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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

reserved on: 4 February 2026
pronounced on: 20 April 2026

\+ RFA(OS)(COMM) 38/2025 & CM APPL. 80125/2025

CASTROL LIMITED .....Appellant
Through: Mr. Urfee Roomi, Ms. Janaki Arun, Ms. Anuja Chaudhary and Mr. Arpit Singhal, Advs.

versus

SANJAY SONAVANE AND ORS .....Respondents
Through: Mr. Adarsh Ramanujan, Mr. Parth Singh, Mr. Gaurav Sharma and Mr. Madhav Anand, Advs. for R-1
Ms. Anuparna Chatterjee, Adv. for R-5

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

% JUDGMENT
20.04.2026

C. HARI SHANKAR, J.

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A. The *lis*

1. Castrol Ltd.[1] instituted two suits against Sanjay Sonavane.

2. In CS(Comm) 855/2025[2], there are two defendants. The first defendant was Sanjay Sonavane and the second defendant was Indilube Petro Specialty Pvt. Ltd[3], in which Sanjay Sonavane was a Director.

3. In CS(Comm) 946/2025[4], there were five defendants apart from Sanjay Sonavane, who was Defendant 1. Defendant 2 was Daily Bhramar, Defendant 3 was Maharastra Bulletin, a digital news agency, and Defendant 4 was Saksham Times Media Foundation, which was alleged to be owning and operating the newspaper Saksham Police Times. Defendant 5 was Google LLC, which owned the YouTube platform and Defendant 6 were unknown defendants impleaded under

[1] "Castrol" hereinafter
[2] "the first suit" hereinafter
[3] "Indilube" hereinafter
[4] "the second suit" hereinafter

the appellation Ashok Kumar/John Doe.

4. A learned Single Judge of this Court has, by judgment dated 24 November 2025, dismissed CS (Comm) 946/2025 as being barred by Order II Rule 2[5] of the Code of Civil Procedure[6]. The appellant has been granted liberty to amend CS (Comm) 855/2025 to bring on record subsequent developments and implead necessary parties in accordance with law.

5. Aggrieved thereby, Castrol has instituted the present appeal.

6. We have heard Mr. Urfee Roomi, learned Counsel for Castrol, Mr. Adarsh Ramanujan for Respondent 1 and Ms. Anuparna Chatterjee, learned Counsel for Respondent 5 Google LLC at length.

B. The issue

7. The limited issue which arises for consideration is, therefore, whether CS (Comm) 946/2025 was barred by Order II Rule 2 of the

[5] **2. Suit to include the whole claim**. –
(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.
(2) *Relinquishment of part of claim.*—Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.
(3) *Omission to sue for one of several reliefs.*—A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.
Explanation.—For the purposes of this rule an obligation and a collateral security for its performance and successive claims arising under the same obligation shall be deemed respectively to constitute but one cause of action.

[6] "CPC" hereinafter

CPC.

C. Facts

8. In order to determine the above issue, it would be necessary for us to examine, holistically, the exact facts and averments pleaded in the two suits and the cause of action from which they arise.

I. CS (Comm) 855/2025 – the first suit

9. The prayer clause in the first suit reads thus:

> "65. In view of the aforesaid facts and circumstances, it is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to grant the following reliefs in favour of the Plaintiff, and against the Defendant:
>
> a. An order for declaration under Section 142 of the Trade Marks Act, 1999, that the Plaintiff's 3X Marks, including 
>
> , do not infringe the Defendant's rights in the Defendant's 3P Marks, including 
>
> ;
>
> b. An order for declaration under Section 60 of the Copyright Act, 1957 that the Plaintiff's 3X Marks, including 
>
> , do not infringe the Defendant's copyright in the Defendant's 
>
> work;

c. An order for permanent injunction restraining the Defendant and any other individuals, officers, managers, employees, agents, dealers, licensees, companies, retailers, or any other persons/entities that are related or affiliated to the Defendant, individually or collectively, as the case may be, and all others, acting for and on behalf of the Defendant, from instituting a civil suit and/or criminal complaint, or taking any other action, alleging infringement of the Defendant's 3P Marks against the Plaintiff, or the Plaintiff's Indian subsidiary, Castrol India Limited, and/or any of the Plaintiff's authorized distributors;

d. An order for damages in the sum of Rs. 20,000,500/- (Rs. Two Crores Five Hundred) to be paid by the Defendant to the Plaintiff for issuing groundless threats and for causing severe mental and physical harassment and financial losses caused to the Plaintiff and its distributors due to the Defendant's false and ma]a fide accusations and proceedings.

e. An order for costs of the proceeding; and

f. Any other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case;"

10. Castrol, as the plaintiff in the first suit, asserted that it possessed registration, under Section 23 of the Trade Marks Act 1999, in respect of the following marks, in class 4:

S.No.	Mark	Reg/App Date
1.		10/03/2000
2.	ACTIV	25/01/1999
3.	CRB	19/05/2000
4.		23/02/2012

5.		17/10/2023

11. Castrol further pleaded that it was using the distinctive 3X PROTECTION / 3X PROTECTION logo. It was submitted that the 3X in the said logo was intended to signify that the engine oil of the appellant offered protection to automobile engines at all three stages of the ride, i.e. start-up, running and even when the engine was turned off. It was further pleaded that, by dint of continuous and uninterrupted use, the aforenoted marks, including the 3X PROTECTION / 3X PROTECTION logo had become a source identifier of Castrol and were invariably associated, in the minds of the consuming public, with the engine oils and lubricants manufactured and sold by Castrol. It was further pleaded that Castrol's packing constituted a protectable trade dress within the meaning of Section 2(1) (m) of the Trade Marks Act.

12. Castrol further pleaded that its logos and device marks were "artistic works" within the meaning of Section 2(1)(c) of the Copyright Act 1957 and were duly entitled to protection thereunder.

13. Castrol also asserted accumulation of goodwill and reputation by use of the aforesaid marks. It had substantial sales in India and had been spending towards advertisements and promoting the marks since 2018. Several celluloid and other public figures had acted as brand ambassadors for Castrol.

14. Sanjay Sonavane was the registered proprietor of the  device mark registered under Section 23 of the Trade Marks Act in class 4 with effect from 1 February 2012, claiming user of the mark from 9 December 2011. Castrol pleaded that registration of the mark, as granted to Sanjay Sonavane, was liable to be cancelled as the registration was violative of Section 9(1)(b) of the Trade Marks Act.

15. Sanjay Sonavane also held a copyright registration for the aforesaid  mark under the Copyright Act, 1957.

16. Having thus set out the specifics of the marks used by Castrol and by Sanjay Sonavane, the plaint in the first suit went on to refer to the events which provoked its institution. On 9 August 2025, a police raid took place at the premises of Shivay Agencies, Dindori, District Nashik, Maharashtra, which was an authorized distributor of Castrol's products. Inquiries revealed that the raid had taken place because of a complaint submitted by Sanjay Sonavane alleging that the "3X

Marks" of Castrol infringed the "3P Marks" of Sanjay Sonavane. Sanjay Sonavane also got registered, on the same ground, an FIR against Castrol and Jitendra Omprakash Agrawal, the owner of Shivay Agencies, on 9 August 2025 under Sections 63[7] of the Copyright Act read with Section 318(3)[8] of the Bhartiya Nyaya Sanhita[9].

17. During the raid, the police seized large quantities of Castrol's original products from the premises of Shivay Agencies. It was further asserted, in the plaint, that, during the raid, the respondents threatened to take civil law proceedings against Castrol for trade mark and copyright infringement of the respondent's "3P Marks".

18. Prior to this, on 6 August 2025, the respondents had published, in the Deshdoot Marathi Newspaper, a caution notice, alleging infringement of Sanjay Sonavane's "3P Marks" by various marks which included Castrol's "3X marks". Castigating the said caution notice as baseless and frivolous, the plaint went on to assert that various newspapers also carried coverages of the seizure and the events which transpired at the time, thereby irreparably tarnishing

[7] **63. Offence of infringement of copyright or other rights conferred by this Act**. – Any person who knowingly infringes or abets the infringement of—

(a) the copyright in a work, or

(b) any other right conferred by this Act except the right conferred by Section 53-A,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

Provided that where the infringement has not been made for gain in the course of trade or business the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.

[8] (3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Castrol's image. It was further alleged that, on a YouTube channel, run by Maharashtra Bulletin, there was a detailed report with respect to the seizure, alleging that Castrol had infringed the respondents' copyright and trade mark. The report also carried a video of the raid which took place on 9 August 2025.

19. Castrol alleged, in the plaint, that the short distance of time which elapsed between the registration of the FIR and raid which took place at Shivay Agencies premises and the various newspaper articles and YouTube videos, indicated that the news articles and the YouTube video were engineered at the instance of the respondents.

20. Given the nature of the controversy in the present case, it is necessary to reproduce paras 34 to 39 of the first suit, thus:

> "CAUTION NOTICE ISSUED BY THE DEFENDANT THREATENING THE PLAINTIFF
>
> 34. It has also come to the Plaintiff's attention that, in addition to the grossly illegal criminal raid conducted at the Plaintiffs authorized distributor's premises, the Defendant has also got published a baseless and frivolous public caution notice, in a Marathi local newspaper, namely, Deshdoot, on August 6, 2025. Copy of this caution notice issued by the Defendant No. 1 is annexed hereto and marked as DOCUMENT- 19. Under this notice, the Defendant claims that it has built goodwill and reputation in the Defendant's 3P Marks. More importantly, the Defendant proclaims in the said notice that it has come to know of certain "unscrupulous" manufacturers and sellers who are using marks identical/similar to the Defendant's 3P Marks, which as per the Defendant would i11clude, but are not limited to, "3X PROTECTION, 3X, 3X MAX, 3P TECH, 3P MAX, 3X ACTIVE, 3P POWER, 3P PERFORMANCE, 3P PICKUP, 3PX, 3N, 3S, 3T,

[9] "BNS" hereinafter

3T TECHNOLOGY". The Defendant claims that use of these marks without the Defendant's autl1orization would constitute infringement of the Defendant's 3P Marks under the Trade Marks Act and the Copyright Act. The Defendant has also issued a threat under this notice that any person, firm, or company, that is found manufacturing, storing, selling, offering for sale, or dealing in goods bearing the aforesaid allegedly infringing marks would be liable for civil and criminal action.

35. It is clear from the aforenoted caution notice that the Defendant is baselessly threatening the Plaintiff of infringement and passing off in relation to the Defendant's 3P Marks, since the notice explicitly sets out the word/marks "3X PROTECTION", "3X", "3X MAX", "3X ACTIVE", which are admittedly used by the Plaintiff on its engine oil packaging. As such, this notice would suffice to constitute a groundless threat as provided under Section 142(1) of the Trade Marks Act, 1999 and Section 60 of the Copyright Act, 1957.

MEDIA COVERAGE OF SEIZURE CARRIED OUT BY POLICE AT PREMISES OF PLAINTIFF'S AUTHORIZED DISTRIBUTOR

36. Within a day or two of the aforementioned seizure operation having been conducted at the premises of the Plaintiff's authorized distributor, the Plaintiff was shocked to learn that certain newspapers having appreciable circulation in Maharashtra had published news a1ticles pertaining to the seizure operation conducted at the behest of the Defendant. These articles paint an absolutely misleading picture of the Plaintiff and its distributors and pose a real risk of tarnishing the Plaintiff's image irreparably. Copies of some of these news articles, along with their English translations, are annexed herewith and marked as DOCUMENT-20.

37. Additionally, the Plaintiff has also come across a video news report, published on YouTube by a channel, namely, Maharashtra Bulletin, about the seizure carried out by the Nashik police at the premises of the Plaintiff's authorized distributor. The video can be accessed at the link: https://www.youtube.com/watch?v= qVNsExrlLk. Screenshot of this YouTube video is annexed herewith and marked as DOCUMENT - 21. The narrator in the video describes that the Nashik police have uncovered copyright and trade mark infringement activities being carried out at the godown of Shivay

> Agencies in Dindori, Nashik, upon receipt of a complaint in this regard from the Defendant No. 1. The news report contains many stills and videos of the police carrying out the seizure operation at Shivay Agencies' godown, wherein, incidentally, many stills of original Castrol branded products kept at the premises are also included. Interestingly, the video news report does not make any effort towards explaining what were the "infringing" products that were seized by the police, or which engine oil brand was Shivay Agencies allegedly found duplicating. Any person who were to view this news report would be led to assume, on account of the prominent visibility of a large amount of Castro I branded products at the premises in this video, that Shivay Agencies has been rounded up for selling counterfeit Castrol products, which is not the case at all.
>
> 38. The manner in which the local police conducted the seizure operation at the premises of the Plaintiffs authorized distributor, seizing nothing but the Plaintiffs original products, despite the Plaintiff clarifying it to the police personnel that the marks and packaging fixated onto the Plaintiffs products are all original trade marks of none other than the Plaintiff, reeks of a collusion between the police and the Defendant No. 1. As such, it would not be too far-fetched to assume, given the undue haste with which the news articles and reports covering the seizure from the Plaintiff's authorized distributor have been published, that these news articles have also been published at the behest of the Defendant.
>
> 39. Though the real reason or motivation of the Defendant behind these acts remains unknown, the Plaintiff apprehends that, by going after the individual distributors of the Plaintiff and having large amounts of their stocks seized by colluding with the police, the Defendant seeks to scuttle the Plaintiff's business at least to some extent, so that he can take advantage of the opportunity and carve out a market for himself."

21. In order to substantiate its case that the threats held out by the respondent were groundless, Castrol asserted, in its plaint that, its "3X mark" did not, in any way, infringed the respondents' "3P mark. The rival packagings were also completely distinct from each other. A comparison of the rival marks and packings were provided thus:

Plaintiff's 3X Protection Mark/Packaging	Defendant's 3P Marks/Packaging
3X PROTECTION	3P FORMULATION
	

22. Castrol also invoked, for its stands that Castrol's 3X mark did not infringe Sanjay Sonavane's 3P mark, Section 17(2)[10] of the Trade Marks Act which does not permit exclusivity, in the case of a composite mark, to be pleaded on the basis of any individual part of the mark which is not separately registered as a trade mark. It was further asserted that, even if the dominant part test were to be applied

[10] (2) Notwithstanding anything contained in sub-section (1), when a trade mark—
(a) contains any part—
(i) which is not the subject of a separate application by the proprietor for registration as a trade mark; or
(ii) which is not separately registered by the proprietor as a trade mark; or
(b) contains any matter which is common to the trade or is otherwise of a non-distinctive character,
the registration thereof shall not confer any exclusive right in the matter forming only a part of the whole of the trade mark so registered.

to the rival marks and "3X" and "3P" were to be treated as the dominant parts of the rival marks, the marks, when seen as wholes, were not deceptively similar.

23. In these circumstances, Castrol asserted that Sanjay Sonavane was holding out groundless threats to it, alleging infringement of trade mark and copyright, by Castrol, of his marks, where no such infringement actually existed.

24. Para 59 of the plaint set out the cause of action on which it was based, thus:

> "CAUSE OF ACTION
>
> 59. The cause of action arose for the first time in this matter on August 9, 2025, when the Defendant, along with the local police, visited the premises of the Plaintiffs authorized distributor in Jondhale Warehouse, Nashik and seized large amounts of authentic and original products of the Plaintiff on the baseless and unfounded ground that they infringe the Defendant's copyright in the Defendant's 3P Marks, since they contain the Plaintiff's 3X Marks. The cause of action continued thereafter when the Plaintiff came across the caution notice issued by the Defendant (copy already annexed as DOCUMENT - 19), whereby the Defendant explicitly mentioned the Plaintiffs marks, including the marks 3X, 3X PROTECTION, 3X MAX, 3X ACTIVE, as amounting to infringement of the Defendant's 3P Marks. The cause of action is continuing since the Plaintiff continues to have a real and credible threat, based on the Defendant's said criminal complaint and the above-said caution notice, that the Defendant will also file a trade mark and copyright infringement suit against the Plaintiff for the Plaintiffs use of the 3X Marks. The cause of action shall continue to subsist till such time this Hon'ble Court declares that the Plaintiffs use of the 3X Marks as not infringing the Defendant's copyright and trade mark in the Defendant's 3P Marks, and till such time the Defendant is not permanently injuncted from instituting a trade mark and copyright infringement proceedings against the

> Plaintiff and/or its distributors in respect of the Defendant's 3P Marks."

25. Following the above assertions, and allegations, the first suit concluded with the prayers which already stand reproduced in para 8 9 supra.

II. CS (Comm) 946/2025 - The second suit

26. We may note, at the very outset, that, though a prayer for injunction on the ground of infringement has been included in clause (b) of the prayer clause in the second suit, there are no real pleadings in the plaint which would support the allegation of infringement. The plaint in the second suit reiterated the assertions in the first suit with respect to the registrations held by Castrol in respect of various trade marks, as well as its goodwill and reputation. The assertion that the 3X mark had become a source identifier of Castrol was also reiterated.

27. Apropos the respondents, the plaint in the second suit also noted the fact that Sanjay Sonavane was the registered proprietor of the  mark in class 4 under Section 23 of the Trade Marks Act. As in the case of plaint in the first suit, the plaint in the second suit also asserted that the said registration was liable to be cancelled as being violative of Section 9(1)(b) of the Trade Marks Act. The copyright registration held by Respondent 1 in the  device mark was

also disclosed in the plaint.

