedings to an end, subject to the plaintiff's right to institute a fresh suit where permissible.

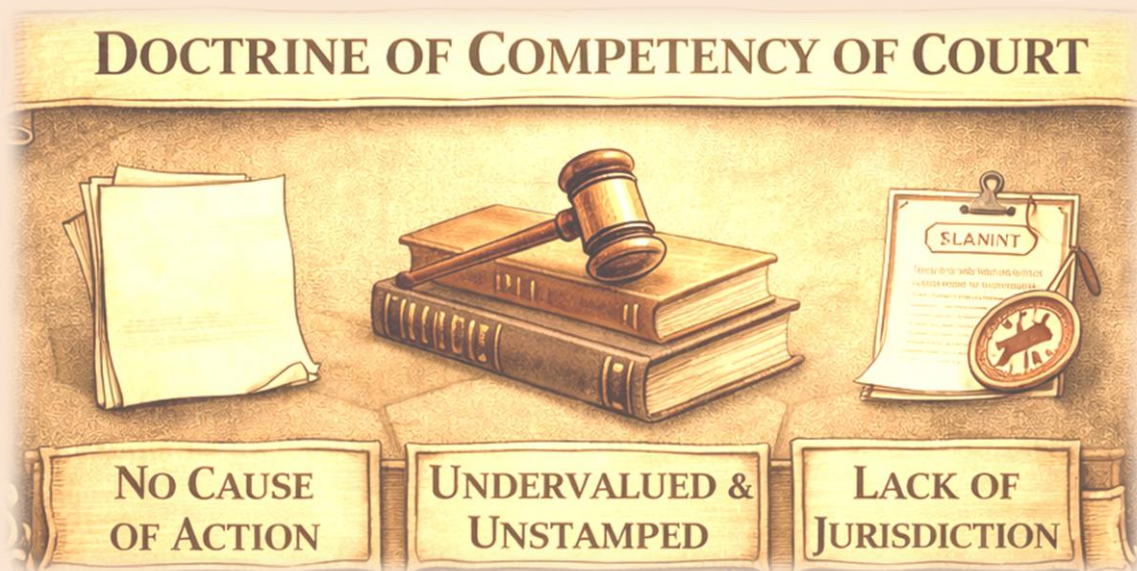
The legislative intent underlying these provisions is evident from their structure and language. The use of mandatory expressions reflects a conscious design to impose an obligation upon courts to exercise scrutiny at the threshold stage. These provisions are aimed at preventing abuse of process, avoiding unnecessary trials, and ensuring that judicial resources are not expended on disputes that are either incompetent or untenable. They reinforce the principle that the court must not act as a passive forum but must actively examine whether the conditions for assumption of jurisdiction and continuation of proceedings are satisfied.

Thus, Order VII Rules 10 and 11 together embody a two-fold scrutiny mechanism—first, to determine whether the court has the authority to entertain the suit, and second, to ascertain whether the suit deserves to proceed at all. The statutory scheme makes it abundantly clear that the court is expected to apply its mind at the inception itself and not defer these questions to later stages of trial. The true nature of these provisions, whether as discretionary powers or mandatory judicial duties, must therefore be understood in light of this structured legislative framework and its underlying purpose of ensuring efficiency and discipline in civil adjudication.

CHAPTER III

DOCTRINE OF COMPETENCY OF COURT: ORDER VII RULE 10 CPC

The doctrine of competency of court lies at the very foundation of civil adjudication. Jurisdiction is not merely a procedural requirement but a substantive precondition for the exercise of judicial power. A court derives its authority to adjudicate disputes strictly within the limits prescribed by law, and any action taken beyond such limits is rendered void. Order VII Rule 10 of the Code of Civil Procedure, 1908 embodies this principle by mandating that a plaint presented before a court lacking jurisdiction shall be returned for presentation before the proper court.



Jurisdiction, in its classical sense, encompasses three distinct but interrelated dimensions—territorial jurisdiction, pecuniary jurisdiction, and subject-matter jurisdiction. Territorial jurisdiction pertains to the geographical limits within which a court may exercise its authority, pecuniary jurisdiction relates to the monetary limits of its competence, and subject-matter jurisdiction concerns the nature of the dispute that the court is empowered to adjudicate. A defect in any of these aspects strikes at the root of the court's authority and renders its proceedings fundamentally flawed.

The legal consequences of absence of jurisdiction have been authoritatively settled by the Supreme Court of India in the celebrated decision of **Kiran Singh v. ChamanPaswan**¹, wherein it was held that a decree passed by a court without jurisdiction is a nullity and can be challenged at any stage, even in collateral proceedings. This principle underscores that jurisdictional defects are not curable by consent or waiver, and that the authority of the court must exist at the very inception of the proceedings.

This position has been consistently reiterated in subsequent decisions, including **HarshadChimanLalModi v. DLF Universal Ltd.**², where it was emphasised that jurisdiction cannot be conferred upon a court either by agreement of parties or by acquiescence. The court is duty-bound to examine its jurisdiction and must decline to proceed if it finds itself incompetent. These decisions firmly establish that the doctrine of competency of court is rooted in the rule of law and cannot be diluted by procedural convenience.

Order VII Rule 10 gives statutory expression to this doctrine by requiring the court to return the plaint when it appears that the suit should have been instituted in another court. The use of the expression “shall be returned” is indicative of the mandatory character of the provision. The court is not vested with any discretion to retain a plaint once it is satisfied that it lacks jurisdiction. The provision thus imposes a judicial obligation to correct the forum at the earliest possible stage.

