(2012) 10 DEL CK 0008

Delhi High Court

Case No: CS (OS) 503 of 2009

Brig. B.C. Rana (RETD.)		APPELLANT
	Vs	
Ms. Seema Katoch and Others		RESPONDENT

Date of Decision: Oct. 15, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 11 Rule 7(d), Order 7 Rule 11, Order 7 Rule 11(a), Order 7 Rule 11(d), 151
- Limitation Act, 1963 - Section 9

Citation: (2013) 2 AD 481 : (2013) 198 DLT 35

Hon'ble Judges: Kailash Gambhir, J

Bench: Single Bench

Advocate: Jyotika Kalra with Ms. Annwesha Deb and Ms. Kanchan Bala, for the Appellant; Puneet Taneja with Mr. Amrit Anand, for the Respondent

Judgement

Kailash Gambhir, J.

I.A. No. 8164/2011 (under Order 7 Rule 11 CPC)

1. This order shall dispose of the application filed by the defendant nos. 1, 2, 4 and 6 under Order 7 Rule 11 r/w Section 151 CPC to seek rejection of the plaint. Before I proceed to deal with the genesis of the present application, it would be necessary to give a brief narration of the relevant facts of the present case.

2. The plaintiff is an ex-army officer and a senior citizen belonging to the family of freedom fighters. He became a member of Himachal Pradesh Co-operative Group Housing Society Limited in 1995-96 (herein after called the society).All the defendants are also the members of the society. After having become a member and resident of the said Society, the plaintiff found that the members of the Society had serious objections with

regard to the poor quality of construction of the building of the society, late payment of the ground rent and other issues. The plaintiff and the other members of the Society also found that there was an unholy nexus between the management of the Society, consultant and the contractor. They found the hard earned money of the members of the Society being misused by the management committee of the society to benefit the contractor and the consultant. It was also found that the contractor was using substandard material and thus was causing serious loss to the members of the Society. But ignoring all this, the defendant no. 1 who was the President of the Society issued a certificate of appreciation to the contractor in the year 2001.

3. To highlight the irregularities and mismanagement on the part of the defendant no. 1 and other members of the Managing Committee of the Society (other defendants), the plaintiff along with other members lodged a complaint dated 12.7.2007 with the Registrar Cooperative Society, CBI and other authorities for probing into the affairs of the said Society. The above complaint was signed by 21 members of the society.

4. According to the plaintiff, as a counter blast to the said complaint, the defendant no. 1 had issued a show cause notice dated 28.9.2007 to the plaintiff to explain as to why he be not expelled from the membership of the Society. In the said show cause notice, the defendant no. 1 allegedly used highly insulting, derogatory and defamatory language against the plaintiff to harm his reputation. The allegations leveled in the notice dated 28.9.2007 were that the plaintiff was found guilty of anti-society activities by making false allegations, that the plaintiff was misleading and dividing the members of the society & that the plaintiff was writing false and frivolous complaints.

5. According to the plaintiff the defendant no. 1 circulated the said notice amongst the members of the society and also pasted it on the notice board of the society.

6. Then, subsequently, in order to pressurize the plaintiff to withdraw the said complaint dated 12.7.2007, the defendant no. 1 issued another notice dated 9.10.2007 to the plaintiff alleging that the plaintiff had forged the signatures of the members in the annexure attached with the complaint dated 12.7.2007. The relevant portion of the said notice which is defamatory according to the plaintiff is reproduced as under:-

However on query from the said some signatories, it was found that certain signatures were forged/misused and were done in some other context and not in relation to the said complaint to which it was falsely attached. It has also been found that the signatories were kept in dark and were not even aware of the contents of the letters as above

7. According to the plaintiff, the defendant no. 1 circulated the said notice amongst the members of the society.

8. Thereafter, again to pressurize the plaintiff so that he may not proceed with the complaint against the Society before different statutory bodies, the defendant no. 1 initiated proceedings in the office of the Registrar, Cooperative Society, Delhi, (titled as

"M/S. Himachal CGHS Ltd. acting through President Ms. Seema Katoch v. B.C. Rana") for the expulsion of the plaintiff from the membership of the Society. In the said proceedings before the Registrar of Cooperative Society, the defendant no. 1 filed her affidavit in the month of November 2008 and the averments made in the said affidavit were also highly defamatory in nature to seriously affect the reputation of the plaintiff. The relevant portion of the affidavit is re-produced below:-