28. Thereafter, the plaint went on to refer to the seizure conducted by the police at the premise of Shivay Agencies on 9 August 2025 following the copyright infringement complaint and the FIR lodged by Sanjay Sonavane. The assertions and allegations with respect to the said complaint, the FIR, and the raid which took place at the premises of Shivay Agencies are identical to those contained in the plaint in the first suit.

29. The plaint further goes on to reiterate the facts relating to the seizure of the goods manufactured by the Castrol from the premises of Shivay Agencies. Thereafter, the plaint also reiterates the facts relating to the publication, allegedly by Sanjay Sonavane, of the caution notice in the Deshdoot Newspaper on 6 August 2025. Thus far, the asseverations and assertions in the second suit were all contained in the first suit. From para 38 onwards, however, the second suit contains further assertions and allegations with respect to the alleged disparagement of the appellant by the respondents. These allegations involve Defendants 2 to 4 in the second suit, who were not defendants in the first suit.

30. The plaint in the second suit goes on to allege, in para 38, that Daily Bhramar, who was the second defendant in the second suit, through its newspaper Dainik Bhramar, published an article titled

"कॉपीराइट कायद्याअंतर्गत दिंडोरीत एका एजन्सीवर कारवाई"[11], which featured the premises of Shivay Agencies and the original products of Castrol, bearing its marks. The plaint alleged that the article stated that the raid was conducted at the premises of Shivay Agencies after concrete evidence of storage of goods which violated copyright law was found. It was further alleged, in the article, that the police had found, during inspection, mini packets which carried already registered trademarks and copyright and that some of the logos were so designed that they closely resembled registered trademarks, which could cause harm to the original trademark owners.

31. On the same day, the plaint alleged that Saksham Police Times, the fourth respondent herein and the fourth defendant in the plaint, also published an article titled 'कॉपीराइट कायदा अंतर्गत दिंडोरी पोलिसांची कारवाई'[12], carrying similar images of the premises of Shivay Agencies, the products of Castrol present therein and allegations that the goods were found to be violating the registered trademarks and copyright of others.

32. The plaint alleged that the articles published by Dainik Bhramar and Saksham Police Times painted a misleading picture of the two events relating to the raid, and were one sided and was based on half baked truths, which were likely to irreparably tarnish Castrol's

[11] English Translation.: Action taken against a company in Dindori over copyright violation
[12] English Translation: "Dindori Police Action under Copyright Law"

reputation.

33. The plaint further alleged that, on the next day, i.e., 11 August 2025, Maharashtra Bulletin published a video on its YouTube platform titled 'कॉपीराइट उल्लंघनपर दिंडोरी पुलिस की बड़ी कार्रवाई'[13]. The allegations with respect to the said YouTube video are the same as those which were contained in the plaint in the first suit. However, in the second suit, the plaint further stated that the video alleged that all engine oils manufactured by the Castrol were substandard and infringed the rights of the other registered proprietors and cautioned consumers against purchasing Castrol's products which were stated to be spurious.

34. The plaint further went on to allege that, on 19 August 2025, Castrol came to learn that Sanjay Sonavane had been circulating messages on a WhatsApp group titled "Experts @ Lubricants", consisting of engine oil and lubricant manufacturers all over India, threatening that further criminal raids would be conducted. On the said platform, Sanjay Sonavane shared a link to the video uploaded by the third respondent Maharashtra Bulletin, with the information that further criminal action had been initiated by the Nasik Police.

35. Based on the above assertions of fact, the plaint went on to allege that, in order to gain an unfair advantage over Castrol in the

[13] English Translation: "Dindori Police Station took big action on a case involving copyright violation"

motor oil and lubricants business, Sanjay Sonavane had embarked on a disparaging and defamatory campaign against Castrol misusing, in the process, the media as well as social media platforms. It is not necessary, for the limited purpose of this judgment, to detail all the assertions contained in the plaint in that regard. Suffice it to state that the plaint categorically averred that, owing to the said tirade launched by Sanjay Sonavane against Castrol, Castrol's reputation had been irreparably tarnished.

36. Following these assertions, Castrol concluded the second suit with the following prayer clause:

> "58. In view of the aforesaid facts and circumstances, it is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to grant the following reliefs in favour of the Plaintiff, and against the Defendants:
>
> a. An order for permanent injunction restraining the Defendant Nos. 1 to 4 and 6, and any other individuals, officers, managers, partners, employees, agents, dealers, licensees, related/affiliated companies, retailers, wholesalers, distributors, franchisees, representatives and assigns or any other persons/entities that are related or affiliated to the Defendant Nos. 1 to 4 and 6, individually or collectively, as the case may be, and all others, acting for and on behalf of the Defendant Nos. 1 to 4 and 6, from issuing, telecasting, posting, re-posting, uploading, sharing, publishing, circulating the media articles and videos or in any manner disparaging the goodwill and reputation of the Plaintiff and/or its directors, distributors, agents, etc., and using the Plaintiff's marks (as shown in paragraph 4), whatsoever including the electronic media, social media, including WhatsApp groups and YouTube channels, print media, etc.;
>
> b. An order for permanent injunction restraining the Defendant Nos. 1 to 4 and 6, any other individuals, officers,

managers, partners, employees, agents, dealers, licensees, related/affiliated companies, retailers, wholesalers, distributors, franchisees, representatives and assigns or any other persons/entities that are related or affiliated to the Defendant Nos. 1 to 4 and 6, individually or collectively, as the case may be, and all others, acting for and on behalf of the Defendant Nos. 1 to 4 and 6, from making any unauthorized use of and/or using the trade marks, brand name, trade name, copyright content, advertisements, packaging, labels and logo of the Plaintiff, including the CASTROL ACTIV products or any of its variants in any manner that is denigrating/disparaging to the Plaintiff and its marks/brand/products, or in any manner which infringes the Plaintiff's rights in the Plaintiff's marks and packaging (as shown in paragraph 4);

c. An order for permanent injunction restraining the Defendant Nos. 1 so 4 and 6, and any other individuals, officers, managers, partners, employees, agents, dealers, licensees, related/affiliated companies, retailers, wholesalers, distributors, franchisees, representatives and assigns or any other persons/entities that are related or affiliated to the Defendant Nos. 1 to 4 and 6, individually or collectively, as the case may be, and all others, acting for and on behalf of the Defendant Nos. 1 to 4 and 6 from using the depiction or name of the Plaintiff, its and/or its directors, distributors, agents, etc. or any of the Plaintiff's products in its articles, publications, videos, reels, etc. or in any manner disparaging the goodwill and reputation of the Plaintiff and its marks/brand/products;

d. An order of mandatory injunction directing the Defendant Nos. 1 to 4, and any other individuals, officers, managers, partners, employees, agents, dealers, licensees, related/affiliated companies, retailers, wholesalers, distributors, franchisees, representatives and assigns or any other persons/entities that are related or affiliated to the Defendant Nos. 1 to 4, individually or collectively, as the case may be, and all others, acting for and on behalf of the Defendant Nos. 1 to 10:

(i) take down/remove/block the media articles and videos titled "कॉपीराइट उल्लंघनपर दिंडोरी पुलिस की बड़ी कार्रवाई" (English Tranul. Dindori Police Station took big action on case involving

copyright violation) from YouTube: https://www.youtube.com/watch?v=qVNsExrlLk, and article titled "कॉपीराइट कायद्या अंतर्गत दिंडोरीत एका एजन्सीवर कारवाई" (English Transl.: Action taken against a company in Dindori over copyright violation) from e-paper available online as well as on the website located at www.dainikbhramar.com and from any other digital mediums and/or platforms on the Internet;

(ii) Call for the retraction of the article titled "कॉपीराइट कायदा अंतर्गत दिंडोरी पोलिसांची कारवाई" (English Tranl: Dindori Police Action under Copyright Law) from Defendant No. 3's newspaper, and from any other digital mediums and/or platforms on the Internet;

(iii) Direct Defendant No. 1 to delete the messages sent on the WhatsApp group, Experts @ Lubricants circulating the media articles and videos, and messages threatening more action against the Plaintiff;

(iv) Issue an unconditional apology to the Plaintiff for the acts of disparagement to be published in a leading National newspaper.

e. An order directing the Defendant No. 5 to delete the video on their platform located at https://www.youtube.com/watch?v=qVNsExriLk, as well as other URLs/weblinks in their domain and control where the videos are available for viewership;

f. A final money decree in favour of the Plaintiff for payment of damages in the sum of INR 200,00,500/- (Rs. Two Crores Five Hundred) as damages for disparagement, denigration and tarnishing of its goodwill and reputation of the Plaintiff by the Defendant Nos. 1 to 4 by their dishonest media articles and videos, and circulation of these articles and videos;

g. An order for costs of the proceeding; and

h. Any other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present

case."

III. Proceedings before the learned Single Judge

37. Both the aforesaid suits were listed before the same learned Single Judge on the IP Division of this Court.

38. On 19 August 2025, the learned Single Judge passed an order restraining the defendants in the first suit, i.e., Sanjay Sonavane and Indilube, as well as all others acting on their behalf, from issuing groundless threats of legal proceedings relating to alleged trademark and copyright infringement against Castrol or its Indian subsidiary Castrol India Ltd in relation to the use of the 3X mark. The order also returned a *prima facie* finding that the 3X mark of Castrol did not infringe the 3P mark of the respondents.

39. Thereafter, when the suits came up before the learned Single Judge on 4 September 2025, the learned Single Judge queried, of Castrol, as to whether the second suit would not be barred under Order II Rule 2 of the CPC. Time was granted to Castrol to file a written note of arguments in that regard and after hearing submissions of learned Counsel for both sides, the learned Single Judge passed the order dated 24 November 2025, against which the present appeal has been instituted.

D. The impugned judgment

I. Castrol's contentions before the learned Single Judge

40. Before the learned Single Judge, Castrol contended, relying on ***Gurbux Singh v. Bhura Lal***[14]**,** that a second suit would be barred under Order II Rule 2 of the CPC only if (i) it was in respect of the same cause of action as that which constituted the basis of the first suit, (ii) the plaintiff was entitled to more than one relief on the basis of that cause of action and (iii) without obtaining leave from the Court, the plaintiff omitted to sue for all such reliefs in the first suit. Thereafter, Castrol cited ***Mohamad Khalil Khan v. Mahbub Ali Mian***[15] and the judgment of the Supreme Court in ***Coffee Board v. Ramesh Exports Pvt. Ltd.***[16]. ***Coffee Board*** which, it was submitted, required, while examining a plea of want of maintainability under Order II Rule 2 of the CPC, both plaints to be read as a whole to identify the cause of action which the plaintiff was required to prove, if traversed, in each case. It was only if the cause of action in both suits were found to be identical, and the reliefs claimed in the second suit could be claimed in the first, that the second suit would be barred by Order II Rule 2 of the CPC. Identity of causes of action in the two suits was also held to be mandatory in ***Dalip Singh v. Mehar Singh Rathee***[17] for Order II Rule 2 to apply.

41. In the present case, it was asserted, the cause of action in the

[14] **AIR 1964 SC 1810**
[15] **(1949) 51 Bom LR 9**
[16] **(2014) 6 SCC 424**

two suits was completely different, though they germinated from the same event, which was the raid conducted by the police at the premises of Shivay Agencies consequent on the complaint in FIR lodged by Sanjay Sonavane. Castrol, thereafter, refer to the well-known understanding of the expression "cause of action" as constituting the entire bundle of facts which a plaintiff would be required to prove, if traversed by the defendant, as to enable him to succeed in the suit and cited, in this context, ***Cuddalore Powergen Corpn. Ltd. v. Chemplast Cuddalore Vinyls Ltd.***[18] and ***A.B.C. Laminart Pvt Ltd. v. A.P. Agencies, Salem***[19]. The appellant submitted that the cause of action in the first suit was premised on two events. The first event was issuance of the caution notice by Respondent 1 on 6 August 2025, and the second was the complaint filed by Respondent 1 against Castrol and Jitendra Agrawal before the Nasik Police, which led to the raid. As against this, the cause of action for instituting the second suit was essentially premised on events which took place between 19 August 2025 and 29 August 2025, i.e., after the first suit had been filed, when Castrol discovered that Sanjay Sonavane was circulating, on WhatsApp, messages pertaining to the articles published by Dainik Bhramar and Maharashtra Bulletin and sharing links of the video uploaded by Saksham Police Times on YouTube. The fact that Sanjay Sonavane had been circulating disparaging messages on WhatsApp came to the knowledge of Castrol only between 19 August 2025 and 29 August 2025.

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[17] **(2004) 7 SCC 650**
[18] **2025 SCC OnLine SC 82**
[19] **AIR 1989 SC 1239**

42. As such, at the time of filing of the first suit, no cause of action existed, on the basis of which Castrol could claim commercial disparagement or tarnishment and infringement of Castrol's mark.

43. Castrol further asserted, before the learned Single Judge, that the first suit was only against Sanjay Sonavane and his company, and that Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation were not defendants in the said suit. As such, Order II Rule 2 of the CPC could not bar the filing of a separately instituted suit against the said defendants, against whom no relief could have been claimed in the first suit. Clearly, therefore, it was submitted, the cause of action in the two suits were different.

44. Castrol further submitted that the reliefs claimed in the two suits were also different. The first suit sought a declaration of non-infringement, by Castrol, of Sanjay Sonavane's 3P mark, in terms of Section 142 of the Trade Marks Act and Section 60 of the Copyright Act and a restraint against Sanjay Sonavane issuing groundless threats against Castrol. As against that, in the second suit, Castrol sought a decree of permanent injunction restraining Sanjay Sonavane, Maharashtra Bulletin, Saksham Times Media Foundation and Google from commercially disparaging Castrol, tarnishing its reputation and infringing its trademarks.

45. Applying the law laid down by the Supreme Court in

Cuddalore Powergen Corpn. Ltd., Rathnavathi and Anr. v. Kavita Ganashamdas[20] and ***Sidramappa v. Rajashetty***[21], the appellant contended that it was not possible for the appellant to seek, in the first suit, the reliefs sought in the second suit. In the absence of any knowledge that Sanjay Sonavane was circulating any disparaging content, it was quite obvious that Castrol could not have sought any injunction against Sanjay Sonavane in that regard. Nor did Castrol, at the time of institution of the first suit, possess knowledge that Sanjay Sonavane would act in a manner which would constitute commercial disparagement. No evidence to that effect was available, either. Had such a cause of action been ventilated in the first suit, it could have been dismissed solely on the ground of want of any credible evidence to support such a case.

II. Discussions and Findings of learned Single Judge

46. Having noted the contentions of Castrol, the learned Single Judge observes, in the impugned judgment, that, though Castrol was aware of the media coverage of the search and seizure proceedings which took place at the premises Shivay Agencies, it did not seek any relief for taking down the said media coverage. Castrol had also asserted, in the first suit, that the newspaper articles pertaining to the seizure operation presented a misleading picture of its activities and post a real risk of irreparably tarnishing its image. Castrol also

[20] **(2015) 5 SCC 223**
[21] **AIR 1970 SC 1059**

provided the URL of the video which was uploaded on YouTube with respect to the said seizure. The second suit was filed on 3 September 2025. The paragraph in the second suit, dealing with arising of the cause of action, averred that the cause of action had arisen on 11 August 2025 based on the media articles and the YouTube video. The media articles and the YouTube video were within Castrol's knowledge at the time of filing of the first suit, and also found mention therein. The news articles forming subject matter of the second suit were already annexed in the first suit. The only new development was the forwarding, by Sanjay Sonavane, of the YouTube video over WhatsApp on 19 August 2025, stating that more raids were expected on the issue of copyright infringement.

47. The learned Single Judge holds that Castrol could have, in the first suit, included the cause of action relating to disparagement and defamation and could have incorporated the subsequent development of forwarding of the YouTube video over WhatsApp by Sanjay Sonavane by way of a suitable amendment. Castrol was not entitled to, instead of doing so, file a second suit based on the same cause of action which formed the part of the first suit. The relief for taking down of the YouTube video and removal of the print media coverage, which were based on the same cause of action, could well have been sought in the first suit. Having not done so, Castrol could not institute the second suit for the said purpose.

48. On the aspect of commonality of causes of action, the learned

Single Judge holds that both suits arose out of the same cause of action, which was "the search and seizure carried out on the premises of the plaintiffs' authorized distributor, publication of the media reports sand YouTube video". Despite being in possession of knowledge of all necessary facts, and despite the relief of removal of the allegedly disparaging news articles and YouTube video from public access being available even at the time of the first suit, Castrol did not choose to include these reliefs in the first suit – which may have required impleadment of Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation – but chose, instead to divide the reliefs into two suits. This was impermissible.

49. The learned Single Judge holds that it was not open to Castrol to contend that the subsequent circulation of the defamatory articles on WhatsApp by Sanjay Sonavane not having been in existence at the time when the first suit was filed, a second suit including the said development, could be preferred on the same cause of action.

50. Knowledge of the media coverage of the search and seizure proceedings and the YouTube video was possessed by Castrol at the time of filing the first suit. The circulation of the YouTube video by Sanjay Sonavane over WhatsApp did not constitute an independent and different cause of action for which an entirely different suit could be filed. In fact, even in the first suit, Castrol had pleaded that the news articles were at the behest of Sanjay Sonavane.

51. Based on this reasoning, the learned Single Judge has dismissed the second suit as barred by Order II Rule 2 of the CPC.