An important feature of Rule 10 is that it permits the return of plaint “at any stage of the suit”. This reflects the principle that a defect of jurisdiction is not confined to the initial stage of proceedings but may be noticed at any point. The Supreme Court in **JagmittarSainBhagat v. Health Services**, Haryana has recognised that jurisdictional objections can be raised at any stage and that a court must address

1AIR 1954 SC 340

2(2005) 7 SCC 791

them whenever they come to light. This reinforces the continuing obligation of the court to ensure that it does not exercise jurisdiction where none exists.

The return of plaint under Rule 10 is distinct in its effect from rejection under Rule 11. While rejection results in termination of the suit, return of plaint merely redirects the proceedings to the appropriate forum. The plaintiff is entitled to present the plaint before the competent court, and the proceedings continue from that stage in accordance with law. This distinction highlights that Rule 10 is not punitive in nature but is corrective, aimed at ensuring that the dispute is adjudicated by the proper forum.

The jurisprudence surrounding jurisdiction also reveals that in certain cases, the determination of jurisdiction may involve mixed questions of fact and law. In such situations, courts have cautioned against premature conclusions at the threshold stage. In **R.S.D.V. Finance Co. Pvt. Ltd. v. Shree Vallabh Glass Works Ltd.**³, it was observed that objections to jurisdiction should ordinarily be decided at the earliest possible opportunity, but where such determination depends upon disputed facts, the court may be required to examine evidence before arriving at a conclusion. Similarly, in **ONGC Ltd. v. Modern Construction & Co.**⁴, the Supreme Court emphasised the importance of strict adherence to jurisdictional requirements, particularly in matters of territorial jurisdiction.

Thus, while the obligation to examine jurisdiction is mandatory, the stage at which a final determination is made may vary depending upon the nature of the issue involved. Where lack of jurisdiction is apparent on the face of the plaint, the court must act immediately under Rule 10. However, where the issue is intertwined with factual disputes, the court may have to defer the final determination until the necessary facts are established. This does not dilute the mandatory nature of the duty but reflects the practical realities of adjudication.

3(1993) 2 SCC 130

4(2014) 1 SCC 648

The doctrine of competency of court also operates in conjunction with statutory exclusions of jurisdiction. In cases where a special statute expressly or impliedly bars the jurisdiction of civil courts, the court must examine whether it is competent to entertain the suit at all. The principles governing such exclusion have been laid down in *Dhulabhai v. ONGC Ltd. v. Modern Construction & Co. State of Madhya Pradesh*, where the Supreme Court formulated tests to determine when civil court jurisdiction is ousted. In such cases, the issue may fall at the intersection of Rule 10 and Rule 11, depending upon whether the defect is treated as one of jurisdiction or as a statutory bar to the suit.

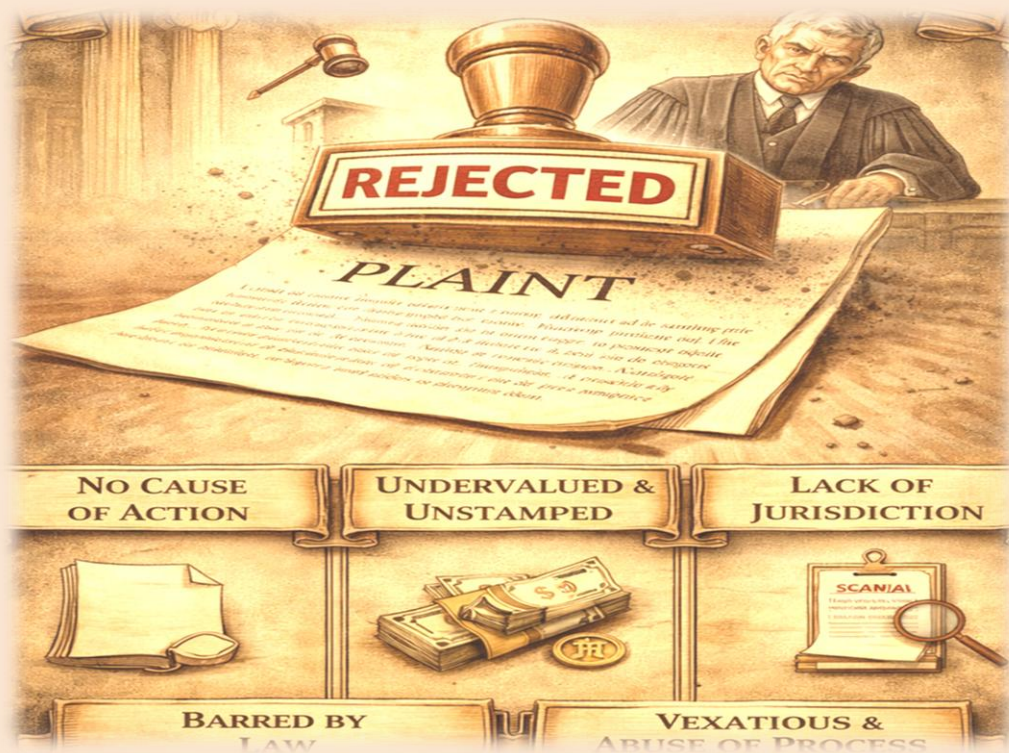
In essence, Order VII Rule 10 reinforces the fundamental principle that jurisdiction is the cornerstone of judicial authority. The provision casts a duty upon the court to ensure that it does not entertain suits beyond its competence and to return the plaint to the proper forum wherever necessary. This duty is not discretionary but obligatory, flowing from the very nature of judicial power. The failure to exercise this duty results in proceedings that are void and unenforceable, thereby defeating the ends of justice.