I say that respondent/opposite party have gone down to such an extent that respondent/opposite party even forged the signatures of some of the residents/members in the letter issued to the registrar office as well as other government agencies to put the weight in respondent''s/opposite party''s false and frivolous complaints against the society. I say that however respondents/opposite party could not succeed in respondent''s/opposite party''s ill deeds and members/signatories disowned any signatures given to the respondent/opposite party. I say that the copy of the letters received from some of such residents enclosed with the petition now marks as ANNEXURE-F. I say that respondent/opposite party was once again found guilty for tampering documents and records to create problems for the society as a whole

9. According to the plaintiff, the defendant nos. 2 to 6 also filed their respective affidavits in the proceedings before the Registrar, Cooperative Society, Delhi in the month of November 2008 & most of the contents of those affidavits were again defamatory in nature reiterating that the plaintiff had forged the signatures of some of the residents/members in the letter issued to the Registrar as well as other government agencies to put weight to his false and frivolous complaint against the society.

10. According to the plaintiff, in order to defame him, the defendants not only filed these affidavits in the office of the Registrar but they also personally distributed these affidavits among the members of the society. The affidavits were also put on the notice board of the society.

11. It is the case of the plaintiff that the contents of these notices and affidavits were highly defamatory and the same were made, published, printed and circulated by the defendants with malicious intention to harm the reputation of the plaintiff. Such action on part of the defendants led to the reputation of the plaintiff been lowered down in the estimation of the members of the Society, visitors of the Society, guest of the plaintiff and general public who had occasion to read the letters dated 28.9.2007, 9.10.2007 and the affidavits filed in November, 2008.

12. Based on the alleged defamatory statements made in the said two notices by the defendant no. 1 and the affidavits filed by the defendants, the plaintiff has claimed an amount of Rs. 21,00,000 towards the compensation/damages for the tort of defamation.

13. The aforesaid application under Order 7 Rule 11 CPC, 1908, has been filed by the defendant nos. 1, 2 and 4 to 6 seeking rejection of the plaint, primarily on the following

grounds:-

Firstly, that the suit filed by the plaintiff is barred by law of limitation. In support of this contention, counsel for the defendants submitted that the suit was filed by the plaintiff in the month of March, 2009 basing his claim on the libelous expressions used in the two notices dated 28.9.2007 and 9.10.2007. Counsel submitted that the present suit with reference to the said notices is clearly barred under Article 75 of the Limitation Act which lays down that the limitation period for filing a compensation suit in the case of libel is one year and therefore deserves rejection in terms of Order 11 Rule 7(d) of CPC. With respect to the affidavits filed in November 2008 by the defendants, counsel submitted that no fresh allegations were leveled by the defendants in the said affidavits filed in evidence in the month of November, 2008 and if at all the plaintiff was aggrieved, then he was aggrieved by the allegations leveled by the defendants in the petition dated 1.2.2008 itself and through the said affidavit filed in November, 2008, the averments made by the defendants in their petition were only reiterated and if the period of limitation is reckoned from 1.2.2008 then the present suit filed by the plaintiff with respect to the said affidavit is again barred by limitation.

Secondly, that since the statements made by the defendants in the affidavits are covered under the defence of Absolute Privilege, thus, they are immune from action for defamation and consequently, suit is liable to be rejected under order 7 rule 11(d), CPC being barred by law. To support this argument, the counsel for the defendants submitted that since the proceedings before the Registrar Cooperative Society, before which the affidavit has been filed, are judicial proceedings, therefore, they are entitled to Absolute Privilege with respect to the contents of the said affidavit. The counsel further submitted that the said affidavit filed in November 2008 was nothing but a reiteration of the averments in the petition filed by the defendants seeking expulsion of the plaintiff from the said Society on 1.2.2008 and the defendants had a right to use whatever expressions in the pleadings and the affidavits filed in judicial or quasi-judicial proceedings and the same cannot be questioned or made basis for causing defamation, as every party to judicial proceedings enjoy Absolute Privilege and thus immune from any criminal or tortuous liability.