E. Rival Submissions

I. Submissions of Mr. Urfee Roomi

52. Arguing for Castrol, Mr. Urfee Roomi submits that the cause of action, as also the dates of filing of the two suits, were different, with the first suit having been filed on 17 August 2025 and the second on 3 September 2025. The first suit had been issued for an injunction against groundless threats held out by Sanjay Sonavane, and there was no occasion, therefore, to implead Dainik Bhramar, Maharashtra Bulletin or Saksham Times Media as defendants therein. Moreover, at the time of filing the first suit, Castrol had no knowledge of the involvement of Sanjay Sonavane in dissemination of the content which was defamatory to Castrol.

53. The facts which constituted the cause of action for the first suit, submits Mr. Roomi, were the caution notice issued by Sanjay Sonavane on 6 August 2025, and the complaint filed by Sanjay Sonavane with the Police, resulting in the raid on Shivay Agencies on 9 August 2025. Even if were to be presumed that Castrol had knowledge of its disparagement by Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media, Mr. Roomi submits that it would make no difference, as knowledge of the facts relating to the second

suit, at the time of filing the first, does not attract the proscription under Order II Rule 2. The cause of action for alleging dilution of its reputation and disparagement arose, in favour of Castrol and against Sanjay Sonavane, Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media, after the first suit had been filed. He draws attention to para 10 of the impugned judgment, which notes the fact that it was on 19 August 2025 that Castrol discovered that Sanjay Sonavane had been sharing disparaging and defamatory messages on the Whatsapp group Experts @ Lubricants.

54. To support his submissions, Mr. Roomi relies on paras 10 and 11 of ***Coffee Board***, paras 22 to 25.2 of ***Rathnavathi*** and paras 47 and 72 to 74 of ***Cuddalore Powergen Corpn***. He also draws attention to the paragraphs, in the plaints in the two suits, which set out the cause of action for filing them, to emphasize that the causes of action were distinct and different.

II. Submissions of Mr. Ramanujan

55. Responding, for the respondents, to the submissions of Mr Roomi, Mr. Ramanujan draws our attention to paras 36 to 38, from the plaint in the first suit, which allege that, within a day or two of the seizure which took place at the premises of Shivay Agencies, articles relating thereto were circulated in newspapers in Maharashtra and a news report was also uploaded on YouTube by Maharashtra Bulletin. Any person who viewed these articles or the uploaded news clip,

alleged the plaint, would be led to assume that Shivay Agencies was selling counterfeit Castrol products. Given the undue haste with which the news articles and reports were released, the plaint also alleged that "it would not be too far-fetched to assume … that these news articles have also been published at the behest of Sanjay Sonavane. Juxtaposing these paragraphs with para 52 in the second suit, which set out the cause of action therein, Mr. Ramanujan submits that there was clear overlap of causes of action. He submits that, in these circumstances, Order II Rule 2(2) would, in any case, apply. Asserting that the facts pleaded in the first suit would also sustain a claim of disparagement, if proved to be true, Mr. Ramanujan submits that the learned Single Judge was perfectly correct in observing that Castrol could not choose to break up its claims into two suits, without seeking leave under Order II Rule 2(3). Mr Ramanujan relies on paras 9 and 15 of ***Coffee Board*** and para 7 of ***Sidramappa***. ***Rathnavathi***, in his submission, does not really address the issue.

56. To a query from the Court as to whether a mere reference to the facts which could sustain the relief claimed in the second suit, in the plaint in the first, would suffice to bar the second suit under Order II Rule 2, if those facts were not part of the cause of action on which the first suit was based, Mr. Ramanujan answers in the affirmative. The cause of action, he submits, depends on the facts pleaded and if, therefore, the facts pleaded in the first suit could sustain the prayers in the second, there was identity of causes of action between them. He also relies on paras 44 and 72 to 74 of ***Cuddalore Powergen Corpn***.

57. Mr. Ramanujan submits that, having pleaded loss to its reputation as a consequence of the allegedly defamatory or disparaging news items and YouTube video in para 9 of the plaint in the first suit, Castrol could not institute a second suit for the reliefs which could be claimed on the basis of those facts. He also places reliance, for this purpose, on para 9 of ***Virgo Industries (Eng) (P) Ltd v. Venturetech Solutions (P) Ltd***[22].

58. In these circumstances, Mr. Ramanujan's submission is that the impugned judgment of the learned Single Judge is unexceptionable, on facts as well as in law.

III. Submissions of Mr. Roomi in rejoinder

59. In rejoinder, Mr. Roomi submits that disparagement by Sanjay Sonavane occurred only on 19 August 2025, even if Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation may have indulged in disparaging activities even prior to the institution of the first suit. Besides, he submits that Section 142 is directed against a threatener, not against one who disparages or defames. Castrol could not, therefore, at the time of filing the first suit, sued Sanjay Sonavane for disparagement.

60. Mr. Roomi therefore reiterates his prayer that the impugned

[22] **(2013) 1 SCC 625**

judgment be quashed and set aside, and the second suit be restored to the file of the learned Single Judge for further proceedings.

F. Analysis

I. The Issue

61. A reading of the paragraphs, from the judgment of the learned Single Judge, extracted above, reveal that it proceeds on the premise that the *cause of action, for the first suit and the second suit, were the same*, and that *as the appellant was aware of the facts which constituted the cause of action even at the time of filing the first suit*, all claims, which could be based on said cause of action, were required to be raised in the first suit, thereby rendering the second suit not maintainable. Additionally, the impugned judgment holds that *the fact that Sanjay Sonavane circulated the disparaging news items and YouTube videos via WhatsApp after the first suit had been filed would not be sufficient to maintain the second suit, as these further developments could always be introduced in the first suit by way of amendment*. Liberty has, therefore, been granted, to the appellant to do so.

II. The law

62. To test the correctness of these findings, we are of the view that it would be apt, first, to read Order II Rule 2 – following the truism

that the best guide to the meaning of a statute is the statute itself – and, thereafter, examine how the provision has been accorded apical interpretation.

63. Sub-rule (2) of Order II Rule 2 does not concern us.

64. Order II Rule 2(1) requires every suit *to include the whole of the claim* which the plaintiff can make in respect of *the cause of action*. A plaintiff may relinquish part of the claim to bring the suit within jurisdiction, but that part of the sub-Rule, too, does not concern us.

65. It is pivotal, therefore, to understand what constitutes the *cause of action*, as it is only then that the Court can ascertain the extent and entirety of the *claim which could be made in respect thereof*. Order II Rule 2(1) requires *that entire claim* to be claimed in one suit.

66. The "cause of action" plays an equally pivotal role in Order II Rule 2(3). If one cause of action entitles the plaintiff to more than one relief, he is bound to sue for all reliefs in one suit. Failure to do so would disentitle him, later, to sue for the omitted relief.

67. Thus, once again, the "cause of action" in the first suit has to be identified, to ascertain the reliefs to which the plaintiff would be entitled on the basis thereof, and, therefore, whether he has in fact sued for all such reliefs in the first instance.

68. All, therefore, turns on the "cause of action" – in this case, the cause of action for instituting CS (Comm) 855/2025.

69. Though the position in law appears to be well-settled, it would be instructive to refer to some of the authoritative pronouncements of the Supreme Court on Order II Rule 2, its scope and its ambit.

70. ***Gurbux Singh***

70.1 ***Gurbux Singh v. Bhooralal***[23], having been rendered by a Constitution Bench, may justifiably be said to be the most authoritative decision on the point.

70.2 Bhooralal sued Gurbux Singh[24] in respect of property over which he claimed absolute ownership. It was alleged that Gurbux was in unauthorised occupation and possession of the said property and had failed to vacate it despite efforts by Bhooralal. Bhooralal, therefore, sought a decree directing Gurbux to vacate the property and pay mesne profits. In the plaint, Bhooralal disclosed the fact that he had earlier filed a suit in respect of the same property for recovery of mesne profits for the period ending 10 February 1950, which had been decreed. Gurbux, in the written statement, pleaded that the second suit was barred by Order II Rule 2 of the CPC, in view of the first suit. An issue was, therefore, framed as to whether the second suit was barred

[23] **AIR 1964 SC 1810**
[24] "Gurbux" hereinafter

by Order II Rule 2. The Trial Court decided the issue in the affirmative and dismissed the second suit. The First Appellate Court held that, for want of material, the issue relating to Order II Rule 2 ought not to have been decided at all, even while observing that, had it come up for adjudication, it ought to have been decided in favour of Bhooralal, as a cause of action in the two suits were different. The High Court dismissed the second appeal preferred by Gurbux. Gurbux appealed to the Supreme Court.

70.3 In view of the fact that there appeared to be a conflict of opinion on the aspect of whether a suit for possession of immovable property and a suit for mesne profits could be treated as emanating from the same cause of action, so as to attract Order II Rule 2, the matter was referred to the Constitution Bench. The fact that the difference of opinion existed stands reflected in para 4 of the judgment of the Constitution Bench, thus:

> "As already indicated, there is a conflict of judicial opinion on the question whether a suit for possession of Immovable property and a suit for the recovery of mesne profits from the same property are both based on the same cause of action, for it is only if these two reliefs are based on "the same cause of action" that the plea of O. 2, r. 2, Civil Procedure Code that was raised by the appellant could succeed."

70.4 The Constitution Bench ultimately agreed with the decision of the First Appellate Court that, for want of adequate material, the plea that the second suit was barred by Order II Rule 2 ought not to have been decided and, therefore, also agreed with the decision to remand

the matter back to the Trial Court for adjudication on merits. While doing so, however, the Constitution Bench returned certain illuminating observations regarding the scope and ambit of Order II Rule 2(3) which have, since, been followed in case after case:

> "6. In order that a plea of a bar under O. 2. r. 2(3), Civil Procedure Code should succeed the defendant who raises the plea must make out (1) that the second suit was in respect of the same cause of action as that on which the previous suit was based, (2) that in respect of that cause of action the plaintiff was entitled to more than one relief, (3) that being thus entitled to more than one relief the plaintiff, without leave obtained from the Court omitted to sue for the relief for which the second suit had been filed. From this analysis it would be seen that the defendant would have to establish primarily and to start with, the precise cause of action upon which the previous suit was filed, for unless there is identity between the cause of action on which the earlier suit was filed and that on which the claim in the later suit is based there would be no scope for the application of the bar. No doubt, a relief which is sought in a plaint could ordinarily be traceable to a particular cause of action but this might, by no means, be the universal rule.
>
> 7. … *As the plea is basically founded on the identity of the cause of action in the two suits the defence which raises the bar has necessarily to establish the cause of action in the previous suit. The cause of action would be the facts which the plaintiff had then alleged to support the right to the relief that he claimed.* Without placing before the Court the plaint in which those facts were alleged, *the defendant cannot invite the Court to speculate or infer by a process of deduction what those facts might be with reference to the reliefs which were then claimed*. It is not impossible that relies were claimed without the necessary averments to justify their grant. From the mere use of the words 'mesne profits' therefore one need not necessarily infer that the possession of the defendant was alleged to be wrongful. It is also possible that the expression 'mesne profits' has been used in the present plaint without a proper appreciation of its significance in law. *What matters is not the characterization of the particular sum demanded but what in substance in the allegation on which the claim to the sum was based and as regards the legal relationship on the basis of which that relief was sought.* If is because of these reasons that we consider that a plea based on the existence of a former pleading

> cannot be entertained when the pleading on which it rests has not been produced. We therefore consider that the order of remand passed by the learned Additional Distract Judge which was confirmed by the learned Judge in the High Court was right. The merits of the suit have yet to be tried and this has been directed by the order of remand which we are affirming."

70.5 All, therefore, turns on the "cause of action". Both suits must be based on the same cause of action, for Order II Rule 2(3) to apply. The "cause of action", in turn, constitutes "the facts which the plaintiff had alleged to support the right to the relief that he claimed". Identification of the cause of action is, therefore, intrinsically linked with the relief claimed by the Plaintiff.

70.6 One cannot identify the "cause of action", innocent of the relief claimed in the plaint. It is first, therefore, necessary to advert to the relief that the plaintiff seeks. Once the relief is identified, the facts which the plaintiff alleges to support the relief would constitute "cause of action". It is only if the facts which are necessary for the plaintiff to be entitled to the relief claimed in the first suit are identical to the facts which are necessary for the reliefs claimed in the second suit that there would be identity of cause of action, so as to invoke Order II Rule 2(3) of the CPC. The onus, in this regard, is on the defendant.

71. *Sidramappa*

71.1 The *lis*, in this case, pertained to properties which belonged to

the family of one V.R. Deshmukh, who died in 1892, leaving behind his widow Ratnabai and his daughter Lakshmibai. Ratnabai died in 1924. Lakshmibai, thereupon, became entitled to the suit properties. However, one Parwatibai came into unlawful possession thereof. Lakshmibai instituted a suit for recovery of the possession of the suit properties which was decreed. In execution, delivery of the suit properties was handed over to Lakshmibai.

71.2 Lakshmibai and Parwatibai both died. Rajashetty, claiming to be the sister's son of Deshmukh, got himself impleaded in the execution proceedings as the legal representative of Lakshmibai and sought delivery of the suit properties. One Vishwanath, purportedly the legal representative of Parwatibai, also got himself impleaded in the execution proceedings. Rajashetty and Vishwanath entered into a compromise, whereunder Vishwanath delivered the possession of the suit properties to Rajashetty.

71.3 Thereafter, Sidramappa, the appellant before the Supreme Court applied for reopening of the execution proceedings, stating that he was the adopted son of Lakshmibai and, therefore, her competent legal representative. The executing court dismissed the application relegating Sidramappa to a separate suit. Sidramappa, therefore, filed a suit before the Subordinate District Judge for a declaration that he was entitled to be impleaded in the execution proceedings as the legal representative of Lakshmibai and for setting aside the order made by the executing court based on the compromise between Rajashetty and

Vishwanath. This was the only relief sought by Sidramappa in his suit. The cause of action was identified, in the suit, as the dismissal of Sidramappa's application for impleading in the execution proceedings.

71.4 Sidramappa's suit was dismissed on the ground that it was barred under Section 42 of the Specific Relief Act, 1963, as Sidramappa had not sued for possession of the property.

71.5 Sidramappa, thereafter, instituted a second suit on the basis of title. This suit was dismissed by the trial court on the ground that the relief sought was barred by Order II Rule 2 of the CPC. It was, thus, that the issue of Order II Rule 2 came up for consideration.

71.6 The decision of the trial court was affirmed by the High Court, against which Sidramappa carried the matter to the Supreme Court.

71.7 The Supreme Court identified, in para 5 of the report, the only question arising for consideration as being "whether the High Court and the trial court were right in their conclusions that the plaintiff's claim in respect of the lands ... is barred by Order II Rule 2 of the CPC.

71.8 The Supreme Court answered the question thus:

> "7. *The High Court and the trial court proceeded on the erroneous basis that the former suit was a suit for a declaration of the plaintiff's title to the lands mentioned in Schedule I of the*

> *plaint. The requirement of Order II Rule 2, Code of Civil Procedure is that every suit should include the whole of the claim which the plaintiff is entitled to make in respect of a cause of action. "Cause of action" means the "cause of action for which the suit was brought". It cannot be said that the cause of action on which the present suit was brought is the same as that in the previous suit. Cause of action is a cause of action which gives occasion for and forms the foundation of the suit. If that cause of action enables a person to ask for a larger and wider relief than that to which he limits his claim, he cannot afterwards seek to recover the balance by independent proceedings —* see ***Mohd. Hqfiz v. Mohd. Zakaria***[25].
>
> 8. *As seen earlier the cause of action on the basis of which the previous suit was brought does not form the foundation of the present suit. The cause of action mentioned in the earlier suit, assuming the same afforded a basis for a valid claim, did not enable the plaintiff to ask for any relief other than those he prayed for in that suit. In that suit he could not have claimed the relief which he seeks in this suit. Hence the trial court and the High Court were not right in holding that the plaintiff's suit is barred by Order II, Rule 2, Code of Civil Procedure.*"

71.9 Significantly, in this case, the Supreme Court clarified that the "cause of action" would be the "cause of action *for which the suit was brought*". Further, it observed that the cause of action was that *which gave occasion for, and formed the foundation, of the suit*. Once the cause of action was identified, Order II Rule 2 of the CPC requires the suit to include the entire claim to which the plaintiff is entitled in respect of that cause of action. If the plaintiff does not do so, and restricts his claim in the suit only to part of the relief which he could obtain on the basis of the cause of action, the plaintiff is barred from filing a second suit for the balance.

[25] **1922 LR 49 IA 9**

71.10 When one reads this judgment in juxtaposition with ***Gurbux Singh,*** the position that emerges is that the court has to advert to the relief in the first suit and identify the facts which the plaintiff would have to plead and establish in order to be entitled to that relief. If, on those facts, the plaintiff is entitled to a greater relief, he cannot separately sue for the balance.

71.11 Applying this principle to the facts before it, the Supreme Court held that the cause of action in the first suit filed by Sidramappa was not the foundation of the second suit. The course of action of the first suit did not entitle Sidramappa to claim any relief in excess of that which he had claimed in the first suit. The relief sought in the second suit could not be claimed on the basis of the cause of action pleaded in the first suit. Ergo, it was held that the second suit was not barred by Order II Rule 2 of the CPC.