Accordingly, the doctrine of competency of court under Order VII Rule 10 CPC must be understood as an integral part of judicial discipline, requiring courts to be vigilant at all stages of the proceedings. It ensures that the administration of civil justice is conducted within the bounds of law and that adjudication takes place only before the forum authorised to decide the dispute.

CHAPTER IV

REJECTION OF PLAINT UNDER ORDER VII RULE 11 CPC

Order VII Rule 11 of the Code of Civil Procedure, 1908 represents one of the most significant procedural safeguards designed to prevent abuse of the judicial process at the threshold stage. Unlike Order VII Rule 10, which is concerned with the competency of the forum, Rule 11 addresses the intrinsic sustainability of the plaint itself. It mandates that where the plaint suffers from specified legal infirmities, the court shall reject it at the inception, thereby preventing unnecessary trials and conserving judicial time.



The provision enumerates distinct grounds upon which a plaint may be rejected, the most prominent being where the plaint does not disclose a cause of action, or where the suit appears from the statements in the plaint to be barred by law. The language employed in the rule is unequivocal. The use of the expression “shall be rejected” clearly indicates that once the conditions prescribed under Rule 11 are

satisfied, the court is under a mandatory obligation to reject the plaint. The provision does not leave room for discretion or indulgence once the statutory requirements are met.

The scope and ambit of Rule 11 have been authoritatively delineated by the Supreme Court of India in a catena of decisions. In **T. Arivandandam v. T.V. Satyapal**⁵, the Court emphasised that if on a meaningful—not formal—reading of the plaint it is manifestly vexatious and meritless, the court should exercise its power under Rule 11 to “nip it in the bud”. The decision underscores that courts must not be misled by clever drafting which creates an illusion of a cause of action where none exists.

The principle that the plaint must be examined on its own terms, without reference to the defence, has been consistently reaffirmed. In **Church of Christ Charitable Trust v. Ponniamman Educational Trust**⁶, it was held that for the purpose of deciding an application under Rule 11, only the averments contained in the plaint are to be looked into, and the pleas taken by the defendant are wholly irrelevant. This principle ensures that the inquiry at this stage remains confined to the pleadings of the plaintiff and does not transform into a premature adjudication of disputed facts.

Similarly, in **SaleemBhai v. State of Maharashtra**⁷, the Supreme Court clarified that the power under Order VII Rule 11 can be exercised at any stage of the proceedings, even before the filing of the written statement. This reinforces the position that the duty of the court to scrutinise the plaint is a continuing one and does not depend upon the initiative of the defendant.

The ground relating to absence of cause of action has received elaborate judicial interpretation. In **SopanSukhdeo Sable v. Assistant Charity Commissioner**⁸,

5(1977) 4 SCC 467

6 (2012) 8 SCC 706

7(2003) 1 SCC 557

8(2004) 3 SCC 137

the Court held that the plaint must be read as a whole in a meaningful manner to determine whether it discloses a cause of action. This approach was further explained in **Popat and Kotecha Property v. State Bank of India Staff Association**⁹, where it was observed that the cause of action must be real and not illusory, and must disclose a clear right to sue.

At the same time, the Court has cautioned against conflating the existence of a cause of action with the likelihood of success of the claim. In **Mayar (H.K.) Ltd. v. Owners & Parties, Vessel M.V. Fortune Express**¹⁰, it was held that so long as the plaint discloses some cause of action, the mere fact that the case appears weak or unlikely to succeed is not a ground for rejection. The Court emphasised that the correctness or otherwise of the allegations is a matter for trial and cannot be examined at the stage of Rule 11.

The ground that the suit is barred by law under clause (d) of Rule 11 has also been expansively interpreted. In **Hardesh Ores Pvt. Ltd. v. Hede and Company**¹¹, it was held that a plaint can be rejected where it is apparent from the statements contained therein that the suit is barred by limitation. This principle was reiterated in **Dahiben v. ArvinbhaiKalyanjiBhanusali**¹², where the Court emphasised that where the suit is ex facie barred by law, the court has no option but to reject the plaint.

An important limitation on the exercise of power under Rule 11 has been articulated in **Sejal Glass Ltd. v. Navilan Merchants Pvt. Ltd.**¹³, wherein it was held that rejection of plaint must be in respect of the plaint as a whole, and there is no concept of partial rejection of plaint under the CPC. If a part of the plaint discloses a cause of action, the plaint cannot be rejected in its entirety. This

9(2005) 7 SCC 510

10 (2006) 3 SCC 100

11(2007) 5 SCC 614

12(2020) 7 SCC 366

13(2018) 11 SCC 780

decision delineates the boundaries of the power under Rule 11 and prevents its overbroad application.

Further, the Court has consistently held that the exercise under Rule 11 must be based strictly on the plaint and the documents relied upon by the plaintiff. In **Madanuri Sri Rama Chandra Murthy v. Syed Jalal**¹⁴ and **Kamala v. K.T. EshwaraSa**¹⁵, it was reiterated that the defence or extraneous material cannot be considered while deciding an application under Rule 11. This ensures that the scope of enquiry remains narrow and focused.

The underlying object of Order VII Rule 11 is to prevent abuse of process and to ensure that the court's time is not wasted on litigation which is inherently untenable. This principle was echoed in **ITC Ltd. v. Debts Recovery Appellate Tribunal**¹⁶, where the Court emphasised that the provision is intended to ensure that bogus litigation is not permitted to consume judicial resources.