Thirdly, that the plaint is liable to be rejected also on the ground of disclosing no cause of action under order 7 rule 11(a) CPC since, at the time of the institution of the present suit the said proceedings before the Registrar were pending adjudication and no competent authority had decided the matter in favour of the plaintiff.

14. Refuting the first objection raised by the defendants, counsel for the plaintiff submitted that limitation is a mixed question of law and fact and therefore the same cannot be decided without giving opportunity to the parties to lead evidence. Counsel further submitted that the alleged notices were also circulated by the defendants and therefore the date of the circulation of the said notices are equally important and that can be established only in trial. Counsel also argued that plaint in this particular case cannot be

rejected under Order 7 Rule 11 CPC on the ground of limitation as for deciding an application under Order 7 Rule 11 CPC this court has to read the plaint as a whole and not the isolated facts contained in the plaint and then come to such conclusion. Counsel further submitted that apart from the notices from the defendants, allegations were leveled by defendant No. 1 in the affidavit filed by him in the month of November 2008 and if the limitation is reckoned from the said date the suit filed by the plaintiff is within the period of limitation in terms of Article 75 of the Act. In support of her arguments, counsel placed reliance on the following judgments:-

1. Sh. Vishnu Dutt Sharma Vs. Smt. Daya Sapra,

2. Popat and Kotecha Property Vs. State Bank of India Staff Association, .

Refuting the second objection, Counsel submitted that the proceedings held before the Registrar of the society are not entitled to Absolute Privilege as the Registrar of Society is neither a court nor a tribunal. Counsel also submitted that such contentious issues can to be only decided in trial and the plaint cannot be rejected at this stage without any trial. In support of this argument, Counsel placed reliance on the following cases:-

1. Pandey Surendra Nath Sinha and Another Vs. Bageshwari Pd., .

2. D.V. Singh Vs. Pritam Singh Taneja,

3. Ashok Kumar Vs. Radha Kishan Vij and others, .

Refuting the third objection, the counsel submitted that there exists a proper cause of action in filing the present suit for defamation as even the society has dismissed all the allegations leveled by the defendants against the plaintiff by its order dated 23 April 2010.

15. I have heard learned counsel for the parties and given my anxious consideration to the arguments advanced by them.

16. The following issues emerge out of the contentions of the rival parties:-

1. Whether the suit is barred by limitation and thus liable to be rejected under Order 7 Rule 11(d) CPC.

2. Whether the allegations leveled in the affidavits are immune from action for defamation as they are covered under the defence of Absolute Privilege and consequently, the plaint is liable to be rejected being barred by law under Order 7 Rule 11(d), CPC.

3. Whether there exists no cause of action in filing the present suit as the proceedings before the Registrar, Cooperative Society were still pending at the time of institution of the present suit and the plaint being filed prematurely is liable to be rejected under Order 7 Rule 11(a) CPC.

17. Deciding the first issue on limitation, it is clear from the averments made in the plaint that the notices containing defamatory material against the plaintiff were published and circulated by the defendants on 28.9.07 and 9.10.07 and the affidavits were filed by the defendants in November 2008. Article 75 of the Limitation Act, 1963 lays down limitation for claiming compensation for libel as one year from the date the libel is published and Section 9 of the Limitation Act, 1963 specifically lays down that once time has begun to run, no subsequent disability or inability to institute a suit stops it. The period of limitation, thus, started running from the dates 28.9.2007 and 9.10.2007 with respect to the two notices and the plaintiff has approached the court in the month of March, 2009 after around one and a half year of publication of the notices which is much after the lapse of limitation period of one year. The suit for defamation with respect to the defamatory allegations in the notices is, therefore, barred by limitation. So far as question of reckoning the limitation from the date of affidavits is concerned, it is clear that the said affidavits filed in the month of November, 2008 were nothing but a reiteration of the averments made in the petition filed on 1.2.2008. Therefore, calculating the limitation period from the date 1.2.2008, when the alleged defamatory allegations were first averred in the petition, the suit with respect to the said affidavits would be again barred by limitation as the suit has been filed after the lapse of the limitation period of one year.

18. Dealing with the next issue whether the statements made in the respective affidavits of the defendants are immune from an action for defamation being Absolutely Privileged, let me first discuss law on the tort of defamation.