72. *Deva Ram v. Ishwar Chand*[26]

72.1 Ishwar Chand's father, Padam Ram, instituted a suit for recovery of ₹ 6,300/- as sale price of land sold by him to Deva Ram. It was asserted, in the suit, that Deva Ram had promised to pay the said amount on 11 November 1976 but failed to do so. The suit was dismissed by the trial court holding that the agreement between Deva Ram and Padam Ram was without consideration and hit by Section 91 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

[26] **(1995) 6 SCC 733**

Additionally, it was held by the trial court that Deva Ram was the tenant in respect of the suit land. The decision of the trial court was upheld by the Additional District Judge[27] in appeal. The ADJ also held that the suit land had not been sold by Padam Ram to Deva Ram and that, therefore, there was no question of Padam Ram being entitled to recover any amount as sale price in respect thereof. The agreement between Padam Ram and Deva Ram was held to be a mere agreement to sell and not a sale deed. However, it was also held, by the ADJ, that Deva Ram had failed to prove that he was the tenant of Padam Ram. Padam Ram instituted a second suit against Deva Ram for possession of the suit land on the basis of title, in which he relied on the finding of the learned ADJ, in the first suit, that Deva Ram had not succeeded in proving that he was a tenant in respect of the suit land. As such, asserting ownership over the suit land, Padam Ram sought recovery of possession in respect thereof.

72.2 The second suit was dismissed by the trial court as barred under Order II Rule 2. The decision of the trial court was reversed by the District Judge in appeal. A second appeal, preferred by Deva Ram before the High Court of Himachal Pradesh was also dismissed. Deva Ram, therefore, moved the Supreme Court.

72.3 Adverting to the issue in controversy, the Supreme Court placed reliance on ***Sidramappa*** and further observed and held as under:

[27] "the ADJ" hereinafter

"12. A bare perusal of the above provisions would indicate that if a plaintiff is entitled to several reliefs against the defendant in respect of the same cause of action, he cannot split up the claim so as to omit one part of the claim and sue for the other. *If the cause of action is the same, the plaintiff has to place all his claims before the court in one suit as Order 2 Rule 2 is based on the cardinal principle that the defendant should not be vexed twice for the same cause.*

13. In ***Naba Kumar Hazra v. Radhashyam Mahish***[28], it was laid down *that the plaintiff cannot be permitted to draw the defendant to court twice for the same cause by splitting up the claim and suing, in the first instance, in respect of a part of claim only.*

14. *What the rule, therefore, requires is the unity of all claims based on the same cause of action in one suit. It does not contemplate unity of distinct and separate causes of action. If, therefore, the subsequent suit is based on a different cause of action, the rule will not operate as a bar.* (See ***Arjun Lal Gupta v. Mriganka Mohan Sur***[29]; ***State of M.P.* v. *State of Maharashtra***[30]; ***Kewal Singh v. B. Lajwanti***[31]).

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16. *In view of the above, what is to be seen in the instant case is whether the cause of action on the basis of which the previous suit was filed, is identical to the cause of action on which the subsequent suit giving rise to the present appeal, was filed.* If the identity of causes of action is established, the rule would immediately become applicable and it will have to be held that since the relief claimed in the subsequent suit was omitted to be claimed in the earlier suit, without the leave of the court in which the previous suit was originally filed, the subsequent suit for possession is liable to be dismissed as the appellants, being the defendants in both the suits, cannot be vexed twice by two separate suits in respect of the same cause of action.

17. We have already noticed in the earlier part of the judgment that *the previous suit was filed for recovery of a sum of Rs 6300 as*

[28] **AIR 1931 PC 229**
[29] **(1974) 2 SCC 586**
[30] **(1977) 2 SCC 288**
[31] **(1980) 1 SCC 290**

> *sale price of the land* in suit which was dismissed with the finding that the document on which the suit was filed was not a sale deed but was a mere agreement for sale and, therefore, the amount in question could not be recovered as sale price. That document, thus, constituted the basis of the suit.
>
> 18. *The subsequent suit was brought by the respondents for recovery of possession on the ground that they were the owners of the land in suit and were consequently entitled to recover its possession. The cause of action in the subsequent suit was, therefore, entirely different. Since the previous suit was for recovery of sale price, the respondents could not possibly have claimed the relief of possession on the basis of title as title in that suit had been pleaded by them to have been transferred to the defendants (appellants). The essential requirement for the applicability of Order 2 Rule 2, namely, the identity of causes of action in the previous suit and the subsequent suit was not established.* Consequently, the District Judge as also the High Court were correct in rejecting the plea raised by the appellants with regard to Order 2 Rule 2 of the Civil Procedure Code."
>
> (Emphasis supplied)

72.4 Here, therefore, the Supreme Court once again ruled that identity of cause of action in the two suits was the *sine qua non* for Order II Rule 2 to apply, as the prevailing philosophy behind Order II Rule 2 was that a defendant should not be vexed twice for the same cause. Reliance was placed on the judgment of the Privy Council in ***Naba Kumar Hazra v. Radhashyam Mahish***[32] which held that a plaintiff could not split up the claims to which he would be entitled if he succeeded in establishing the cause of action and claim part of his reliefs in one suit and part in another. The Supreme Court held that, therefore, Order II Rule 2 required that all claims, based on the cause of action in a suit, be claimed in that suit.

[32] **AIR 1931 PC 229**

72.5 However, if the second suit was based on a different cause of action, Order II Rule 2 would not apply. Order II Rule 2 required all claims based on one cause of action to be consolidated in one suit and not consolidation of different causes of action. If the second suit was based on a different cause of action, therefore, it would lie, and Order II Rule 2 would not be applicable.

72.6 Applying these principles to the facts before it, the Supreme Court held that the causes of action on the basis of which the two suits had been instituted by Padam Ram were totally different. The first suit was for recovery of ₹ 6300/- as sale price of the suit land. The suit was based on a document which Padam Ram claimed to be a sale deed, but which was held, by the court, to be merely an agreement to sell. As against this, the second suit was for recovery of possession. In the second suit, Padam Ram claimed ownership over the suit land and predicated his claim of ownership and sought recovery of possession.

72.7 Thus, held the Supreme Court, the cause of action in the two suits was completely different.

72.8 As the first suit was for recovery of sale price, Padam Ram could not have sought a relief of possession on the basis of title. The essential prerequisite of Order II Rule 2, namely, identity of the causes of action in the two suits being absent, the Supreme Court held that the ADJ, and the High Court, had erred in dismissing the second

suit as barred by Order II Rule 2 of the CPC.

72.9 It is significant to note that, in this case, the importance of the relief claimed in the suits is tellingly underscored. The causes of action have been held to be different, essentially because the reliefs claimed were different. In the first suit, Padam Chand claimed recovery of sale price. In the second suit, he claimed recovery of possession. The reliefs being different, the facts on which the suits were predicated and which, therefore, constituted the causes of action were also different. The first suit being a suit for recovery of the purported sale price of ₹ 6,300, the fact pleaded was the execution of the document claimed by Padam Ram to be a sale deed. The second suit being a suit for recovery based on title, the fact pleaded was ownership by Padam Ram over the suit land.

72.10 Thus, working back from the reliefs claimed in the suits, the Supreme Court held that the causes of action on which the two suits had been instituted were totally different and, therefore no identity of causes of action being in existence, the second suit could not be said to be barred under Order II Rule 2 of the CPC.

73. *Ram Prasad Rajak v. Nand Kumar and Bros*[33].

73.1 Ram Prasad Rajak[34] was the landlord of a shop constituting the

[33] **(1998) 6 SCC 748**
[34] "Rajak" hereinafter

suit property. Nand Kumar & Bros[35] were the tenants. Rajak filed an eviction suit before the Munsif for evicting Nand Kumar on the ground of non-payment of rent and *bona fide* personal requirement. The suit was dismissed. Rajak filed an appeal which was also dismissed, against which he filed a second appeal.

73.2 During the pendency of the second appeal, Rajak instituted a second suit under Section 14 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982[36], again seeking eviction of Nand Kumar on the ground of *bona fide* requirement for personal occupation. The second suit was also dismissed. However, Rajak succeeded in appeal and an eviction decree was issued against Nand Kumar.

73.3 Nand Kumar filed a civil revision, challenging the eviction decree. The civil revision was allowed by the High Court on the ground that the second eviction suit filed by Rajak was barred *inter alia* under Order II Rule 2 of the CPC. Aggrieved thereby, Rajak appealed to the Supreme Court.

73.4 There is no detailed reasoning, in the judgment of the Supreme Court, with respect to Order II Rule 2. However, in para 5 of the report, the Supreme Court has found "that the cause of action for the second suit is entirely different from the cause of action for the earlier suit and there is no chance of Order II Rule 2 barring this suit".

[35] "Nand Kumar" hereinafter
[36] "the 1982 Act"

73.5 This finding is significant, especially keeping in mind the fact that both the suits were instituted by Rajak seeking eviction of Nand Kumar from the suit property, and in both suits, *bona fide* personal requirement was cited as a ground. The difference appears to have been that the first suit was filed under the general law of eviction whereas the second suit was filed under Section 14 of the 1982 Act.

73.6 At the very least, this decision underscores the attitude to be adopted by the Court in such cases, which is ordinarily to lean towards maintainability, rather than evisceration, of the suit.

74. ***Rikabdas Oswal v. Deepak Jewellers***[37].

74.1 These proceedings, again, emanated from an eviction suit. Rikabdas Oswal[38] filed a suit for eviction of Deepak Jewellers from the suit property on the ground of *bona fide* need and subletting. That suit was dismissed. During the pendency of the appeal against the dismissal order before the Appellate Authority, Oswal filed a second suit for eviction of Deepak Jewellers on the ground of default in payment of rent, even after due notice under Section 12(2) of the Bombay Rent Act had been served on him. No plea, that the second suit was barred under Order II Rule 2 of CPC, was taken by Deepak Jewellers in the written statement. The trial court allowed the second

[37] **(1999) 6 SCC 40**
[38] "Oswal" hereinafter

suit and directed eviction of Deepak Jewellers from the suit property.

74.2 Deepak Jewellers appealed against the eviction order. The appeal was dismissed. Deepak Jewellers thereupon filed an application for review of the order of dismissal. Order II Rule 2 of the CPC was not invoked even in the review application. However, as there was an averment, in the review application, to the effect that Deepak Jewellers was in arrears of rent had been taken by Oswal in the first suit, the District Judge allowed the review application of Deepak Jewellers, holding that the second suit was barred by Order II Rule 2 of the CPC. Oswal filed a revision petition in the High Court, which was dismissed. Oswal appealed to the Supreme Court.

74.3 The Supreme Court answered the issue thus:

> "5. The District Judge, while reviewing the earlier order passed in appeal as well as the High Court appear to have taken the view that in the earlier proceedings, the application for eviction was also on the ground of default of rent. But, having examined the assertions made in the plaint itself, *it is difficult for us to hold that in the earlier round of litigation, the landlord did make any prayer for eviction on the ground that there has been an arrear of rent. On the other hand, the factual assertions having been made about the arrears of rent dues, the plaintiff having averred that he is not making any claim for arrears, we fail to understand how an issue could be raised on that score or any finding thereon arrived at by the forum below can be pleaded as a bar in the subsequent suit.* Be that as it may, the tenant respondent not having taken the plea of bar of subsequent suit under Order 2 Rule 2 CPC in the written statement itself nor even in the grounds of appeal before the appellate authority while preferring the appeal and also in the application for review, the learned District Judge could not have entertained the plea of bar of the subsequent proceedings on account of Order 2 Rule 2 CPC and decided the same. *Even on merits, we are of the considered opinion that the provisions of Order 2 Rule 2 CPC will have no application to the facts and*

> *circumstances of the present case, as already narrated.* The High Court, therefore, committed error in dismissing the revision of the present appellant. We, accordingly, set aside the impugned order of the High Court in revision as well as the order of the District Judge passed in review."
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> (Emphasis supplied)

74.4 This decision is also of considerable significance. The Supreme Court, once again, adverted to the basis on which two suits have been instituted, to hold that Order II Rule 2 did not apply. Oswal had not sought eviction of Deepak Jewellers in the first suit on the ground that Deepak Jewellers was in arrears of rent. Even though the fact that Deepak Jewellers was in arrears of rent was mentioned in the first suit, Oswal specifically stated that he was not claiming the arrears. In such circumstances, the Supreme Court held that Order II Rule 2 of the CPC would not apply.

74.5 Like ***Ram Prasad Rajak***, this again is a case in which both the suits sought eviction of the tenant from the suit property. The only distinction was that eviction was sought on different grounds. This difference has been treated as sufficient to make out a difference in cause of action of two suits, so as to hold that the second suit was not barred under Order II Rule 2 of the CPC. Expressed otherwise, if the landlord is entitled to seek eviction of the tenant on various grounds, a first suit which seeks eviction on one ground cannot bar a second suit, seeking eviction on another ground, even if there is an allusion, to the facts on the basis of which the second suit is founded, in the first. The intrinsic interlink between the relief sought and the facts pleaded, so as to determine whether there is identity of causes of action in the two

suits is, therefore, again highlighted in ***Rikabdas Oswal***.

75. ***Kunjan Nair Sivaraman Nair v. Narayanan Nair***[39].

75.1 This again was a suit for recovery of possession on the basis of title. Seven plaintiffs instituted a suit seeking recovery of possession against various defendants, of which Kunjan Nair Sivaraman Nair[40] was Defendant 1. The seven plaintiffs alleged that the suit property belonged to their father Narayanan Nair and that they were the only legal heirs of Narayanan Nair.

75.2 Prior thereto, the same seven plaintiffs had instituted an earlier suit[41], seeking a decree of declaration of right and title to the suit property and to the possession thereof. That suit was dismissed, and an appeal preferred against the dismissal was also rejected. The second suit was filed thereafter, seeking recovery of possession against Kunjan and other defendants.

75.3 Kunjan claimed that the second suit was barred by Order II Rule 2 of the CPC. This plea was rejected by all courts below, the Supreme Court, holding that the first suit was for title and injunction, whereas the second suit was for recovery of possession and that, therefore, the causes of action in the two suits were different, thereby negativing any possibility of application of Order II Rule 2.

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[39] **(2004) 3 SCC 277**
[40] "Kunjan" hereinafter
[41] "the first suit" hereinafter

75.4 Kunjan appealed to the Supreme Court. Referring *inter alia* to the decision of the Constitution Bench in ***Gurbux Singh***, the Supreme Court dealt with the issue before it thus:

> "8. ... A Constitution Bench of this case of ***Gurbux Singh v. Bhooralal*** in this connection has laid down as under:
>
> > "6. In order that a plea of a bar under Order 2 Rule 2(3), Civil Procedure Code should succeed the defendant who raises the plea must make out (1) that the second suit was in respect of the same cause of action as that on which the previous suit was based; (2) that in respect of that cause of action the plaintiff was entitled to more than one relief; (3) that being thus entitled to more than one relief the plaintiff, without leave obtained from the court omitted to sue for the relief for which the second suit had been filed. From this analysis it would be seen that the defendant would have to establish primarily and to start with, the precise cause of action upon which the previous suit was filed, for unless there is identity between the cause of action on which the earlier suit was filed and that on which the claim in the later suit is based there would be no scope for the application of the bar. No doubt, a relief which is sought in a plaint could ordinarily be traceable to a particular cause of action but this might, by no means, be the universal rule. As the plea is a technical bar it has to be established satisfactorily and cannot be presumed merely on basis of inferential reasoning. It is for this reason that we consider that a plea of a bar under Order 2 Rule 2, Civil Procedure Code can be established only if the defendant files in evidence the pleadings in the previous suit and thereby proves to the court the identity of the cause of action in the two suits. It is common ground that the pleadings in CS No. 28 of 1950 were not filed by the appellant in the present suit as evidence in support of his plea under Order 2 Rule 2, Civil Procedure Code. The learned trial Judge, however, without these pleadings being on the record inferred what the cause of action should have been from the reference to the previous suit contained in the plaint as a matter of deduction. At the stage of the appeal the learned District Judge noticed this lacuna in the appellant's case and pointed out, in our opinion, rightly that without the plaint in the

previous suit being on the record, a plea of a bar under Order 2 Rule 2, Civil Procedure Code was not maintainable."

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10. *Order 2 Rule 2 sub-rule (3) requires that the cause of action in the earlier suit must be the same on which the subsequent suit is based. Therefore, there must be identical cause of action in both the suits, to attract the bar of Order 2 sub-rule (3).* The illustrations given under the rule clearly brings out this position. Above is the ambit and scope of the provision as highlighted in ***Gurbux Singh*** case by the Constitution Bench and in ***Bengal Waterproof Ltd***[42]. *The salutary principle behind Order 2 Rule 2 is that a defendant or defendants should not be vexed time and again for the same cause by splitting the claim and the reliefs for being indicted in successive litigations. It is, therefore, provided that the plaintiff must not abandon any part of the claim without the leave of the court and must claim the whole relief or entire bundle of reliefs available to him in respect of that very same cause of action. He will thereafter be precluded from so doing in any subsequent litigation that he may commence if he has not obtained the prior permission of the court.*

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15. The doctrine of res judicata differs from the principle underlying Order 2 Rule 2 in that the former places emphasis on the plaintiff's duty to exhaust all available grounds in support of his claim, while the latter requires the plaintiff to claim all reliefs emanating from the same cause of action. *Order 2 concerns framing of a suit and requires that the plaintiffs shall include whole of his claim in the framing of the suit. Sub-rule (1), inter alia, provides that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the very same cause of action. If he relinquishes any claim to bring the suit within the jurisdiction of any court, he will not be entitled to that relief in any subsequent suit. Further sub-rule (3) provides that the person entitled to more than one reliefs in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the court, to sue for such relief he shall not afterwards be permitted to sue for relief so omitted.*

16. *The expression "cause of action" has acquired a judicially*

[42] **(1997) 1 SCC 99**

settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in "cause of action".

