



**Code Of Civil Procedure 1908 |  
Application Under Order Vii Rule 11  
Cannot Be Rejected On The Ground  
That Written Statements Is Not Filed**



CIVIL

# Code Of Civil Procedure 1908 | Application Under Order Vii Rule 11 Cannot Be Rejected On The Ground That Written Statements Is Not Filed

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The Hon'ble Karnataka High Court ("HC") on 24<sup>th</sup> June 2024, passed an order<sup>[1]</sup> pronouncing that, **"The filing of a written statement is not a condition precedent for considering an application under Order VIII Rule 11 of Code of Civil Procedure, 1908."**

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## Facts of the Case:

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The contention of the Petitioner in this matter, was with regards to the undervaluation of the plaint filed by the Original Plaintiff. The Petitioner had filed an Application ("**said Application**") under Order VII Rule 11 of the Code of Civil Procedure 1908 ("**Code**") seeking rejection of the plaint on the ground that the plaint filed was undervalued and proper court fees under the Karnataka Court Fees and Suit Valuation Act 1958 ("**the Act**") was not paid.

Per order dated 28<sup>th</sup> November 2023 ("**Impugned Order**"), passed by the Trial Court, the aforesaid Application filed by the Petitioner was rejected. The observations made by the Trial Court was that any contention / objections related to insufficiency or otherwise with respect to stamping or court fees must be raised in the written statements. Further, as the Petitioner / Original Defendant had failed to file its written statement, hence, the said Application was rejected.

As a recourse, the Petitioner filed the present petition to set aside the abovementioned Impugned Order.

## Issue Raised By the Hon'ble High Court:

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The issue before the Hon'ble HC for determination and review was –

Whether written statement by the Defendant to aver the impropriety of Court fee is an essential aspect under Order VII Rule 11 of the Code?

## Contentions of the Parties:

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The Ld. Counsel for the Petitioner argued that the said Application can be considered without written statement being filed by the Petitioner / Original Defendant since filing of written statement is not an important parameter before filing of the said Application.

The Ld. Counsel on behalf of the Respondent Nos. 1, 2, 3 and 6 argued that the courts must consider submissions made in the written statements to conclude on insufficiency or otherwise of the court fee as per Section 11(2) of the Act.

## Observations of the Hon'ble High Court:

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The Hon'ble HC made the following observations:

1. Order VII Rule 11 (b) and (c) of the Code addresses two situations where a plaint can be rejected:
  1. The relief claimed in a plaint is undervalued and the Plaintiff fails to correct the valuation within the specified time set by the Court;
  2. The relief sought is accurately valued but the plaint is not composed on appropriate paper.
1. That when the court is implementing clauses (b) and (c) of Rule 11 Order VII of the Code, it should adhere to a two-fold procedure:
  1. First, the court must ascertain the appropriate Court fee that is to be paid and to give the Plaintiff an opportunity to make the payment.
  2. Second, if the prescribed Court fee is not paid within the specified timeframe, the plaint must be dismissed.

The Hon'ble HC further observed that the Clauses (b) and (c) of Rule 11 Order VII does not mention anything with respect to written statements. Furthermore, it is well-established legal principle that when an application filed under Rule 11 Order VII of the Code is assessed, only the contentions made in the plaint must be taken into account, and not those in the Defendant's written statement.

## Conclusion:

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Hence, the Hon'ble HC ruled in favour of the Petitioner by stating that filing of written statement prior to filing of an application under Rule 11 Order VII of the Code is not required.

Moreover, the Hon'ble HC set aside the Impugned Order and stated that the Trial Court had erred in rejecting the said Application and they are not permitted to reject an applications under Rule 11 Order VII of the Code on the ground that written statements have not been filed by the Defendant.

Authors are of the opinion that this decision is anchored in procedural fairness and is based on the rule itself. The rationale of the court behind not permitting the rejection only due to the absence of a written statement is to avoid premature dismissals of cases without examination of the merits, by focusing more on Plaintiff's claim rather than procedural formalities like the production of a written statement.

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<sup>[1]</sup> [Admar Mutt Kaliya Mardana Krishna Devaru v. Vishalakshi & Ors.](#), Civil Revision Petition 12 of 2024.