In addition to the settled principles laid down by the Supreme Court, recent judicial pronouncements have further clarified the scope and limits of Order VII Rule 11 CPC. The High Court of Chhattisgarh in **Mehul Kumar Patel and Ors. Versus Rishkesh Gupta and Ors. FA No. 16 of 2023** has reiterated that the power under Rule 11 cannot be exercised where the determination of rights involves disputed questions of fact. The Court observed that where issues relating to title, prior transactions, or competing claims require adjudication, such matters cannot be decided by adopting a summary approach under Order VII Rule 11. The Court cautioned against using the provision as a “shortcut method” to non-suit a party without full trial, thereby reinforcing that the provision is confined to cases where the bar is apparent on the face of the plaint.

Similarly, in **Bhojram versus General Manger and Ors. Second Appeal No. 502 of 2023**, the High Court of Chhattisgarh clarified the application of Rule

14(2017) 13 SCC 174

15 (2008) 12 SCC 661

16(1998) 2 SCC 70

11(d) in the context of limitation. It was held that while limitation constitutes a “law” within the meaning of Rule 11(d), rejection of plaint on this ground is permissible only when the bar is clearly discernible from the plaint itself. The Court emphasised that Order VII Rule 11 is not a catch-all provision to dismiss weak or doubtful cases, but a procedural mechanism intended to filter out suits that are ex facie barred and legally untenable.

These decisions reaffirm the doctrinal position that the power under Rule 11 is both potent and limited—potent in its ability to terminate litigation at inception, yet limited by the requirement that such termination must be based strictly on the plaint and not on contested facts.

Thus, the jurisprudence on Order VII Rule 11 reveals a carefully calibrated balance. On the one hand, the provision imposes a mandatory duty upon the court to reject plaints which are legally untenable or barred by law. On the other hand, it imposes limitations to ensure that genuine disputes are not stifled at the threshold and that issues requiring evidence are not prematurely decided. The power under Rule 11 is therefore both stringent and circumscribed—stringent in its obligation, yet circumscribed in its scope.

In essence, Order VII Rule 11 transforms the role of the court at the threshold stage from a passive recipient of pleadings into an active scrutiniser of legal sustainability. It reinforces the principle that access to justice does not extend to the prosecution of claims which are devoid of legal foundation. The provision thus serves as a crucial instrument in maintaining the integrity, efficiency, and discipline of the civil justice system

CHAPTER V

LIMITS AND RESTRAINTS ON THE POWER UNDER ORDER VII RULE 11 CPC

While Order VII Rule 11 of the Code of Civil Procedure, 1908 imposes a mandatory duty upon courts to reject complaints that are legally untenable, the exercise of this power is not unbounded. Judicial interpretation has evolved clear doctrinal limitations to ensure that the provision is not applied in a manner that results in premature termination of legitimate claims. The jurisprudence thus reflects a calibrated balance between the need to filter frivolous litigation and the obligation to preserve access to justice.

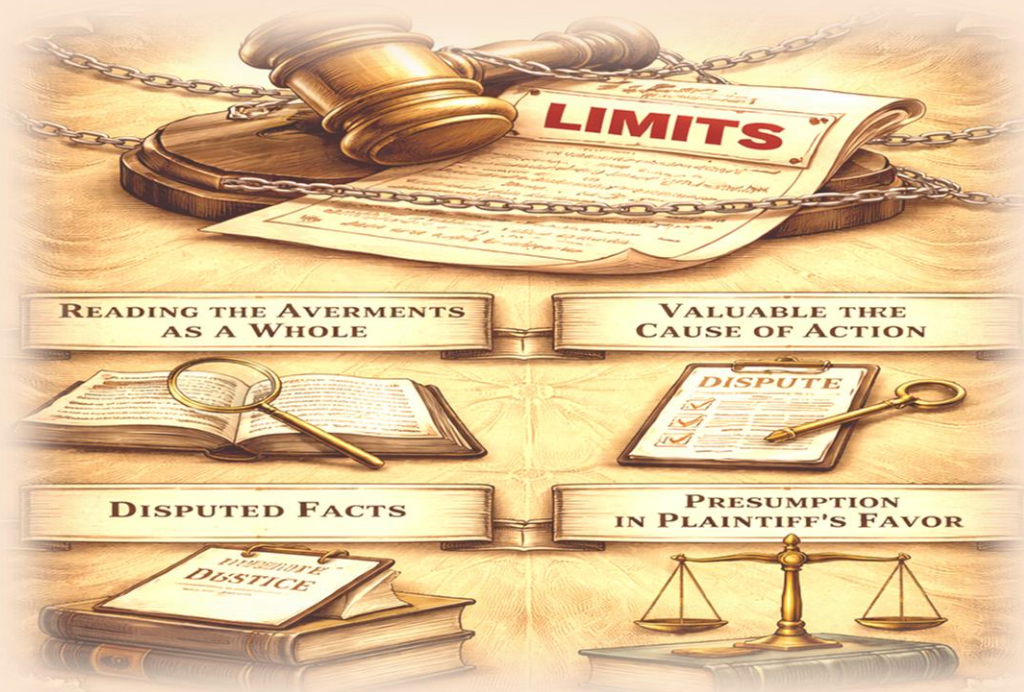
One of the most significant limitations on the exercise of power under Rule 11 is that the complaint must be considered as a whole and not in a piecemeal manner. This principle has been authoritatively laid down by the Supreme Court of India in **Sejal Glass Ltd. v. Navilan Merchants Pvt. Ltd.**¹⁷, wherein it was held that there is no provision in the CPC for rejection of a complaint in part. If any portion of the complaint discloses a cause of action, the complaint cannot be rejected in its entirety. The Court clarified that in such situations, the appropriate course would be to strike out unnecessary or vexatious pleadings under Order VI Rule 16, rather than invoking Rule 11. This limitation ensures that the power of rejection is exercised with restraint and does not result in denial of adjudication where a triable issue exists.