17. In Halsbury's Laws of England (4th Edn.)[43] it has been stated as follows:

> *" 'Cause of action' has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. 'Cause of action' has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action."*

18. As observed by the Privy Council in ***Payana Reena Saminathan v. Pana Lana Palaniappa***[44]*the rule is directed to securing the exhaustion of the relief in respect of a cause of action and not to the inclusion in one and the same action of different causes of action, even though they arise from the same transaction. One great criterion is, when the question arises as to whether the cause of action in the subsequent suit is identical with that in the first suit whether the same evidence will maintain both actions.* (See ***Mohd. Khalil Khan v. Mahbub Ali Mian***).

19. In ***Inacio Martins v. Narayan Hari Naik***[45] an almost identical question arose. In that case, *the plaintiff had prayed for protection of his possession by a prohibitory injunction. That prayer was refused. Subsequent suit was for recovery of possession. This Court held that in the former suit the only relief that the Court could have granted was in regard to the declaration*

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[43] "Halsbury" hereinafter
[44] **(1914) 41 IA 142**
[45] **(1993) 3 SCC 123**

sought for which the Court could not have granted in view of the provisions of the Specific Relief Act. The cause of action for the first suit was based on the apprehension about likely forcible dispossession. The cause of action of the suit was not on the premise that he had, in fact, been illegally and forcefully dispossessed and needed the courts' assistance for restoration of possession. In that background this Court held that subsequent suit was based on a distinct cause of action not found in or formed the subject-matter of the former suit. The ratio of the decision has full application to the facts of the present case.

20. In ***Deva Ram*** case it was held that *where the previous suit was for recovery of loan which was dismissed on the ground that the document on the basis of which the suit was filed was not a sale deed but agreement for sale, subsequent suit for recovery of possession on the basis of title was not hit by Order 2 Rule 2 as the cause of action in the two suits were not identical or one and the same.*

21. *The courts below were, therefore, justified in holding that Order 2 Rule 2 of the Code had no application to the facts of the case.* Consequently, the decree passed in favour of the plaintiffs for recovery of possession shall stand affirmed and the appeal to that extent shall stand dismissed."

75.5 This decision, once again, emphasizes the requirement of identity of causes of action in the two suits for Order II Rule 2 to apply and determination of the cause of action, based on the relief claimed in the suit. If the causes of action are identical, and the relief claimed in the second suit is available to the plaintiff based on the said cause of action, the second suit would be barred, unless leave of the court had been obtained before filing the second suit.

75.6 Notably, the Supreme Court has dwelt at some length on the scope and ambit of the expression "cause of action". It has been held that, compendiously, the expression "course of action" means every

fact which a plaintiff has to prove in order to support his right to the reliefs claimed in the suit. There is a distinction between every fact which is required to be proved and every piece of evidence which is necessary to prove the said facts. The Supreme Court has also noted the definition of "cause of action" in Halsbury, which defines the expression, simply, as "a factual situation the existence of which entitles one person to obtain from the court a remedy against another person". Alternatively, Halsbury defines "cause of action" as "that act of the defendant which gives the plaintiff cause to complain".

75.7 The Supreme Court has again underscored, in this decision, the distinction between combining of reliefs based in one cause of action and combining of different causes of action. Order II Rule 2 requires all reliefs available on one cause of action to be combined in one suit. It does not require all different causes of action, even if based on the same facts, to be combined in one suit. Again, the Supreme Court has emphasised the necessity to advert to the reliefs claimed in the two suits to identify the causes of action.

75.8 The reference to the earlier decision in ***Inacio Martins v. Narayan Hari Naik*** is significant in this context, as, in that case, based on the same facts, a plaintiff filed a first suit for protection of possession and injunction against the defendant and a second suit for recovery of possession. The two suits were, therefore, found to be based on two different causes of action. The Supreme Court has also endorsed the earlier decision in ***Deva Ram***.

75.9 Following these decisions, the Supreme Court held that Order II Rule 2 had no application to the facts before it, as the causes of action in the two suits were different. Thus, it is not the facts which were within the knowledge of the plaintiff, or which were pleaded in the suit, but which constitutes the basis to decide whether order II Rule 2 apply, but the facts which are necessary for entitling the plaintiff to the reliefs claimed in the suits. The court has to ascertain the facts which the plaintiff would be entitled to plead and establish in order to be entitled to the reliefs that the plaintiff seeks in each of the suits. If these facts are identical, there is identity of causes of action. If there is identity of causes of action, and the reliefs in the second suit could also be claimed on the basis of the cause of action in the first suit, the second suit would be barred under Order II Rule 2 of the CPC. This, therefore, appears to be the definitive test.

76. *Union of India v. H K Dhruv*[46]

76.1 This decision, rendered by a bench of three Hon'ble Judges of the Supreme Court, is in the nature of a short order and, unlike the earlier decisions that we have cited, arose under the provisions of the Arbitration Act, 1940.

76.2 H K Dhruv[47] entered into a contract with the Railways. On the Railways failing to honour a claim raised by him, Dhruv sought

[46] **(2005) 10 SCC 218**
[47] "Dhruv" hereinafter

reference of the dispute to arbitration. The Railways did not accede, whereupon Dhruv moved the court for appointment of an arbitrator. A second claim was also raised by Dhruv, which was rejected by the Railways, who did not agree to refer this dispute to arbitration either. Dhruv, therefore, filed a second petition under Section 8 of the Arbitration Act, for reference of the dispute to arbitration.

76.3 The railways contested the second petition as barred under Order II Rule 2 of the CPC. The Supreme Court negatived the claim, thus, in para 4 of the report:

> "4. Having heard the learned Senior Counsel for the appellant as also the respondent appearing in person, we are satisfied that no fault can be found with the view taken by the High Court. *In order to attract applicability of the bar enacted by Order 2 Rule 2 CPC, it is necessary that the cause of action on which the subsequent claim is founded should have arisen to the claimant when he sought for enforcement of the first claim before any court. On the facts found and as recorded in the judgment of the High Court and with which we find no reason to differ, the second demand raised by the respondent was not available to be made a part of the claim raised in the first application. The bar enacted by Order 2 Rule 2 CPC is clearly not attracted."*
>
> (Emphasis supplied)

76.4 Though this is a short order, it is significant because it emphasises the fact that if the foundation of the claim in the second suit was not in existence when the first suit was filed, the second suit cannot be said to be barred by Order II Rule 2 of the CPC. If, therefore, the second suit is based on facts which were unknown to the plaintiff at the time when the first suit was instituted, Order II Rule 2 would not apply.

77. *Alka Gupta v. Narender Kumar Gupta*[48]

77.1 The appellant Alka Gupta[49] and the respondent, Narender Kumar Gupta[50] entered into a partnership *vide* partnership deed dated 5 April 2000 to run a coaching institute under the name "Takshila Institute"[51]. On 29 June 2004, Alka entered into an agreement to sell, in respect of the suit property. Clause 13 of the agreement also sold the goodwill of the firm Takshila Institute. The total consideration under the agreement was ₹ 21.5 lakhs. Alka received ₹ 7.5 lakhs as advance. Alka claimed that pursuant to the agreement to sell, she had also executed a sale deed for ₹ 2 lakhs and that Narender had promised to pay the balance ₹ 12 lakhs as per the Agreement to Sell dated 29 June 2004. Predicated on this assertion, Alka instituted a suit before the District Court at Delhi for recovery of ₹ 12 lakhs under the Agreement to Sell dated 29 June 2004. The suit was decreed in favour of Alka, directing Narender to pay ₹ 12 lakhs with interest.

77.2 Alka, thereafter, filed a second suit against Narender for rendition of accounts for the period 5 April 2000 to 31 July 2004, in respect of the partnership firm Takshila Institute. Additionally, the second suit sought a decree against Narender for Alka's share in the profits of the partnership for ₹ 25.28 lakhs or higher, with interest.

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[48] **(2010) 10 SCC 141**
[49] "Alka" hereinafter
[50] "Narender" hereinafter

77.3 A Single Judge, as well as a Division Bench, of the High Court, held that the second suit was barred by Order II Rule 2 of the CPC. Alka appealed to the Supreme Court.

77.4 The Supreme Court held that the Single Judge and the Division Bench of the High Court were both in error in holding that the second suit was barred by Order II Rule 2 of the CPC. The Supreme Court found that the causes of action in the two suits were completely different. We may reproduce, for this purpose, paras 15, 17 and 18 from the report of the judgment of the Supreme Court, thus:

> "15. *The first suit was for recovery of balance price under an agreement of sale.* The agreement dated 29-6-2004 was not an agreement relating to dissolution of the firm constituted under the deed of partnership dated 5-4-2000, or settlement of the accounts of the said partnership. The agreement of sale made it clear that it related to sale of the undivided half-share in the second floor at Rohini, 50% (property bearing No. 8, Pocket and Block C-9, Sector 8, Rohini, Delhi 110085) and 50% share of the business that was being run *in that premises*, that is, premises at Rohini. *The second suit was for rendition of accounts in pursuance of the dissolution of the firm of Takshila Institute constituted under the deed of partnership dated 5-4-2000, carrying on business at Bhera Enclave, Paschim Vihar, Delhi 110087 and for payment of the amounts due on dissolution of the said firm.*
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> *****
>
> 17. *The cause of action for the first suit was non-payment of price under the agreement of sale dated 29-6-2004, whereas the cause of action for the second suit was non-settling of accounts of a dissolved partnership constituted under the deed dated 5-4-2000. The two causes of action are distinct and different. Order 2 Rule 2 of the Code would come into play only when both suits are based on the same cause of action and the plaintiff had failed to seek all the reliefs based on or arising from the cause of action in the first*

[51] "the suit property" hereinafter

suit without leave of the court. Merely because the agreement of sale related to an immovable property at Rohini and the business run therein under the name of "Takshila Institute" and the second suit referred to a partnership in regard to business run at Paschim Vihar, New Delhi, also under the same name of Takshila Institute, it cannot be assumed that the two suits relate to the same cause of action.

18. *Further, while considering whether a second suit by a party is barred by Order 2 Rule 2 of the Code, all that is required to be seen is whether the reliefs claimed in both suits arose from the same cause of action. The court is not expected to go into the merits of the claim and decide the validity of the second claim. The strength of the second case and the conduct of the plaintiff are not relevant for deciding whether the second suit is barred by Order 2 Rule 2 of the Code."*

(Emphasis supplied)

77.5 Again, in this case, the Supreme Court identified the causes of action in the two suits based on the reliefs claimed therein. It was found that the relief claimed in the first suit was for recovery of the balance payment under the ATS. As against this, the relief claimed in the second suit was for rendition of accounts in respect of the partnership firm Takshila Institute. The cause of action in the first suit was, therefore, non-payment of price under the ATS dated 29 June 2004, whereas the cause of action in the second suit was failure to settle accounts in respect of the dissolved partnership constituted under the partnership deed dated 5 April 2000. The two causes of action were, therefore, distinct and different. Once the causes of action were distinct and different, there could be no question of application of Order II Rule 2 of the CPC.

77.6 The concluding observation in para 17 of the report is of

considerable significance, especially in the light of the controversy before us. The Supreme Court held that though both the suits referred to the partnership in the form of the business run under the name Takshila Institute, and the ATS, which was the basis of the first suit, was also in respect of the same institute, it could not be said that both suits arose from the same cause of action. The Court is, therefore, required to be vigilant regarding the difference between the reliefs claimed in the two suits, which would be the basis to determine whether there is identity of causes of action, and the facts stated in the two suits. It is only to the extent that the facts in the first suit are necessary to be pleaded in order to maintain the reliefs that the first suit claims that they would constitute a part of the cause of action. Additionally, if the reliefs claimed are completely different and distinct, thereby resulting in total dissociation between the facts required to be proved in order for the reliefs to be sustainable, Order II Rule 2 would not come into play.

78. *Coffee Board v. Ramesh Exports Pvt. Ltd.*

78.1 On 24 August 2018, the Coffee Board[52] forwarded, to all registered exporters of coffee, the terms and conditions on which coffee could be sold in the course of export. An export auction was subsequently held, during which Ramesh Exports Pvt. Ltd.[53], the respondent before the Supreme Court, purchased coffee for export.

[52] "Board" hereinafter
[53] "Ramesh Exports" hereinafter

Ramesh Exports shipped 230.4 tonnes of the purchased coffee to USA and Germany without a valid certificate of origin from the International Coffee Organisation[54]. Thereafter, Ramesh Exports wrote to the Board requesting for ICO's stamp for export of the afore-noted 230.4 tonnes of coffee, followed up by a second request for issue of necessary permit/authority to re-import the said 230.4 tonnes of coffee into India. The Board issued a show cause notice to Ramesh Exports, alleging breach, on its part, of the ICO agreement of 1983, which put in place an obligatory system of controls to manage export of coffee.

78.2 Ramesh Exports instituted two suits against the Board before the City Civil Judge, Bangalore. The first suit, filed in 1985[55], sought a decree for ₹ 5,32,012.31 with interest, whereas the second suit, filed in 1986[56], sought a decree of ₹ 11,70,446.39 with interest. The first suit was decreed by the trial court by judgment dated 14 February 2002 in favour of Ramesh Exports and against the Board. The second suit was, however, dismissed by the trial court by judgment dated 17 March 2005. Aggrieved by the dismissal of the second suit, Ramesh Exports filed a First Appeal before the High Court of Karnataka. The first appeal was partly allowed by the High Court. The Board appealed to the Supreme Court.

78.3 Before the Supreme Court, the principal grievance urged by the

[54] "ICO" hereinafter
[55] "The 1985 suit" hereinafter
[56] "The 1986 suit" hereinafter

Board was that the High Court had erred in holding that the 1986 suit was not barred by Order II Rule 2 of the CPC. This decision, it was submitted, had been arrived at without comparing the pleadings in the two suits. The Board urged that the second suit was clearly barred by Order II Rule 2.

78.4 The Supreme Court, in para 9 of the its report, first reiterated the governing principle behind Order II Rule 2, which already stands noted in the decision cited earlier, thus:

> "9. The above Rules are offshoots of the ancient principle that there should be an end to litigation traced in the Full Bench decision of the Court in ***Lachhmi v. Bhulli***[57] and approved by this Court in many of its decisions. *The principle which emerges from the above is that no one ought to be vexed twice for the same cause. In light of the above, from a plain reading of Order 2 Rule 2, it emerges that if different reliefs and claims arise out of the same cause of action then the plaintiff must place all his claims before the court in one suit and cannot omit one of the reliefs or claims except without the leave of the court. Order 2 Rule 2 bars a plaintiff from omitting one part of claim and raising the same in a subsequent suit*. (See ***Deva Ram v. Ishwar Chand***)"

78.5 Thereafter, the Supreme Court proceeded by relying on the judgment of the Constitution Bench in ***Gurbux Singh*** as well as the decision in ***Alka Gupta***.

78.6 The Supreme Court, in this case, held the second suit to have been barred by Order II Rule 2 of the CPC and the High Court to have erred in holding otherwise. Paras. 11, 12, 17, 19 and 20 to 22 of the

report, merit reproduction:

> "11. *The bar of Order 2 Rule 2 comes into operation where the cause of action on which the previous suit was filed, forms the foundation of the subsequent suit*; *and when the plaintiff could have claimed the relief sought in the subsequent suit, in the earlier suit; and both the suits are between the same parties*. Furthermore, the bar under Order 2 Rule 2 must be specifically pleaded by the defendant in the suit and the trial court should specifically frame a specific issue in that regard wherein the pleading in the earlier suit must be examined and *the plaintiff is given an opportunity to demonstrate that the cause of action in the subsequent suit is different*. This was held by this Court in ***Alka Gupta v. Narender Kumar Gupta*** which referred to the decision of this Court in ***Gurbux Singh v. Bhooralal*** wherein it was held that:
>
> *****
>
> 12. *The courts in order to determine whether a suit is barred by Order 2 Rule 2 must examine the cause of action pleaded by the plaintiff in his plaints filed in the relevant suits* (see ***S. Nazeer Ahmed v. State Bank of Mysore***[58]). Considering the technicality of the plea of Order 2 Rule 2, *both the plaints must be read as a whole to identify the cause of action, which is necessary to establish a claim or necessary for the plaintiff to prove if traversed.* Therefore, *after identifying the cause of action if it is found that the cause of action pleaded in both the suits is identical and the relief claimed in the subsequent suit could have been pleaded in the earlier suit, then the subsequent suit is barred by Order 2 Rule 2.*
>
> *****
>
> 17. *The cause of action in the above suit is the failure of ICO to supply stamps to the respondent in spite of its assurances. The respondent to ensure the success of his claim, was required to prove that on account of the omission of the appellant i.e. failure to provide ICO stamps for the coffee purchased by them, the respondent suffered losses.*
>
> *****
>
> 19. *Though the plaint in the subsequent suit is more specific,*

[57] **ILR (1927) 8 Lah 384**
[58] **(2007) 11 SCC 75**

we however, find that the respondent so as to recover the cost of the freight charges and other costs suffered by it, must prove that the appellant was under a duty to provide ICO stamps; and its failure to provide the stamps timely led to the coffee being shipped without the stamps and ultimately led to the losses being suffered by the respondent.

20. *In both the suits the fact required to be proved by the respondent (being the plaintiff therein), to succeed in its claims was that on account of the failure of the appellant (being the defendant) to provide the required ICO stamps as assured by it, the respondent had to suffer losses. The two separate reliefs claimed by the respondent are dependent on the same fact being the omission of duty by the appellant*. The grounds of disparity in the suits are the amount of coffee and the dates when the same was purchased, however it must be noted that the period between 11-8-1982 and 18-8-1982 is common to both the suits and there are no specific pleadings differentiating the same. Furthermore, the suits were filed within a span of nine days of each other.

