

JPD-7
Ct No.07
18.06.2026
(SSS)

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CO 58 of 2026

FOUR OF US REALITY LLP and Ors.
Vs.
Sri Aman Gupta

Mr. Surajit Nath Mitra, Sr. Adv.,
Mr. Ashis Sinha,
Mr. Rajat Das,
Ms. Manisha Dutta
.... for the petitioners.

Mr. Amit Sinha,
Mr. Amit Kumar Mishra
....for the defendant.

1. The present challenge has been preferred by the defendants in a suit for declaration and consequential reliefs including permanent injunction.
2. Learned senior counsel appearing for the defendants/petitioners argues that although the plaintiff has sought for permanent injunction *inter alia* to protect his purported possession, there is not a whisper within the four corners of the plaint as to the plaintiffs being currently in possession of the suit property. Thus, the plaint does not disclose any cause of action. As such, it is argued that the learned Trial Judge committed a jurisdictional error in overlooking such fact and

rejecting the petitioners' application for rejection of the plaint for non-disclosure of cause of action, filed under Order VII Rule 11 of the Code of Civil Procedure.

3. Learned counsel appearing for the plaintiff/opposite party relies on documents which were, in turn, relied on in the plaint and/or referred to therein. From several such documents, such as a report filed in a criminal case by the police, a permanent certificate of enlistment, as well as other documents, it is *prima facie* made out that the plaintiff/opposite party is at present in possession of the suit property. Thus, it is argued that the question raised by the defendants/petitioners is at best a mixed question of fact and law, which is to be decided on trial.
4. Upon hearing learned counsel for the parties and perusing the documents handed over in court, which were referred to and/or relied on in the plaint and/or filed along with the plaint, it is clear that the dispute as to whether the plaintiff is currently in possession of the suit property is a mixed question of fact and law, which is to be thrashed out by adduction of evidence by both parties at the time of trial.
5. However, the Court cannot accept the argument of the petitioners that mere omission to make a specific statement in the plaint to the effect that

the plaintiff is till date in possession of the property vitiates the premise of the cause of action and tantamounts to non-disclosure of cause of action.

6. For the purpose of adjudicating an application under Order VII Rule 11 of the Code of Civil Procedure, the Court has to have a meaningful reading of the entire plaint.
7. From a conjoint reading of all the paragraphs of the plaint, it transpires that a sufficient *prima facie* cause of action has been made out for filing the suit, inasmuch as the plaintiff has categorically alleged that the defendants came to the plaintiff's shop premises and started to assault the plaintiff's security guard physically and started to enter into the plaintiff's shop premises forcibly by breaking the lock and key with an intention to commit dacoity.
8. The very tenor of such statement clearly discloses that the plaintiff is in possession of the property, if the plaint averments are taken to be true. Thus, it cannot be said at this juncture that no cause of action has been made out by the plaintiff which, in any event, is not a germane consideration for deciding an application for rejection of plaint. The Court merely has to see whether any cause of action has been *disclosed* which it is found from the plaint to have been disclosed. Hence, non-

mention in so many words that the plaintiff is still continuing in possession does not *per se* vitiate the suit as a whole and/or amount to non-disclosure of cause of action.

9. In such view of the matter, this Court does not find any jurisdictional error committed by the learned Trial Judge in rejecting the application under Order VII Rule 11 of the Code of Civil Procedure. However, it is made clear that the rejection of the application under Order VII Rule 11 of the Code shall not preclude the parties from raising the issues raised in such application by way of a proper trial on evidence at the time of hearing of the suit.
10. Accordingly, CO 58 of 2026 is dismissed on contest in the light of the above observations, thereby affirming the impugned order bearing Order no. 14 dated February 23, 2026 passed by the learned Civil Judge (Junior Division) at Jalpaiguri in Title Suit No. 351 of 2025.
11. No order as to costs.
12. Urgent certified copies of this order, if applied for, be supplied to the parties, upon compliance of requisite formalities.

(Sabyasachi Bhattacharyya, J.)