19. As a principle of equity, every man is entitled to have his reputation preserved intact. A man''s reputation is his property and possibly more valuable than other properties, and any words calculated to cause harm to his reputation affords a good cause of action.

20. Odger says in his book on Defamation that "No man may disparage or destroy the reputation of another. Every man has a right to have his good name maintained unimpaired. Words which produce, in any given case, appreciable injury to the reputation of another are called defamatory, and defamatory words if false are actionable."

21. In Miller v. Thompson 1874 LR 9 CP 118, attempt is made to define defamation as exposing a person to contempt, ridicule, or public hatred or to prejudice him in the way of office, profession or trade.

22. Blackburn and George, in their Elements of Law of Torts, define defamation as a tort of publishing a statement which tends to bring a person into hatred, contempt or ridicule, or to lower his reputation in the eyes of right-thinking members of society generally, or which tends to make them shun or avoid that person.

23. Faulks Committee in England in 1875 defines Defamation as "Defamation shall consist of the publication to the third party of matter which in all circumstances would be likely to affect a person adversely in the estimation of reasonable people generally."

24. To claim that a particular statement is defamatory there should be publication to a third party and such publication should be of such a nature as is likely to cause appreciable injury to a person''s reputation. Defamatory words, if false are actionable. False defamatory words, if written and published, constitute a libel, if spoken, a slander. In libel, the defamatory statement is made in some permanent and visible form in writing or otherwise recorded, such as, printing, typing, pictures, photographs, caricatures, effigies. In slander, the defamatory statement or representation is expressed by speech or its equivalents, that is, in some other transitory form, whether visible or audible, such as, a nod, wink, smile, hissing, the finger-language of the deaf and dumb, gestures or inarticulate but significant sounds.

25. In an action for libel the plaintiff should prove that the statement complained of (1) refers to him; (2) is in writing, (3) is defamatory, and, (4) was published by the defendant to a third person or persons.

26. Some of the principle defences to an action for defamation under common law are Justification, Fair Comment, Absolute Privilege, Qualified Privilege etc.

27. Absolute Privilege is a special defence available in an action for defamation under the common law which has been recognized by the Indian courts in a catena of cases.

28. A statement is said to be Absolutely Privileged when it is of such a nature that no action will lie for it, however false and defamatory it may be, and even though it is made maliciously, that is to say, from some improper motive. These cases are extremely opposite to the ordinary cases of unprivileged defamation. When a statement is not privileged, it is actionable, however honest its publication may have been; but if it is Absolutely Privileged it is not actionable, however dishonest its publication may have been.

29. The wide principle which underlies the defence of privilege is the common convenience and welfare of the society as observed by Lord Uthwatt, in AIR 1949 106 (Privy Council) , on an appeal to the Privy Council from Ceylon.

30. The occasions for the Absolute Privilege may be grouped under the heads parliamentary proceedings, judicial proceedings and acts of State. We are concerned here with judicial proceedings.

31. The Kerela High Court in K. Daniel Vs. T. Hymavathy Amma, , explains the reason for conferring Absolute Privilege to the statements made in the course of judicial proceedings as below:-

It is imperative that judges, counsel and witnesses participating in the judicial proceedings must be able to conduct themselves without any apprehension of being called upon to answer a claim for damages for defamation. They must be able to act uninfluenced by any such fear. Freedom of speech on such occasions has to be totally safeguarded.

Hence it is necessary to protect the maker of such statements on such occasions. The privilege arises on account of privilege attached to the occasion and not to the individual....Basis of privilege is not absence of malice or the truth of the statement or the intention of the maker, but public policy. Any restriction on privilege during the occasion would create constraints in the process of administration of justice.

Quoting the extracts from the judgment of Fry L.J. in Munster v. Lamb, (1883) 11 QBD 588, the court went on to say that

In public interest it is not desirable to inquire whether the words or actions of these persons are malicious or not. It is not that there is any privilege to be malicious, but that so far as it is a privilege of an individual and a right of a public, the privilege is to be exempted from all enquiries as to malice.