21. *In the light of the above, we are of the opinion that the suits should have been merged with the claims against coffee purchased between 25-7-1982 and 8-9-1982 (a period arising from the merging of the two periods claimed in the suits wherein eight days overlapped each other) clubbed together in the same suit from which two reliefs, first being the losses due to delayed shipment and second being the costs and losses arising due to the recall of the shipment, could have been claimed.*

22. *In the present factual matrix both the reliefs are being claimed separately in the two suits concerned. This scenario negates the principle of Order 2 Rule 2 in the absence of any explanation as to why the respondent failed to claim the relief by way of a single suit when the cause of action was the same in the both.* Therefore, we are of the opinion that the trial court in its judgment dated 17-3-2005 correctly held that in light of OS No. 3150 of 1985 the present suit is barred under Order 2 Rule 2 of the Code."

(Emphasis supplied)

78.7 Besides reiterating the principles which the decisions cited earlier had already stated, the Supreme Court, in para 12 of its report,

underscored the requirement of reading the plaints as a whole to identify the causes of action. Once the plaints were read as a whole, if (i) the causes of action in two suits were found to be identical and (ii) the reliefs claimed in the second suit could have been claimed based on the cause of action in the first suit, the second suit would be barred by Order II Rule 2.

78.8 On facts, the Supreme Court held that in the 1985 suit, the cause of action was the failure of the Board to supply stamps to Ramesh Exports despite its assurance, for which, to succeed in claim Ramesh Exports was required to prove that, as a result of failure on the Board's part to supply ICO stamps to Ramesh Exports, Ramesh Exports had suffered losses. In the second suit, Ramesh Exports was seeking to recover freight charges and other costs suffered by it, for which, again, Ramesh Exports had to establish the duty of the Board to provide ICO stamps, resulting in the coffee being shipped without the stamps and consequent losses to Ramesh Exports.

78.9 As such, the Supreme Court held that, in both the suits, Ramesh Exports had, to succeed in its claims, to prove the obligation on the part of the Board to provide ICO stamps and the losses suffered by Ramesh Exports as a consequence of failure on the part of the Board in adhering to this obligation. Failure, on the part of the Board, to abide by its duty to provide ICO stamps, therefore, constituted the basis of the reliefs claimed in both the suits. As this fact was identical, the Supreme Court held that there was identity of causes of

action. The Supreme Court, therefore, found that, as there was identity of causes of action and the relief claimed in the second suit could also be claimed on the basis of the cause of action in the first suit, the second suit was barred by order II Rule 2 of the CPC.

79. *Rathnavathi*

79.1 The facts of this case are relatively simple and no detailed allusion thereto is necessary. Broadly stated, a plaintiff entered into an agreement to purchase the suit property from the first defendant D1. The second defendant D2 attempted to interfere in the plaintiff's possession of the suit property. The plaintiff instituted two suits against the defendants. In the first suit, the plaintiff sought an injunction against the defendants interfering with the plaintiff's possession over the suit property. In the second suit, the plaintiff sought specific performance of the agreement to sell. In both the suits, the plaintiff asserted that it had paid the substantial part of the sale consideration and was ready and willing to pay the balance. One of the issues which travelled up to the Supreme Court was whether the second suit was barred by Order II Rule 2 of the CPC.

79.2 The Supreme Court answered the issue in the negative, holding as under:

> *"25.1. So far as the suit for permanent injunction is concerned, it was based on a threat given to the plaintiff by the defendants to dispossess her from the suit house on 2-1-2000 and 9-1-2000. This would be clear from reading Para 17 of the plaint. So far as the cause of action to file suit for specific performance of the*

agreement is concerned, the same was based on non-performance of agreement dated 15-2-1989 by Defendant 2 in the plaintiff's favour despite giving legal notice dated 6-3-2000 to Defendant 2 to perform her part.

25.2. In our considered opinion, both the suits were, therefore, founded on different causes of action and hence could be filed simultaneously. Indeed even the ingredients to file the suit for permanent injunction are different than that of the suit for specific performance of the agreement.

25.3. *In case of former, the plaintiff is required to make out the existence of prima facie case, balance of convenience and irreparable loss* likely to be suffered by the plaintiff on facts with reference to the suit property as provided in Section 38 of the Specific Relief Act, 1963 (in short "the Act") read with Order 39 Rules 1 and 2 CPC. *Whereas, in case of the latter, the plaintiff is required to plead and prove her continuous readiness and willingness to perform her part of the agreement and to further prove that the defendant failed to perform her part of the agreement as contained in Section 16 of the Act.*

26. One of the basic requirements for successfully invoking the plea of Order 2 Rule 2 CPC is that *the defendant of the second suit must be able to show that the second suit was also in respect of the same cause of action as that on which the previous suit was based. As mentioned supra, since in the case on hand, this basic requirement in relation to cause of action is not made out,* the defendants (appellants herein) are not entitled to raise a plea of bar contained in Order 2 Rule 2 CPC to successfully non-suit the plaintiff from prosecuting her suit for specific performance of the agreement against the defendants.

27. Indeed *when the cause of action to claim the respective reliefs were different so also the ingredients for claiming the reliefs, we fail to appreciate as to how a plea of Order 2 Rule 2 CPC could be allowed to be raised* by the defendants and how it was sustainable on such facts.

28. We cannot accept the submission of the learned Senior Counsel for the appellants when she contended that since both the suits were based on identical pleadings and when cause of action to sue for relief of specific performance of agreement was

available to the plaintiff prior to filing of the first suit, the second suit was hit by bar contained in Order 2 Rule 2 CPC.

29. The submission has a fallacy for two basic reasons. Firstly, as held above, cause of action in two suits being different, a suit for specific performance could not have been instituted on the basis of cause of action of the first suit. *Secondly, merely because pleadings of both suits were similar to some extent did not give any right to the defendants to raise the plea of bar contained in Order 2 Rule 2 CPC. It is the cause of action which is material to determine the applicability of bar under Order 2 Rule 2 CPC and not merely the pleadings*. For these reasons, it was not necessary for the plaintiff to obtain any leave from the court as provided in Order 2 Rule 2 CPC for filing the second suit.

30. Since the plea of Order 2 Rule 2 CPC, if upheld, results in depriving the plaintiff to file the second suit, *it is necessary for the court to carefully examine the entire factual matrix of both the suits,* the cause of action on which the suits are founded, the reliefs claimed in both the suits and lastly, the legal provisions applicable for grant of reliefs in both the suits.

31. In the light of foregoing discussion, we have no hesitation in upholding the finding of the High Court on this issue. We, therefore, hold that the second suit (OS No. 2334 of 2000) filed by the plaintiff for specific performance of agreement was not barred by virtue of the bar contained in Order 2 Rule 2 CPC."

(Emphasis supplied)

79.3 This decision reinforces three fundamental principles governing Order II Rule 2, viz. that

(i) the relief sought in the two suits would be determinative of the respective causes of action on which they were based,

(ii) where the ingredients of the causes of action in the two suits were different, there could be no question of applying Order II Rule 2, and

(iii) *identity of pleadings in the two suits would not imply, ipso facto, identity of causes of action*.

79.4 Applying these principles, the Supreme Court held that, as the first suit was filed for permanent injunction, for which the plaintiff was required to prove existence of a *prima facie* case, balance of convenience and irreparable loss on facts, and as the second suit was filed for specific performance of the agreement to sell, for which she had to prove her readiness and willingness to perform the agreement and failure on the part of D1 to do so, the two suits were predicated on different causes of action, and the relief in the second suit could not be sought on the basis of the cause of action in the first. This again highlights the dependence, of the cause of action in the suit, on the relief sought therein.

80. *Cuddalore Powergen Corporation*

80.1 Vide an agreement to sell dated 24 January 2007, one Senthamizh Selvi[59] agreed to sell property[60] in Cuddalore to Chemplast Cuddalore Vinyls Ltd[61] for ₹ 1.5 lakhs. Chemplast claimed that Selvi had received the entire sale consideration and that Chemplast had thereafter been put in possession of the suit property. Selvi was also alleged to have executed an irrevocable power of attorney to enable Chemplast to obtain registration of the sale deed

[59] "Selvi" hereinafter
[60] "the suit property" hereinafter
[61] "Chemplast" hereinafter

pertaining to the suit property. Chemplast had the agreement for sale registered on 7 September 2007.

80.2 Thereafter, on 2 November 2007, Selvi issued a letter revoking the power of attorney issued in favour of Chemplast. This was followed by a letter dated 6 February 2008 by Selvi to Chemplast enclosing a demand draft of ₹ 1.5 lakhs. Chemplast asserted that it had returned the demand draft on 8 February 2008 and had also, on 9 February 2008, written to Selvi asking her to perform her part of the agreement for sale by executing the sale deed and not to alienate the suit property in favour of anyone else.

80.3 On failing to obtain registration of the suit property despite several attempts, Chemplast filed writ petition 1783/2008 before the High Court of Madras. During those proceedings, it was revealed that the revenue authorities had declined to register the sale deed because of a Government Order[62] issued by the Government of Tamil Nadu on 8 August 1986, whereby certain areas of land, which included the area in which the suit property was located, were reserved exclusively for the purpose of a thermal power station to be set up by the Tamil Nadu Electricity Board[63]. TNEB had, vide letter dated 23 October 2006, authorised the Cuddalore Powergen Corporation Ltd[64] – the appellant before the Supreme Court – to develop a power station over an earmarked area of 350 hectares of land. As a result, the general ban

[62] "GO" hereinafter
[63] "TNEB" hereinafter
[64] "CPCL" hereinafter

against registering the suit property did not operate against CPCL.

80.4 Chemplast alleged that, on and from the second week of February 2008, CPCL and Selvi started to interfere with the peaceful possession and enjoyment, by Chemplast, of the suit property. There was also an imminent threat of disposition. In these circumstances, Chemplast filed OS 28/2008 before the Principal District Judge for a permanent injunction restraining CPCL and Selvi from interfering with the peaceful possession and enjoyment of the suit property by Chemplast.

80.5 In its written statement, CPCL asserted that a sale deed had been registered on 24 January 2008 by Selvi, selling the suit property to CPCL. It was asserted that, on 24 January 2008, Selvi alone was in possession of the suit property. CPCL had thereby become the actual owner of the suit property and Chemplast could not seek to injunct CPCL therefrom.

80.6 On 5 March 2008, a Division Bench of the High Court of Madras, in a Public Interest Litigation, quashed GO dated 8 August 1986 whereby there was a ban on registration of the areas reserved for power station, including the suit property. The High Court directed the revenue authorities to register all documents pertaining to the said areas, if they fulfilled the stipulation governing the statutory enactments applicable thereto. Chemplast claimed to have immediately thereafter written to the Tehsildar, Cuddalore, on 6

March 2008, calling upon him not to alter the revenue records in respect of the suit property. Writ Petition 1783/2008, preferred by Chemplast, was also disposed of, by the Single Judge of the High Court of Madras in similar terms. Asserting that it had come to learn of the sale deed dated 24 January 2008 purportedly executed between Selvi and CPCL only after the first suit had been executed by it, Chemplast filed a second suit, i.e. OS 122/2008, before the First Additional Subordinate Judge[65], for a declaration that the sale deed dated 24 January 2008 between Selvi and CPCL was null and void and for a direction to Selvi to specifically perform the terms and conditions of the ATS dated 24 January 2007.

80.7 CPCL filed an application in the second suit, asserting that it was not maintainable in view of Order II Rule 2 of the CPC. This application was allowed by the learned FASJ, and, who, therefore, passed a decree rejecting the plaint in OS 122/2008. The first appellate court upheld this decision but the High Court, in second appeal, set it aside, holding that the second suit could not have been rejected under Order II Rule 2 of the CPC and, therefore, restored the plaint to the file of the learned FASJ. CPCL appealed, against the said decision, to the Supreme Court.

80.8 The Supreme Court has set out the applicable principles, underlying Order II Rule 2 after taking into consideration various judicial authorities as well as other authorities defining "cause of

[65] "FASJ" hereinafter

action" including ***Mohammad Khalil Khan v. Mahbub Ali Mia***, ***Gurbux Singh*** and ***S. Nazeer Ahmed v. State Bank of Mysore***. Paras 43 and 47 of the report set out the principles that the Supreme Court culled out of the aforesaid decisions, thus:

> "43. A summary of the principles laid down in ***Mohd. Khalil Khan (supra)*** are as under:
>
> > *"The principles laid down in the cases thus far discussed may be thus summarised:—*
> >
> > *(1) The correct test in cases falling under Or. 2, r. 2, is "whether the claim in the new suit is, in fact, founded upon a cause of action distinct from that which was the foundation for the former suit.*
> >
> > *(2) The cause of action means every fact which will be necessary for the Plaintiff to prove, if traversed, in order to support his right to the judgment.*
> >
> > *(3) If the evidence to support the two claims is different, then the causes of action are also different.*
> >
> > *(4) The causes of action in the two suits may be considered to be the same if in substance they are identical.*
> >
> > *(5) The cause of action has no relation whatever to the defence that may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the Plaintiff. It refers "to the media upon which the Plaintiff asks the Court to arrive at a conclusion in his favour. This observation was made by Lord Watson in a case under s. 43 of the Act of 1882 (corresponding to Or. 2, r. 2), where plaintiff made various claims in the same suit.*
> >
> > (emphasis supplied)
>
> *****
>
> 47. On a conspectus of the aforesaid discussion, what follows is that:
>
> > i. The object of Order II Rule 2 is to prevent the

multiplicity of suits and *the provision is founded on the principle that a person shall not be vexed twice for one and the same cause.*

ii. *The mandate of Order II Rule 2 is the inclusion of the whole claim arising in respect of one and the same cause of action, in one suit. It must not be misunderstood to mean that all the different causes of action arising from the same transaction must be included in a single suit.*

iii. Several definitions have been given to the phrase "cause of action" and *it can safely be said to mean - "every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court"*. Such a cause of action has no relation whatsoever to the defence that may be set up by the defendant, *nor does it depend upon the character of the relief which is prayed for by the plaintiff but refers to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour.*

iv. Similarly, several tests have been laid out to determine the applicability of Order II Rule 2 to a suit. While it is acknowledged that the *same heavily depends on the particular facts and circumstances of each case, it can be said that a correct and reliable test is to determine whether the claim in the new suit is in fact founded upon a cause of action distinct from that which was the foundation of the former suit. Additionally, if the evidence required to support the claims is different, then the causes of action can also be considered to be different. Furthermore, it is necessary for the causes of action in the two suits to be identical in substance and not merely technically identical.*

v. The defendant who takes shelter under the bar imposed by Order II Rule 2(3) must establish that (a) the second suit was in respect of the same cause of action as that on which the previous suit was based; (b) in respect of that cause of action, the plaintiff was entitled to more than one relief; and (c) being thus entitled to more than one relief, the plaintiff, without any leave obtained from the Court, omitted to sue for the relief for which the second suit had been filed.

vi. The defendant must also have produced the earlier

> plaint in evidence in order to establish that there is an identity in the causes of action between both the suits and that there was a deliberate relinquishment of a larger relief on the part of the plaintiff.
>
> vii. *Since the plea is a technical bar, it has to be established satisfactorily and cannot be presumed merely on the basis of inferential reasoning."*
>
> (emphasis supplied)

80.9 While almost all these principles are contained in the earlier decisions cited *supra*, three principles, which ***Cuddalore Powergen Corporation*** specifically emphasises, deserve to be additionally noted. These are that

(i) if the evidence to support the claims in the two suits is different, the causes of action are also different,

(ii) the character of the reliefs sought by the plaintiff in the first suit is not of particular relevance; what is of relevance is the media upon which the plaintiff asks the court to arrive at a conclusion in its favour and

(iii) Order II Rule 2 does not require two different causes of action *arising from the same transaction* to be included in one suit; what is required is that all reliefs which may be claimed based on a single cause of action should be claimed in one suit.