Another important restraint lies in the nature of the test to be applied while examining whether a complaint discloses a cause of action. The courts have consistently held that the threshold for existence of a cause of action is relatively low. In **Mayar (H.K.) Ltd. v. Owners & Parties, Vessel M.V. Fortune**

17(2018) 11 SCC 780

Express¹⁸, it was observed that so long as the plaint discloses some cause of action, however weak, the same cannot be rejected under Rule 11. The Court emphasised that the likelihood of success of the plaintiff's claim is not a relevant consideration at this stage. This principle prevents the court from converting the exercise under Rule 11 into a mini trial or a premature evaluation of merits.

Closely related to this is the well-settled proposition that the court cannot examine the correctness or truthfulness of the allegations made in the plaint while exercising powers under Rule 11. The enquiry is confined to the averments as they stand, and the court must assume them to be true for the limited purpose of determining whether a cause of action is disclosed. This principle has been reiterated in decisions such as **Madanuri Sri Rama Chandra Murthy v. Syed Jalal**¹⁹ and **Kamala v. K.T. EshwaraSa**²⁰, where it was held that neither the defence nor any extraneous material can be considered at this stage. The rationale is to ensure that disputed questions of fact are left for adjudication at trial and are not prematurely decided under the guise of Rule 11.



18(2006) 3 SCC 100

19(2017) 13 SCC 174

20(2008) 12 SCC 661

A further limitation arises in cases involving mixed questions of law and fact. Where the determination of a bar to the suit or absence of cause of action depends upon disputed factual issues, the court cannot reject the plaint at the threshold. In such cases, evidence may be required to ascertain the true nature of the claim. The decision in **Mayar (H.K.) Ltd. v. Owners & Parties, Vessel M.V. Fortune Express**²¹ is instructive in this regard, as it cautions against dismissal of suits at the preliminary stage where adjudication of jurisdictional or substantive issues requires examination of facts. This limitation ensures that the power under Rule 11 is not exercised in cases where the controversy is not purely legal but involves factual determination.

The distinction between absence of cause of action and a weak or doubtful case also assumes significance in this context. A plaint may disclose a cause of action and yet ultimately fail on merits. Such a case cannot be rejected under Rule 11. The courts have repeatedly emphasised that the provision is not intended to short-circuit the trial process or to substitute adjudication on merits. In **Popat and Kotecha Property v. State Bank of India Staff Association**²², it was observed that the real test is whether the plaint discloses a clear right to sue and not whether the plaintiff is likely to succeed.

Similarly, while clause (d) of Rule 11 permits rejection where the suit appears from the plaint to be barred by law, such bar must be evident on the face of the plaint itself. If the question of limitation or statutory bar requires investigation into facts or interpretation of disputed material, the plaint cannot be rejected at the threshold. This position has been clarified in **Hardesh Ores Pvt. Ltd. v. Hede and Company**²³, where it was held that rejection under Rule 11(d) is permissible only where the bar is apparent from the plaint.

The power of rejection of plaint under Order VII Rule 11 CPC, though mandatory in nature where conditions are satisfied, is circumscribed by well-

21(2006) 3 SCC 100

22(2005) 7 SCC 510

23(2007) 5 SCC 614

defined judicial limitations. Recently, the Supreme Court in **Karam Singh v. Amarjit Singh**²⁴ reaffirmed that while exercising jurisdiction under Rule 11(d), the court must confine itself strictly to the averments made in the plaint and the documents relied upon by the plaintiff, and the defence of the defendant is wholly irrelevant at that stage. It was further emphasised that the plaint must be read as a whole and not in a truncated or selective manner, as partial reading may lead to erroneous conclusions. The Court clarified that rejection at the threshold is permissible only where the bar to the suit is apparent ex facie from the plaint; where determination of such bar involves disputed questions or requires appreciation of evidence, particularly in cases involving limitation, the issue becomes a mixed question of law and fact and must be decided at trial. The judgment also underscores that where multiple reliefs are claimed; the plaint cannot be rejected in entirety if even one of the reliefs survives within limitation. These principles reinforce that Rule 11 is not intended to short-circuit adjudication or decide contentious issues, but to eliminate only those suits which are demonstrably barred on the face of the plaint.

The jurisprudence also recognises that the power under Rule 11 must be exercised with procedural fairness, particularly in cases involving curable defects. Where the ground for rejection relates to undervaluation of relief or insufficiency of court fee, the plaintiff must be afforded an opportunity to rectify the defect before the plaint is rejected. This reflects the principle that procedural rules should not be applied in a manner that defeats substantive justice.

Thus, while Order VII Rule 11 is couched in mandatory terms and serves as a powerful tool for eliminating frivolous litigation, its application is circumscribed by well-defined judicial limitations. These limitations ensure that the provision is not used as an instrument of overreach but remains confined to cases where the defect is clear, patent, and incapable of being cured through trial.