32. The Patna High Court in Pandey Surendra Nath Sinha and Another Vs. Bageshwari Pd., observed that:-

It is not that there is any privilege to be malicious. The reason for the doctrine is that it is desirable that persons who occupy certain positions, for example, Judge, Advocates, and witnesses, in the course of legal proceedings, should be permitted to express themselves with complete freedom; and to secure their independence, Absolute Privilege is given to their acts and words, so that they should not be brought before other Courts for inquiry merely on the allegation that they were malicious. It is a striking instance of the subordination of the individual''s interest to that of the community.

33. Their Lordships of Privy Council so far back as 1872 in Baboo Dutt Singh v. Mugneeram, (1873) 1 Beng LR 324, laid down that it concerns the public and the administration of justice that witness giving evidence on oath in a court of justice should not have before their eyes the fear of being harassed by a suit for damages but the only penalty which they should incur if they have given their evidence falsely should be an indictment for perjury.

34. In an Allahabad case, Ali Mohammad Vs. Manna Lal , the party to the suit had put in an application containing a defamatory statement which formed the basis of the suit for damages. It was held that Absolute Privilege attached to the said statement on the principle that there is an Absolute Privilege for parties, witnesses, counsels, jury or judges in regard to words spoken in office, and this privilege extends to the statements in the affidavits made by parties or witnesses. This case followed its own Full Bench decision in the case Chunni Lal Vs. Narsingh Das, which expressly laid down that defamatory statements made in the course of judicial proceedings were not actionable on the ground of Absolute Privilege. Similar has been held by the Rangoon and the Bombay High Court in 154 Ind. Cas. 535 (Rangoon) and Gangappagouda Gadigeppagouda Patil Vs. Basayya Shivarudrayya Lingad, , respectively.

35. Discussing the scope and extent of Absolute Privilege, the Madras High Court in Duraiswami Thevan Vs. K.N.K.L. Lakshmanan Chettiar, , held that:-

The law conferring privilege on the party is not that the statement on which the privilege is based must be relevant in the narrow sense of that word; it suffices if the statement is made with reference to the subject of the enquiry, or is relative to the matter in hand. The words ''subject to the enquiry'' ought to have a very wide and comprehensive application and ought to extend to a statement which a party or a witness might naturally & reasonably make when giving a statement with reference to the matter in hand.

36. The doctrine of judicial privilege has, in process of time, developed, and, now, it has been extended to tribunals exercising functions equivalent to those of an established Court of justice.

The court in Pandey Surinder Nath Singh''s case (supra), observed that:-

This privilege extends to all Courts, superior or inferior, civil or revenue or military. It applies not only to all kinds of Courts of justice, but also to other tribunals recognised by law and acting judicially. The privilege, although it extends to tribunals acting in a manner similar to Courts of justice, does not, however, apply to tribunals which merely discharge administrative functions, or to officials possessing merely administrative as opposed to genuine judicial functions, and it makes no difference that in the performance of these administrative functions they exercise a judicial discretion. The privilege attaches not merely to proceedings at the trial, but also to proceedings which are essentially steps in judicial proceedings, including statements in pleadings. This privilege, therefore, will also apply to Officers of Court, who may have a duty to report in the course of a judicial proceeding.

37. The law on the subject is stated by Lord Isher in Royal Aquarium and Summer find Winter Garden Society v. Parkinson (1892) 1 QB 431 at p. 442, where the noble Lord says that:

the privilege, applies wherever there is an authorised inquiry, which though not before a Court of justice, is before a tribunal which has similar attributes........

38. The above statement of the law on the subject was stated to be accurately laid down by Lord Esher and was quoted with approval, by Lord Atkin, in AIR 1935 3 (Privy Council) . Lord Atkin, at p. 4, said:-

The question therefore in every case is whether the tribunal in question has similar attributes to a Court of justice or acts in a manner similar to that in which such Courts act. This is of necessity a differentia which is not capable of very precise limitation. It is clear that the functions of some tribunals bring them near the line on one side or the other; and the final decision must be content with determining on which side of the line the tribunal stands. There must be remembered on the one hand the public policy which protects the independence of the Judge; and on the other the public policy which requires that a citizen''s reputation must be protected against false and malicious defamatory statements." Their Lordships, in the above case, held that a Commissioner appointed under the Combines Investigation Act is not such a tribunal having attributes similar to those of a Court of justice.