80.10 The Supreme Court, thereafter, reiterated the principle that the plaint had to be read as a whole before arriving at a conclusion that the causes of action in the plaint were identical or that the reliefs claimed in the second suit were available from the cause of action in the first suit. In this context, para 56 of the report makes for

illuminating reading:

> "56. Order VII Rule 11(d) reads as - "*where the suit appears from the statement in the plaint to be barred by any law*". In light of the aforesaid, it follows that before rejecting the plaint under Order VII Rule 11(d), the Courts must ensure that the plaint is read as a whole and its entire averments are looked into. *A few lines or passages must not be read in isolation and it is imperative that the pleadings are read as a whole for ascertaining the true import of the averments therein. In performing such a holistic reading, it must be deduced whether the causes of action in both the suits are identical in substance in order to sustain a successful plea under Order II Rule 2. It would be a reductive approach to only cull out the cause of action paragraphs from the respective plaints and decide that they disclose the same cause of action on mere comparative overview."*
>
> (Emphasis supplied)

Identity of the causes of action is, therefore, not to be decided by merely reading the formal paragraphs which set out the cause of action, normally to be found towards the end of the plaint. It has to be decided by a holistic reading of the two plaints in their entirety. The Supreme Court, thereafter, cited various other decisions including ***Rathnavathi***, in the context of which it was thus observed in para 62:

> "62. *The Court in* ***Rathnavathi (supra)*** *had added that the defendants would not be justified in raising a plea of bar under Order II Rule 2 merely on account of the pleadings of both the suits being similar to some extent. It is the identity of the cause of action which must be a material consideration for the Courts and not the pleadings alone. Additionally, since a successful plea under this provision would result in depriving the plaintiff of his right to file the second suit, Courts must be careful and should examine the entire factual matrix of both the suits, the causes of action on which they are founded, the reliefs which are claimed in both suits and the legal provisions applicable for the grant of reliefs.*"

80.11 Having thus culled out the salient principles, the Supreme Court went on to apply them to the facts before it and arrived at the following observations/conclusions:

> "64. *On a detailed examination of the aforementioned decisions, it can be seen that the variance in opinion that can observed as regards the applicability of the bar contained in Order II Rule 2 is due to a pertinent factual distinction i.e., the date when the refusal to perform the agreement for sale on part of the defendant was brought to the notice of the plaintiff.* While in ***Virgo Industries (supra)*** and ***Vurimi Pullarao (supra)***[66] the plaintiffs had notice of the defendant's refusal to perform even prior to the institution of the first suit for injunction, in ***Inbasagaran (supra)***[67] and ***Rathnavathi (supra)***, such a knowledge of the fact that the defendants had no intention to perform the agreement for sale was acquired after the first suit was instituted and through the defence which was put forth by the defendants to the first suit. This was precisely why the plea of bar under Order II Rule 2 was said to apply to the facts in ***Virgo Industries (supra)*** and ***Vurimi Pullarao (supra)*** and to be inapplicable to the facts in ***Inbasagaran (supra)*** and ***Rathnavathi (supra)***.
>
> 65. *If the factual scenario of the present case is superimposed to those in the decisions as aforesaid, it can be seen that the respondent no. 1 (plaintiff) had filed a suit for permanent injunction against both the respondent no. 2 and the appellant in order to restrain them from interfering with the peaceful possession and enjoyment of the suit property by the respondent no. 1. In the plaint of the first suit for* injunction, the respondent no. 1 averred as follows:
>
> > "6. *Quite unfortunately, the First Defendant for reasons best known to her, issued a letter on 2nd November 2007 (received by the Plaintiff on 5th November 2007) inter alia revoking the Power of Attorney issued in favour of the Plaintiff…*
> >
> > 7. *While these are the circumstances, the Defendant*

[66] **Vurimi Pullarao v. Vemari Venkata Radharani, (2020) 14 SCC 110**
[67] **Inbasagaran v. S. Natarajan, (2015) 11 SCC 12**

with an ulterior design and ill motive issued a letter to the Plaintiff on 06.02.2008 setting forth frivolous and vexatious contentions enclosing a sum of Rs. 1,50,000/- by way of demand draft. A copy of the said letter along with a copy of the demand draft is submitted herewith as document No. 6…

8. … *The plaintiff also issued a notice through its counsel on 09.02.08 calling upon her not to sell the suit property to any person…"*

(emphasis supplied)

66. *The revocation of the Power of Attorney which was issued in favour of the respondent no. 1 for the performance of all formalities in connection with the registration and execution of the sale deed on 02.11.2007, combined with the return of the entire sale consideration which was given by the respondent no. 1 on 06.02.2008 under alleged false pretexts, also combined with the lack of response to the letter dated 09.02.2008, was sufficient for the respondent no. 1, as a reasonable individual, to infer that the respondent no. 2 did not intend to perform her part of the agreement for sale dated 24.01.2007 and execute the sale deed in favour of the respondent no. 1.*

*****

70. *A conjoint reading of the aforementioned averments made by the respondent no. 1 as the plaintiff in the plaints of both the suits would indicate that the refusal by the respondent no. 2 to perform the agreement for sale was brought to the knowledge of the respondent no. 1 much prior to the filing of the first suit. In other words, the notice of the refusal to perform on part of the respondent no. 2 preceded the filing of the first suit. Therefore, to this extent, the factual scenario would be akin to those in* ***Virgo Industries (supra)*** *and* ***Vurimi Pullarao (supra)***. This might be why the Trial Court in its judgment and decree dated 30.04.2009 passed in I.A. No. 17 of 2009 and O.S. No. 122 of 2008 (second suit) had arrived at the conclusion that the second suit must be subjected to the bar imposed under Order II Rule 2. In other words, that when the respondent no. 1 could have prayed for a larger relief in their first suit, their omission to do so must preclude them for agitating the same subsequently.

71. However, in our opinion, *the Trial Court had unfortunately failed to address a key aspect - whether more than one relief in*

respect of the cause of action which formed the foundation of the institution of the first suit was "available" to the respondent no. 1? In other words, whether the relief of specific performance and the relief to pray for the cancellation of the sale deed dated 24.02.2008 executed in favour of the appellant were "available" to the respondent no. 1 at the time of filing the first suit in view of the ban imposed on the registration of sale deeds at the Thyagavalli village by the G.O. dated 08.08.1986 issued by the Government of Tamil Nadu and the notification dated 23.10.2006 issued by the TNEB which exclusively allowed the appellant to register the sale deeds at the Thyagavalli village where the suit property is situate."

(Emphasis supplied)

80.12 Thus, on facts, the Supreme Court found that as (i) the power of attorney issued by her in favour of Chemplast had been revoked by Selvi, (ii), Selvi had also executed a sale deed on 2 November 2007, (iii) Selvi had returned the entire sale consideration given by Chemplast on 6 February 2008 and (iv) Selvi had not responded to Chemplast's letter dated 9 February 2008, Chemplast was made well aware of the fact that Selvi did not intend to perform her part of the ATS dated 24 January 2007 even before the first suit was instituted. In view of all the facts on the basis of which the cause of action in the second suit was based, were known to the plaintiff at the time of institution of the first suit, the Supreme Court held that the trial court might have *bona fide* arrived at the finding that the second suit was barred by Order II Rule 2 of the CPC.

80.13 The Supreme Court, however, went on to hold that the trial court failed to address, further, the issue of whether at the time of filing the first suit, the relief sought in the second suit was available to

Chemplast. The relief sought in the second suit was for specific performance of the ATS and cancellation of the sale deed dated 24 February 2008 executed by Selvi in favour of CPCL. At the time of institution of the first suit, the GO dated 8 August 1986 issued by the Tamil Nadu Government was in force, whereby there was a ban on registration of sale deeds in the area in which the suit property was situated. By operation of the said GO, CPCL alone was allowed to register the said sale deeds.

80.14 In that view of the matter, the remedy sought in the second suit was not available to Chemplast at the time of institution of the first suit. The Supreme Court, in this regard, concurred with the views expressed by the High Court of Rajasthan in ***Ramjilal v. Board of Revenue, Rajasthan***[68] and the High Court of Allahabad in ***National Security Assurance Co. Ltd. v. S.N. Jaggi***[69]**,** that, if it was impossible to obtain the relief sought in the second suit at the time of institution of the first suit, then, despite the plaintiff having been entitled to such reliefs in law, the second suit could not be said to be barred by Order II Rule 2. This proposition has been thus distilled in para 77 of the report, thus:

> "77. These decisions of the Rajasthan and Allahabad High Courts respectively, have rightly taken the view that *when it is not possible for the plaintiff to obtain a particular relief in the first instance but such relief becomes available to him on the happening of a subsequent event, post the institution of the first suit, then the bar under Order II Rule 2 would not stand in the way of the*

[68] **AIR 1964 Raj 114**
[69] **AIR 1971 All 421**

plaintiff who has instituted a subsequent suit for claiming those reliefs. It can be said that the occurrence of that subsequent event gives rise to a fresh cause of action to the concerned plaintiff for claiming certain reliefs which he was otherwise prevented from claiming."

(Emphasis supplied)

80.15 Finally, the Supreme Court, in para 86, reiterated the principles governing Order II Rule 2, thus:

"86. *It is established law that the principles governing the applicability of the provisions of Order II Rule 2 do not operate as a bar when the subsequent suit is based on a cause of action different from that on which the first suit was based and that the identity of the causes of action in both the suits must be the material consideration before the court which decide the applicability of this provision to a second suit filed by the plaintiff. It would be incorrect for us to hold that merely because the pleadings in the plaint filed in O.S. No. 28 of 2008 and the plaint filed in O.S. No. 122 of 2008 are similar to some extent, the causes of action are also identical. Rejecting the plaint in the second suit i.e., O.S. No. 122 of 2008 would result in depriving the respondent no. 1 from claiming the relief of specific performance of the agreement for sale dated 24.01.2007 and the cancellation of the sale deed dated 24.01.2008.* In this regard, we have examined the entire factual matrix along with the causes of action on which both the suits were founded, through a holistic reading of the plaints placed before us. In our opinion, *the reliefs in the subsequent suit are in fact founded on a cause of action which is distinct from that which is the foundation of the former suit. The facts which are necessary to be proved and the evidence to support the claims in the second suit are also different from that of the first suit. Therefore, it cannot be said that the respondent no. 1 could have prayed for the reliefs claimed in the subsequent suit at an earlier stage.*"

(Emphasis supplied)

80.16 Following this, in para 87, the Supreme Court reversed the decisions of the High Court and the trial court on the ground that, at the time of institution of the first suit, it was impossible for Chemplast

to obtain a relief sought in the second suit.

81 *State of Maharashtra v. National Construction Company*[70]

81.1 The State of Maharashtra invited tenders for work relating to the Paithan Dam on the Godavari River. The offer of National Construction Company[71] was accepted. As required by the tender documents, performance bank guarantee[72] dated 6 January 1968 was also executed by the Central Bank of India[73]. The State of Maharashtra[74] alleged that the NCC failed to employ the proper agency to ensure that the contract work was completed resulting in the State having to incur expenses totalling to ₹ 1,44,18,970.24.

81.2 On 21 June 1972, the State filed Suit 491/1972 only against the Bank, before the Bombay High Court for recovery of ₹ 14,12,836, being the amount covered by the PBG with interest. The suit was filed before the PBG lapsed.

81.3 The High Court dismissed the suit for non-joinder of parties, holding that NCC was required to be impleaded as a necessary party. An appeal, preferred thereagainst by the State, was also dismissed on 7 April 1983. On the same day, i.e., 7 April 1983, the State filed a second Special Civil Suit 29/1983 against the NCC and the Bank

[70] **(1996) 1 SCC 735**
[71] "NCC" hereinafter
[72] "PBG" hereinafter
[73] "Bank" hereinafter
[74] "the State" hereinafter

before the Court of the Civil Judge at Aurangabad claiming ₹ 1,13,27,298.16 with interest from NCC towards damages for breach of contract. This included the claim of ₹ 14,12,836/- which formed subject matter of the first suit instituted against the bank which was covered by the PBG.

81.4 The Civil Judge dismissed the second suit on 28 July 1992 *inter alia* holding that it was barred by Order II Rule 2 of the CPC. The appeal, preferred thereagainst by the State, was dismissed by the Division Bench of the High Court on 9 July 1993 against which the State appealed to the Supreme Court.

81.5 The Supreme Court held the Trial Court as well the High Court to have erred in holding that the second suit was barred by Order II Rule 2 of the CPC. Paras 9 to 12, 15 and 18 from the report of the judgment of the Supreme Court are relevant and read thus:

> "9. … Both the principle of res judicata and Rule 2 of Order 2 are based on the rule of law that a man shall not be twice vexed for one and the same cause. In the case of ***Mohd. Khalil Khan v. Mahbub Ali Mian***, *the Privy Council laid down the tests for determining whether Order 2 Rule 2 of the Code would apply in a particular situation. The first of these is, "whether the claim in the new suit is in fact founded upon a cause of action distinct from that which was the foundation for the former suit". If the answer is in the affirmative, the rule will not apply.* This decision has been subsequently affirmed by two decisions of this Court in ***Kewal Singh v. Lajwanti*** and in ***Inacio Martins***.
>
> 10. *It is well settled that the cause of action for a suit comprises all those facts which the plaintiff must aver and, if traversed, prove to support his right to the judgment.*

11. It is the contention of the appellants that the two suits are in respect of two separate causes of action. The first suit was filed to enforce the bank guarantee, while the second suit was filed to claim damages for breach of the contract relating to the work.

12. *In the plaint of the short cause suit, the foundation of the appellants' claim rested upon the Performance Guarantee No. 57/22. The basis of the appellants' claim was that under the terms of the bank guarantee, the Bank was liable to make good to the appellants all losses that became due by reason of any default on the part of the contractor in the proper performance of the terms of the contract*. The appellants annexed particulars and laid out facts to show that the contractor had, by allegedly abandoning the work, failed to observe the terms of the contract. *The appellants further alleged that these actions of the contractor had caused them to incur losses of Rs 76,37,557.76. However, in view of the limitation prescribed in the bank guarantee, the appellants had limited their claim to Rs 14,12,836.*

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15. *In the plaint of the special suit, the main relief sought by the appellants was on the basis of the contract entered into between the appellants and the contractor. The appellants alleged and laid out facts and particulars to the effect that the abandonment of work by the contractor was in breach of the contract and this had caused the appellants to suffer losses worth Rs 1,13,27,298.16. This amount was inclusive of the claim of Rs 14,12,836 based on the Performance Guarantee No. 57/22 for which the contractor and the Bank were jointly and severally liable.*

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18. *It is, therefore, clear that when the appellants, by way of Short Cause Suit No. 491 of 1972, sought to enforce the Performance Guarantee No. 57/22, they were seeking reliefs on the basis of a cause of action which was distinct from the one upon which they subsequently based their claim in Special Civil Suit No. 29 of 1983."*

81.6 The principles laid down in this decision are the same as those

which were enunciated in the judgments cited earlier, and need not be repeated. The manner in which they were applied to the facts before the Supreme Court is, however, relevant. The Supreme Court held that the claim in the first suit filed by the State rested on the PBG. The contention of the State was that, under the PBG, the Bank was liable to make good of losses incurred by the State as a result of delay on the part of NCC in compliance with its obligation under the contract. Though it had allegedly suffered a much greater loss, the State restricted its claim to ₹ 14,12,836/- in view of the limitations contained in the PBG.

81.7 As against this, the second suit was predicated, not on the PBG, but on the contract between the State and NCC. The claim was for damages suffered by the State on account of abandonment of work by NCC, which was stated to be ₹ 1,13,27,298.16. This included the amount of ₹ 14,12,836/- covered by the PBG.

81.8 As the first suit was based on the obligation of the bank under the PBG, and the second suit was based on the liability of NCC to pay damages to the State for breach of contract, the Supreme Court held that the reliefs sought in the two suits were based on different causes of action. Ergo, held the Supreme Court, there being no identity of causes of action in the two suits, the High Court, as well as the trial court, had erroneously invoked Order II Rule 2 of the CPC.

82 *Channappa v. Parvatewwa*[75]

82.1 Channappa, the appellant before the Supreme Court, claimed that he had been adopted by the respondent Parvatewwa on 23 March 1961. Parvatewwa instituted a suit[76], before the Bijapur Civil Court, seeking a declaration that the 1961 adoption deed was null and void and not binding on her, as well as injunction. The suit was dismissed by the Civil Judge, against which an appeal under Section 96 of the CPC was filed by Parvatewwa before the first appellate court.

82.2 During the pendency of the said appeal, Parvatewwa instituted a fresh suit[77] before the Principal Civil Judge, Bijapur, alleging that Channappa had dispossessed her from property number CTS 121/B[78] over which she claimed ownership. The second suit, therefore, sought declaration of title of Parvatewwa over the suit property and restoration of possession.

82.3 Channappa filed an application in the second suit, claiming that it was barred by Order II Rule 2 of the CPC. The application was rejected by the Trial Court. A writ petition, under Article 227 of the Constitution, preferred by Channappa thereagainst, was dismissed by the High Court. Further, by a subsequent judgment dated 24 July 2015, the second suit was dismissed by the Trial Court, *inter alia*, as being barred under Order II Rule 2 of the CPC. This decision was

[75] **2026 SCC Online SC 552**
[76] "the first suit" hereinafter
[77] "the second suit" hereinafter

upheld by the First Appellate Court. The decision of the First Appellate Court was reversed by the High Court in second appeal, holding that Order II Rule 2 of the CPC did not bar the second suit.