24 2025 INSC 1238

The doctrinal position that emerges is that Rule 11 embodies both **judicial obligation and judicial restraint**. The court is duty-bound to reject complaints that are manifestly untenable, yet it must exercise caution to ensure that legitimate claims are not stifled at the threshold. This balance is essential to maintain the integrity of the civil justice system, as it prevents abuse of process while safeguarding the right to adjudication.

In conclusion, the limits and restraints on the exercise of power under Order VII Rule 11 CPC serve as a necessary counterbalance to its mandatory character. They ensure that the provision operates within its intended domain—filtering out cases that are inherently defective—without encroaching upon the domain of trial. The careful observance of these principles is crucial for achieving the dual objectives of judicial efficiency and substantive justice.



CHAPTER VI

JUDICIAL DUTY OR DISCRETION: A DOCTRINAL ANALYSIS

The central question that arises in the context of Order VII Rule 10 and Order VII Rule 11 of the Code of Civil Procedure, 1908 is whether the powers conferred under these provisions are discretionary in nature or whether they impose a mandatory judicial duty upon the court. The answer to this question is not merely of theoretical significance but has direct implications for the manner in which trial courts approach threshold scrutiny of suits.

At the outset, it is necessary to appreciate the distinction between a discretionary power and a judicial duty. A discretionary power implies the existence of a choice; it enables the court to decide whether or not to exercise the power based on considerations of justice, equity, or convenience. A judicial duty, on the other hand, is an obligation imposed by statute, leaving no room for choice once the conditions for its exercise are satisfied. The court, in such cases, is bound to act in a particular manner.

A plain reading of Order VII Rule 10 and Rule 11 reveals that both provisions employ mandatory language. Rule 10 provides that the plaint “shall be returned” where the court lacks jurisdiction, and Rule 11 provides that the plaint “shall be rejected” where the grounds specified therein are attracted. The use of the expression “shall” is indicative of legislative intent to impose an obligation rather than confer discretion. This interpretation is consistent with the well-established principle that where a statute uses mandatory language coupled with a specific consequence, the provision must ordinarily be construed as imperative.

Judicial pronouncements have consistently reinforced this interpretation. In the context of jurisdiction, the Supreme Court of India in **Kiran Singh v. ChamanPaswan**²⁵ held that a decree passed by a court without jurisdiction is a

²⁵(AIR 1954 SC 340)

nullity. This principle necessarily implies that a court lacking jurisdiction cannot proceed with the suit and must return the plaint under Order VII Rule 10. The absence of jurisdiction is not a matter of discretion but of legal incapacity, and the court is duty-bound to recognise and act upon it.

Similarly, in **HarshadChimanLalModi v. DLFUniversal Ltd**²⁶, it was reiterated that jurisdiction cannot be conferred by consent or waiver. The court must independently satisfy itself of its competence and decline to proceed where jurisdiction is lacking. These authorities firmly establish that the power under Rule 10 is in the nature of a **judicial obligation arising from lack of authority**, rather than a discretionary choice.

The position under Order VII Rule 11 is even more emphatic. The Supreme Court in **Dahiben v. ArvinbhaiKalyanjiBhanusali**²⁷ has categorically held that where the suit appears from the statements in the plaint to be barred by law, the court has no option but to reject the plaint. Likewise, in **SaleemBhai v. State of Maharashtra**²⁸, it was clarified that the power under Rule 11 can be exercised at any stage and does not depend upon the filing of a written statement. These decisions underscore that the court is under a continuing duty to examine the maintainability of the plaint and to reject it where the statutory conditions are fulfilled.

The foundational rationale for treating these provisions as mandatory lies in their purpose. Order VII Rules 10 and 11 are designed to prevent the court from proceeding with suits that it is either incompetent to entertain or that are inherently defective. Allowing such suits to continue would not only result in waste of judicial time but would also amount to an abuse of the process of court. In **T. Arivandandam v. T.V. Satyapal**²⁹, the Supreme Court emphasised that courts must actively exercise their powers to terminate frivolous litigation at the

26 2005(7) SCC 791

27 AIR 2020 SC 3310

28 2003(1) SCC 557

29 (1977) 4 SCC 467

earliest stage. This reflects a proactive judicial role that is inconsistent with a purely discretionary approach.



At the same time, the jurisprudence discussed in the preceding chapter reveals that the exercise of power under Rule 11 is subject to important limitations. Decisions such as **Mayar (H.K.) Ltd. v. Owners & Parties, Vessel M.V. Fortune Express** and **Sejal Glass Ltd. v. Navilan Merchants Pvt. Ltd.** demonstrate that while the duty to reject a plaint is mandatory, the conditions triggering such duty must be strictly construed. The court cannot reject a plaint on the basis of doubtful or disputed facts, nor can it undertake a partial rejection

of the plaint. These limitations do not convert the duty into a discretion; rather, they define the scope within which the duty operates.

A nuanced distinction, therefore, emerges. The existence of power under Rule 10 and Rule 11 is not discretionary; however, the **application of mind required to determine whether the conditions for exercise of that power are satisfied involves judicial judgment**. The court must interpret the plaint, assess whether a cause of action is disclosed, and determine whether any legal bar is apparent. This process necessarily involves an element of judicial evaluation, but once the conclusion is reached that the statutory conditions are fulfilled, the consequence is mandatory.

This distinction may be expressed by stating that while the **triggering conditions involve judicial determination**, the **resulting action is obligatory**. The court does not possess discretion to ignore the defect once it is established. To hold otherwise would defeat the purpose of the provisions and allow courts to proceed with suits that are either incompetent or legally untenable.