39. In Lincoln v. Daniels (1960) 3 All ER 205; Q. B. D., Salmon J., held that complaints made to the General Council of the Bar concerning the conduct of a member of the Bar are protected in proceedings for defamation by qualified privilege, but not by Absolute Privilege, since that body have no power, to carry out judicial or quasi-judicial functions and, accordingly, any document addressed to them cannot be regarded as setting in motion judicial or quasi-judicial proceedings.

40. It follows, therefore, and, it is also quite plain, from the above decisions, that the doctrine of judicial privilege, even when extended to tribunals exercising functions equivalent to those of an established Court of justice, applies where there is an authorised enquiry, which though not before a Court of justice, is before a tribunal which has similar attributes.

41. The essence of the rule of Absolute Privilege, therefore, is that the complaint must be addressed to a body which has judicial functions, or, quasi-judicial functions, and, the complaint must be a step in setting in motion judicial or quasi-judicial proceedings.

42. Observing the facts of the present case in the background of the law & the principles discussed above, the present suit for defamation is based on the defamatory statements contained in the affidavits filed by the defendants in the proceedings before the Registrar of the Cooperative Society, Delhi. In my view, the proceedings before the Registrar of the cooperative society are quasi-judicial in nature.

43. Reference may be made to the various sections of the Delhi Cooperative Societies Act, 2007 which go on to establish that the Registrar, Cooperative Society discharges adjudicatory and quasi-judicial functions.

60. Disputes which may be referred to arbitration.- (1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society arises - Among members, past members and persons claiming through members, as members and deceased members, or between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society or liquidator, past or present, or between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the

society, or between the society and any other co-operative society, between a society an liquidator of another society or between the liquidator of one society and the liquidator of another society, such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute;

61. Reference of disputes to arbitration.-(1) The Registrar may, on receipt of the reference of dispute u/s 60,- Decide the dispute himself, or transfer if for disposal to any person who has been invested by the Lieutenant Governor with powers in that behalf, or refer it for disposal to one arbitrator. The Registrar may withdraw any reference transferred under clause (b) of sub section (1) or referred under clause (C) of that sub section and decide it himself or refer the same to another arbitrator for decision.

The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice;

74. Registrar or person empowered by him to be civil court for certain purposes.-The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid-of such recovery, to be civil court for the purpose of article 136 of the Schedule to the Limitation Act, 1963 (36 of 1963); etc.

Also, referring to section 56 contained in Chapter XV of the bye-laws of the Cooperative Group Housing Society Ltd., the same reads as:-

If any dispute touching the constitution or the business of the Society arises between members or past members of the Society or person claiming through a member or past member of the Society (past or present) or between the Society and any officer, member or servant of the Society (past or present) it shall be referred to the Registrar as provided in the Act and the Rules made thereunder.

44. Here, it would be relevant to cite the observations made by the Delhi High Court in the case The Punjabi Bagh Cooperative Housing Society Limited Vs. K.L. Kishwar and Another, , which are reproduced below

...the Joint Registrar, under the Societies Registration Act has the authority to look into the grievances of the members of the registered Society as also the conduct of affairs of the society by its office bearers. Therefore, if any member of the Society makes a complaint against the office bearers of the Society regarding the affairs of the Society and in the process makes some defamatory statements only in regard to the conduct of such office bearers in the management of the aforesaid Society such occasions cannot constitute defamation...

45. Thus to conclude, the statements made in the affidavit being filed by the defendants in the course of judicial proceedings before the Registrar of the Society is Absolutely Privileged and for the said reason cannot be made basis for any defamatory action. In the light of this observation, the present plaint deserves to be rejected under Order 7 Rule 11(d), CPC, 1908 being barred by law.

46. Decision on the second issue in favour of the defendants that the statements in the affidavit are entitled to Absolute Privilege automatically disposes of the third issue. Once the statements are held to be Absolutely Privileged, they would always remain privileged and the issue whether the plaint was prematurely filed pending adjudication by the Registrar of the Society is of no significance. In the result, the aforesaid application for rejection of plaint under Order 7, Rule 11, CPC filed by the defendants is allowed and the plaint is rejected as barred by law as discussed above. Accordingly, the suit as well as the application IA NO. 8164/2011 stands disposed of.