A comparative analysis of Rule 10 and Rule 11 further reinforces this position. Rule 10 operates in the domain of jurisdiction, where the court's authority itself is in question. Rule 11 operates in the domain of maintainability, where the legal sustainability of the claim is at issue. In both cases, the consequence of non-compliance with statutory requirements is predetermined by law. The court is not at liberty to choose an alternative course of action once the defect is established.

In practical terms, however, it is often observed that trial courts treat these provisions as discretionary, either due to caution or due to apprehension of appellate interference. This results in deferral of threshold scrutiny and continuation of suits that ought to have been terminated at the inception. Such an approach undermines the legislative intent and leads to inefficiency in the administration of justice. The proper approach requires courts to recognise that these provisions are integral to their duty as adjudicatory authorities and must be applied with firmness where warranted.

A further dimension of restraint is reflected in recent judicial practice concerning the procedural stage at which Rule 11 is to be exercised. The Delhi High Court, in a recent decision, has reiterated that an application under Order VII Rule 11 must be decided at the threshold before the court proceeds with the trial. This reinforces the principle that the provision serves as a preliminary filter. However, the Court simultaneously cautioned that such applications cannot be used as a procedural device to delay proceedings or to circumvent statutory timelines, particularly in relation to filing of written statements.

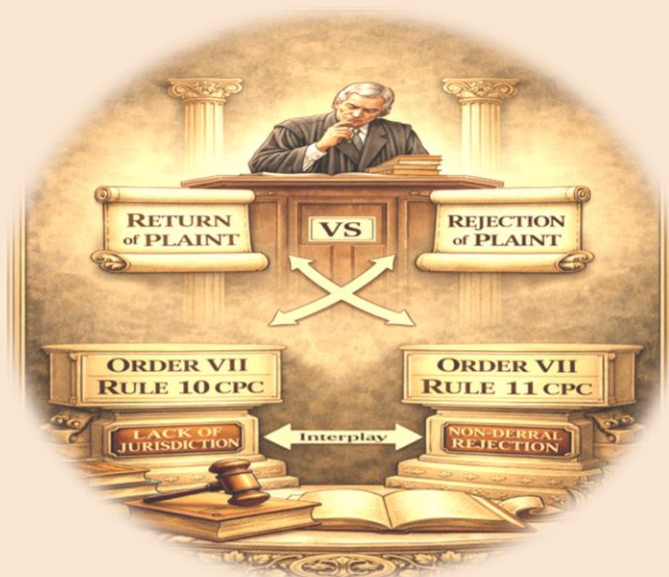
Thus, while the provision mandates early scrutiny, it also demands disciplined application. The court must strike a balance between preventing abuse of process and ensuring that genuine disputes are not prematurely terminated.

In conclusion, it may be stated that the powers under Order VII Rule 10 and Order VII Rule 11 CPC are **not discretionary in their essence but mandatory in their operation**. The court is under a legal obligation to return a plaint where it lacks jurisdiction and to reject a plaint where it is legally untenable or barred by law. The discretion lies only in the process of judicial determination of the facts and law, not in the ultimate decision once the conditions are satisfied. The faithful application of these principles is essential for ensuring judicial discipline, preventing abuse of process, and maintaining the efficiency and credibility of the civil justice system.

CHAPTER VII

INTERPLAY BETWEEN ORDER VII RULE 10 AND RULE 11 CPC

Order VII Rule 10 and Order VII Rule 11 of the Code of Civil Procedure, 1908 operate in distinct yet closely interconnected domains. While Rule 10 is concerned with the competency of the court, Rule 11 addresses the maintainability of the plaint, yet both provisions are intended to function at the threshold stage of a suit. Their interplay assumes practical significance in situations where questions of jurisdiction and maintainability overlap or arise simultaneously.



The logical sequence of application ordinarily requires the court to first examine whether it possesses jurisdiction to entertain the suit. If the court lacks jurisdiction, it cannot proceed to examine the merits or maintainability of the plaint, and the only course open is to return the plaint under Order VII Rule 10. This flows from the fundamental principle that jurisdiction is a condition precedent to the exercise of judicial power. Any adjudication undertaken without jurisdiction is a nullity, as recognised in **Kiran Singh v. ChamanPaswan** (AIR 1954 SC 340).

However, complexities arise in cases where the issue of jurisdiction itself is intertwined with the merits of the claim or where the suit appears to be barred by a special statute. In such cases, the question may fall within the scope of Rule 11(d), which permits rejection of the plaint where the suit is barred by law. The distinction between lack of jurisdiction and a statutory bar to the suit is subtle but significant. The former relates to the incompetence of the forum, while the latter relates to the absence of a right to institute the suit.

The principles governing exclusion of civil court jurisdiction have been elaborated in *Dhulabhai v. State of Madhya Pradesh*, where the Supreme Court of India laid down tests to determine when jurisdiction of civil courts is expressly or impliedly barred. Where such exclusion is apparent from the plaint itself, the court may invoke Rule 11(d) to reject the plaint. Conversely, where the issue pertains to territorial or pecuniary jurisdiction, the appropriate course would be to return the plaint under Rule 10.

There may also be cases where both provisions appear to be simultaneously attracted. For instance, where a plaint is presented before a court lacking jurisdiction and is also barred by law, the court must determine which provision is more appropriate in the circumstances. The general principle that emerges is that the court should avoid undertaking an enquiry into maintainability if it lacks jurisdiction, and should first return the plaint. However, where the bar to the suit is apparent and absolute, rejection under Rule 11(d) may be justified even at the threshold.

Thus, the interplay between Rule 10 and Rule 11 requires a careful and context-specific approach. The provisions are not mutually exclusive but are complementary, forming part of a coherent scheme for threshold scrutiny. The proper application of these provisions ensures that suits are both instituted before competent courts and are legally sustainable, thereby upholding procedural discipline and judicial efficiency.

CHAPTER VIII

ROLE OF TRIAL COURT: PRACTICAL DIMENSION

The effectiveness of Order VII Rules 10 and 11 CPC ultimately depends upon their application by trial courts, which constitute the first point of judicial contact in civil litigation. The statutory framework places a significant responsibility upon trial courts to scrutinise complaints at the threshold and to ensure that only competent and maintainable suits proceed further. However, practical experience reveals that this responsibility is not always discharged with the rigor envisaged by law.

A common tendency observed in trial courts is the mechanical registration and admission of complaints without meaningful scrutiny. Issues relating to jurisdiction or maintainability are often deferred to later stages of the proceedings, frequently on the assumption that such questions can be decided after the filing of written statements or framing of issues. This approach, though seemingly cautious, leads to unnecessary prolongation of litigation and defeats the very purpose of the provisions contained in Order VII.

Another practical challenge arises from the apprehension of appellate interference. Trial courts may be reluctant to reject complaints at the threshold due to the fear that such orders may be set aside on appeal or revision. This results in an overly cautious approach, where even clearly untenable suits are allowed to proceed. Such hesitation undermines the legislative mandate and places an avoidable burden on the judicial system.

The proper approach requires the trial court to undertake an active and meaningful scrutiny of the complaint at the stage of institution. The court must examine whether it has jurisdiction to entertain the suit and whether the complaint discloses a cause of action or is barred by law. This exercise must be conducted with due application of mind and supported by reasoned orders. The objective is

not to adjudicate the merits of the dispute but to ensure that the suit meets the minimum legal threshold for continuation.

The timely exercise of powers under Order VII Rules 10 and 11 has significant implications for the administration of justice. It reduces the burden of unnecessary trials, conserves judicial time, and enhances the efficiency of the court system. It also ensures that litigants are not subjected to prolonged proceedings in cases where the outcome is predetermined by law. Thus, the role of the trial court at the threshold stage is crucial in maintaining the integrity and effectiveness of civil adjudication.



CHAPTER IX

CRITICAL ANALYSIS

The doctrinal framework governing Order VII Rules 10 and 11 CPC reflects a delicate balance between competing considerations. On one hand, there is a need to prevent abuse of process and to ensure that frivolous or incompetent suits are filtered out at the earliest stage. On the other hand, there is an equally important need to safeguard access to justice and to ensure that genuine claims are not stifled prematurely.

Judicial decisions have sought to strike this balance by recognising the mandatory nature of these provisions while simultaneously imposing limitations on their exercise. The insistence on meaningful reading of the plaint, exclusion of defence at the threshold stage, and the prohibition against partial rejection are all designed to prevent misuse of the power under Rule 11. At the same time, the emphasis on early scrutiny and the duty to reject untenable suits reflects a commitment to judicial efficiency.

Despite this well-developed jurisprudence, inconsistencies persist in the application of these principles. The reluctance of courts to exercise powers under Rule 11 at the threshold, coupled with the tendency to defer jurisdictional questions, indicates a gap between doctrinal clarity and practical implementation. This gap needs to be addressed through a more assertive and disciplined approach at the trial court level.

A critical analysis also reveals that the characterization of these provisions as “powers” may itself contribute to the perception of discretion. In substance, however, these provisions operate as obligations imposed upon the court. Reframing them in terms of judicial duty rather than discretion is essential for ensuring their effective application.

CHAPTER X

CONCLUSION AND RECOMMENDATIONS

The analysis undertaken in the preceding chapters leads to a clear and consistent conclusion that the provisions contained in Order VII Rule 10 and Order VII Rule 11 CPC are not merely discretionary powers but embody mandatory judicial duties. Rule 10 mandates the return of plaint where the court lacks jurisdiction, thereby enforcing the doctrine of competency of court. Rule 11 mandates rejection of plaint where it is legally untenable or barred by law, thereby ensuring that only sustainable claims proceed to trial.

These provisions, when properly applied, serve as effective tools for maintaining procedural discipline and preventing abuse of judicial process. They enable the court to function as a gatekeeper at the threshold stage, filtering out cases that do not warrant adjudication. The failure to exercise these powers where required results in unnecessary trials, waste of judicial resources, and erosion of public confidence in the justice delivery system.

In order to ensure effective implementation of these provisions, it is necessary to adopt certain practical measures. Trial courts must prioritise threshold scrutiny of plaints and must not hesitate to exercise their powers under Order VII Rules 10 and 11 where warranted. Judicial training and sensitisation may also play a role in reinforcing the importance of these provisions. Further, appellate courts should support well-reasoned orders of rejection or return of plaints to encourage a culture of judicial discipline at the trial level.

In conclusion, the trial court is not merely a passive forum for adjudication but an active sentinel entrusted with the responsibility of ensuring that the judicial process is not misused. Order VII Rules 10 and 11 CPC are central to this function and must be applied as **mandatory judicial duties**. Their proper and timely exercise is indispensable for achieving the twin objectives of judicial efficiency and substantive justice.

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