82.4 Channappa, through his legal representatives, therefore, appealed to the Supreme Court.

82.5 The Supreme Court addressed the issue of whether the second suit was barred by Order II Rule 2 of the CPC, thus:

> "20. *The doctrine underlying Order II Rule 2, CPC is founded upon the salutary principle that a defendant ought not to be vexed twice for the same cause of action and that the plaintiff must claim all reliefs arising from a single cause of action in one and the same proceeding. Where a plaintiff omits to claim a relief which he or she is entitled to claim on the same cause of action, he/she is precluded from instituting a subsequent suit in respect of such omitted relief.*
>
> *****
>
> 22. *Applying these principles to the present case, it becomes evident that Parvatewwa had already approached the court in the earlier proceedings on the basis of the same underlying dispute relating to the rights over the suit property. The foundational facts giving rise to the cause of action, namely the claim regarding entitlement to the property, were already in existence at the time of the earlier suit.*
>
> 23**.** *A comparison of the pleadings and the reliefs sought in Suit - I and Suit - II demonstrates that the cause of action and subject matter in both suits are substantially identical. Parvatewwa had, in the earlier suit, challenged the adoption deed of 1961 and sought to restrain the defendants from interfering with her alleged rights over the suit properties. These facts are evident from the pleadings contained in the plaint filed in Suit - I. From the averments, it*

[78] "the suit property" hereinafter

becomes clear that the plaintiff was already asserting ownership and disputing the rights of the defendants in respect of the same properties. Relevant excerpts from the plaint read thus:

> 7. …The defendant told the plaintiff that he is the absolute owner of all the properties of the plaintiff mentioned above and said that he has every right to get the money after sale of the properties of the plaintiff. The plaintiff returned to Bijapur and got all the records, though (*sic*, through) the help of Savalagappa and came to know that the defendant has got entered hisame (*sic*, his name) to all the properties of plaintiff in collusion with CTS. Authorities. The plaintiff also came to know that the defendant has created document to show that he is the adopted son and the said document of adoption is registered in the office of Sub-Registrar, Bijapur on 23.3.1961 itself. This fact of adoption is without the knowledge of the plaintiff and behind her back…
>
> 8. Cause of action:— the cause of action for this suit arose in the month of September 2002 when the plaintiff has discovered the fraud played by the defendant creating documents that he is the adopted son of plaintiff and falsely got entered his name to all the house properties of the plaintiff as owner.
>
> *****
>
> 11. Prayer:— The plaintiff, therefore, prayer (*sic*, prays) that, the court be pleased to:—
>
> a) Pass a decree declaring that the adoption deed created on 23.3.1961 created by the defendant Showing that the defendant is the adopted son of plaintiff as null and void and inconsequence thereof:
>
> b) Pass a decree of perpetual injunction restraining the defendant or his agents in alienating or transferring the house and shop properties of plaintiff mentioned in para No. 2 of the plaint.
>
> (emphasis ours)

24. *Despite being fully aware that Channappa had denied her ownership and had asserted rights on the basis of the family arrangement deed of 1998, Parvatewwa chose to institute Suit - I merely seeking injunction simpliciter, without seeking the*

necessary and consequential relief of declaration of title. Once Channappa had clearly contested Parvatewwa's ownership in the pleadings, it became incumbent upon Parvatewwa to seek the comprehensive relief of declaration of title along with the consequential relief of injunction. The omission to seek such relief in Suit - I is significant and cannot be cured through a subsequent suit. Importantly, there is nothing on record to suggest that Parvatewwa obtained leave of the court to reserve these reliefs for a future proceeding.

25. *The consequence of such omission is clearly contemplated under Order II Rule 2(3), CPC, which bars the plaintiff from subsequently instituting a suit for the omitted relief.*

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27. In the present case, Parvatewwa herself had pleaded in the earlier proceedings that Channappa was asserting rights over the suit properties on the basis of the adoption. The dispute as to the parties' respective rights over the property was, therefore, already in existence at the time of institution of Suit - I. In such circumstances, the relief of declaration of title and the consequential relief relating to possession could and ought to have been claimed in the earlier proceedings.

28. The subsequent institution of Suit - II seeking declaration of ownership and recovery of possession in respect of the same property and between the same parties is, therefore, clearly hit by the provisions of Order II Rule 2, CPC."

(Emphasis supplied)

82.6 In order to hold that the cause of action in the two suits was the same, the Supreme Court observed, in paras 22 and 23 of the report, that Parvatewwa, in her first suit, had already claimed rights over the suit property and that, therefore, this foundational fact was already in existence at the time of filing of the second suit. In both the suits, Parvatewwa was asserting ownership and disputing the right of Channappa over the same suit property. Despite being aware of the

fact that Channappa had denied her ownership, Parvatewwa chose to restrict the first suit merely to seeking an injunction without the requisite consequent relief of declaration of title. Once the title of Parvatewwa had been disputed by Channappa, the Supreme Court held that Parvatewwa was required, in the first suit itself, not only to seek injunction but also to seek a declaration of title. She could not restrict the relief in the first suit merely to injunction and postpone the relief of declaration of title to a subsequent suit without obtaining leave of the court. The facts, therefore, were held to squarely attract Order II Rule 2 (3) of the CPC. As the dispute regarding the adversarial rights of the parties over the suit property was already in existence at the time of filing the first suit, the relief of declaration of title and restoration of possession ought to have been claimed in the first suit itself. A second suit, seeking these reliefs in respect of the same property between the same parties was, therefore, not maintainable.

III. Applying the Law

83 The law that emerges from the aforenoted decisions is crystal clear, and it is not necessary for us to recapitulate it at this stage. When one applies the principles in the aforesaid decisions to the facts of the present case, it becomes obvious that the learned Single Judge is, with due respect, not correct in his finding that the second suit was barred by Order II Rule 2 of the CPC.

III.A Suits arose from different causes of action

84 The first suit was specifically in terms of Section 142 of the Trademarks Act and Section 60 of the Copyright Act, which expressly and statutorily entitle a plaintiff, who apprehends initiation of frivolous proceedings against him for infringement and the like, to sue for a declaration to the effect that the threats are groundless and that there is in fact no infringement committed by him. In the very nature of the relief that Section 142 envisages, a declaration that there is no infringement committed by the plaintiff is necessary, as it is only then that the plaintiff can assert that the threats held out by the defendant are *groundless*.

85 As against this, the relief sought in the second suit was by way of an injunction against disparagement by the Sanjay Sonavane and the various operators operating YouTube and the news channels over which the allegedly disparaging material was broadcasted to the public. Thus, the relief sought in the two suits were fundamentally distinct from each other. *Prima facie*, therefore, they arose from different causes of action, applying the law laid down in the aforenoted decisions, particularly ***Rathnavathi***.

86 The mere fact that the reliefs were distinct may not, however, by itself, be sufficient to hold that Order II Rule 2 would not apply. If (i) the facts which were required to be established by Castrol to succeed in the reliefs claimed in the first suit were the same as the

facts which Castrol would be required to establish to succeed in the second suit, thereby resulting in identity of causes of action and (ii) the relief in the second suit could be claimed on the basis of the facts constituting the cause of action in the first suit, the second suit would nonetheless be barred by Order II Rule 2, despite the reliefs in the two suits being qualitatively different.

87 It is necessary, therefore, to ascertain the facts which were required to be asserted and proved by Castrol to succeed in its claim to the reliefs sought in the first suit, to identify the causes of action in that suit. If these causes of action are identical, the court has thereafter to examine whether the reliefs claimed in the second suit could be sought on the basis of the cause of action in the first suit. If this issue is also answered in the affirmative, the second suit would be barred by Order II Rule 2 of the CPC.

88 The first suit, as we have noted, sought an injunction against groundless threats allegedly held out by Sanjay Sonavane. Groundless threats have absolutely nothing to do with disparagement. Disparagement essentially requires damage to the reputation of the plaintiff, and the reputation of the plaintiff has nothing to do with a plea for injunction against groundless threats.

89 The facts that Castrol was required to establish in order to succeed in the first suit were, therefore, that (i) Castrol had not infringed Sanjay Sonavane's trademark or copyright, and (ii) Sanjay

Sonavane was, despite this fact, acting in a manner which created an apprehension that groundless legal proceedings were being sought to be instituted against Castrol. Neither of these elements has any relevance to the relief in the second suit, which dealt with disparagement.

90 As against this, in the second suit, the grievance of Castrol was that Sanjay Sonavane was disparaging it. To succeed in the reliefs claimed in this suit, Castrol has to establish (i) that Sanjay Sonavane and the other defendants were responsible for circulating material such as YouTube videos and news reports against Castrol and (ii) the said material had resulted in lowering of the reputation of Castrol in the eyes of the public, and was, therefore, disparaging in nature.

91 The aspect of whether Castrol was an infringer of Sanjay Sonavane's products and the threats held out by Sanjay Sonavane which constituted the basis of the first suit were, therefore, not required to be established to succeed in the claim in the second suit. The claim in the second suit was based, not on the threat held out by Sanjay Sonavane to Castrol, but on the dissemination, amongst the public, of news items and YouTube videos publicising the acts of Sanjay Sonavane against Castrol and making unwarranted allegations on the basis thereof.

92 There being clear difference between the facts which were required to be established by Castrol to succeed in its first suit against

Sanjay Sonavane and those which were required to be asserted and established to succeed in its second suit against Sanjay Sonavane, the causes of action in the two suits were completely different.

93 Whether, therefore, one were to view the causes of action from the point of view of the reliefs sought in the two suits, or from the point of the view of the facts which Castrol would be required to assert and establish in order to succeed in obtaining the said reliefs, there was complete dissociation between the causes of action in the two suits. That the suits may have emanated from a *bouquet* of similar, or even interconnected facts – it cannot even be said that they arose from the *same* facts – would not make a difference to the fact that the causes of action in the suits were distinct and different.

94 As the Supreme Court has repeatedly held while dealing with Order II Rule 2, what the provision proscribes is segregation of reliefs which can be claimed from a single cause of action. What it requires is, therefore, uniting, in one suit, of all reliefs which are available under a common cause of action.

95 Order II Rule 2 does not even envisage, much less require, combination of different causes of action in a single suit, even if the facts which are stated in the plaints in the suits, may overlap to some extent. It is not overlap of facts which is the definitive test; it is identity of causes of action. Coupled with identity of causes of action, the defendant would have to establish that the relief sought in the

second suit are available from the cause of action pleaded in the first suit, in order for an objection under Order II Rule 2 to succeed.

96 These requirements are woefully lacking in the present case. With great respect to the learned Single Judge, we are of the opinion that the impugned judgment has proceeded on the premise that the facts stated in the second suit, to some extent, were pleaded in the first suit and were known to Castrol at the time when the first suit was instituted. Even if this were to be correct, they would not result in the second suit being barred by Order II Rule 2 until the causes of action in the two suits, which itself would depend on the reliefs claimed in the two suits, were found to be identical.

97 Similarity of facts, or even identity of pleadings, and knowledge of the facts pleaded in the second suit at the time when the first suit was filed, would not *ipso facto* bar the second suit under Order II Rule 2 of the CPC, where the two suits are founded on different causes of action. At the cost of repetition, *the CPC does not require all causes of action, which may arise from one set of facts, to be united in one suit.*

III.B Second suit involved facts which took place after first suit was filed

98 Besides, there is also substance in Mr. Roomi's submission that, on the date of institution of the first suit, Castrol was unaware of the

involvement of Sanjay Sonavane in the circulation of the allegedly disparaging videos and articles amongst the public. It is only when Sanjay Sonavane circulated the news articles and YouTube videos on WhatsApp groups that Castrol understood that Sanjay Sonavane was responsible for the said disparaging material. At the stage of institution of the first suit, the allegation in para 38 of the plaint that Sanjay Sonavane must have been involved in the disparaging material was merely an apprehension and it was expressly so stated. It was for this reason that Castrol did not implead YouTube or any of the other defendants impleaded in the second suit, who disseminated the allegedly disparaging material over their platforms/news channels, in the first suit. We find substance in Mr. Roomi's submission that, as no conclusive material to link Sanjay Sonavane to the disparaging YouTube videos and news articles was available with Castrol at the time of institution of the first suit, no relief with respect to disparagement was claimed therein.

99 The circulation of the YouTube videos and news articles over WhatsApp, by Sanjay Sonavane, admittedly took place after the first suit had been instituted. This circulation was an essential fact which Castrol was required to plead in the second suit in order to substantiate its allegation that Sanjay Sonavane was the moving force behind the allegedly disparaging videos and articles. This fact was not even in existence at the time when the first suit was instituted. It could not, therefore, have been pleaded in the first suit. At the same time, it was an essential part of the pleadings in the second suit. That being so, it

was impossible for Castrol to have pleaded the essential facts to maintain the relief sought in the second suit, when the first suit was filed.

100 Even for this reason, therefore, it cannot be said that Castrol split the reliefs which could be claimed on the basis of the cause of action pleaded in the first suit, so as to render the second suit barred by Order II Rule 2 of the CPC.

III.C Evidence required to support claims in two suits was different

101 The decisions cited earlier also identify, as another test on the basis of which it can be decided whether there is identity of causes of action between the two suits, the test of whether the evidence which is required to support the claims in the suit is the same. If the claims in the two suits can be supported on the basis of the same evidence, the causes of actions are identical, failing which they are not.

102 Even if one views the present case through the evidentiary prism, it becomes clear that the evidence which Castrol would have to lead to obtain the relief sought in the two suits is totally different. In the first suit, Castrol would have to lead evidence to establish that it was not infringing the registered trademark or copyright of Sanjay Sonavane. Additionally, it would have to lead evidence to establish that the criminal proceedings as well as the legal notice were issued at the instance of Sanjay Sonavane and that they gave rise to reasonable

apprehension, in the mind of Castrol, that legal proceedings were at the cusp of initiation. As against this, in the second suit, Castrol would have to lead evidence to establish that (i) Daily Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation, impleaded in the second suit had in fact put up allegedly disparaging YouTube videos and circulated the news articles, (ii) Sanjay Sonavane was responsible for doing so, and (iii) by such dissemination, there had been damage to the reputation of the Castrol and its products. There is, therefore, hardly any overlap between the evidence which Castrol would have to lead in order to succeed in the first suit and that which it would have to lead to succeed in the second. Even on this touchstone, therefore, the causes of action in the two suits are markedly distinct and different.

III.D. Conflation of the causes of action and the transactions from which the causes of action stem

103 The decision in ***Cuddalore Powergen*** underscores the distinction between the cause of action and the transaction from which the cause of action stems. One transaction may result in more than one causes of action. The fact that the transaction is the same does not necessarily imply that the causes of action arising therefrom are the same. If different causes of action, based on different grievances, arising from the same transaction, exist, Order II Rule 2 does not require all causes of action to be combined in one suit. At the cost of repetition, what the provision requires is that all reliefs which can be

claimed on the basis of a common cause of action should be claimed in one suit.

104 Once this distinction is understood, the error in the manner in which the learned Single Judge proceeds become apparent. Sanjay Sonavane issued a legal notice to Castrol and also filed a criminal complaint against Castrol, alleging infringement, by Castrol, of its registered trademark and copyright. At the instance of Sanjay Sonavane, a raid was also conducted at the premises of Castrol, during which seizure took place. These facts were publicised in the social and print media as well as through clips on YouTube and other social media platforms. As a result, there was damage to the reputation and standing of Castrol and its products, resulting in disparagement. The fact that the clips and the news items were circulated by Sanjay Sonavane over WhatsApp, indicted that Sanjay Sonavane was also complicit in the act of disparagement of Castrol.

105 This is the sequence of events – or, as one may say, the bouquet of facts – on the basis of which Castrol instituted the two suits. Even if these facts are cumulatively treated as constituting one transaction – which, in fact, they do not – they give rise to different and distinct causes of action which were separately ventilated in the two suits. These causes of action arose at different and distinct stages of the said sequence of events. The first cause of action, of groundless threats and forming the basis of the first suit, ended with the issuance of caution notice by Sanjay Sonavane and the police complaint lodged by him,

resulting in the raid at the premises of Shivay Agencies. The second cause of action, of disparagement, arose later, when these facts were publicized by Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation and by Sanjay Sonavane.

106 The causes of action for the two suits were, therefore, different, arising from different facts and at different stages, even if the facts from which the second suit arose followed those from which the first suit arose. Even if these facts formed one sequence, that would not equate the causes of action in the two suits. They give rise to a cause of action against Sanjay Sonavane for issuing groundless threats, as Castrol claimed that it did not infringe the trademark or copyright of Sanjay Sonavane at any point of time. Separately, they give rise to a cause of action against disparagement which took place as a consequence of publicising the events leading up to the raid and the adverse comments made in that regard both in the social and print media. Sanjay Sonavane, by circulating this material on WhatsApp, became complicit in the act of disparagement.

107 Thus, applying the principle that Order II Rule 2 of the CPC does not require combination, in one suit, of different cause of action which may arise from the same transaction – in the present case, arguendo, from one sequence of events – Castrol cannot be prohibited from filing distinct suits ventilating the different causes of action.

108 The impugned judgment conflates the facts on the basis of which the causes of action have arisen with the causes of action themselves. With respect, it appears that the learned Single Judge assumed that there was commonality of cause of action merely because the factual milieu was the same, or largely similar.

III.E. Re. the finding that one suit could have been filed and amended to add later facts – the bar of Order II Rule 3

109 The learned Single Judge has also observed that, even if the facts relating to the involvement of Sanjay Sonavane in the alleged disparagement took place, or came to the knowledge of Castrol after the first suit was filed, Castrol could have claimed relief against disparagement in the first suit and thereafter sought to amend the first suit to include the facts which came to its knowledge later. With great respect, there are two reasons why we cannot sustain this finding.

110 In the first place, in the absence of any material to link Sanjay Sonavane to the alleged acts of disparagement, even if disparagement were to be pleaded in the first suit, it could have been pleaded only against Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation, none of whom was a defendant in the said suit. The learned Single Judge has observed that Castrol could have joined them as defendants in the first suit and included, therein, the plea of disparagement/defamation and the reliefs predicated thereon, which were claimed in the second suit.

111 We are unable, with respect, to sustain this finding. Different causes of action can be united in one suit, *under Order II Rule 3(1)*[79], *provided they are against the same defendants*. Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation have nothing whatsoever to do with the cause of action in the first suit, which is directed against groundless threats being held out by Sanjay Sonavane and asserts that there is no infringement, by Castrol, of Sanjay Sonavane's trademark or copyright. Including the cause of action relating to disparagement and damages on that score in the first suit and impleading, for that purpose, Dainik Bhramar, Maharashtra Bulletin and Saksham Times Media Foundation as defendants, would result in one suit combining different causes of action *against different defendants*, which Order II Rule 3 does not permit.

112 Secondly, if the causes of action are different, and the facts which constitute essential elements of the cause of action required to be pleaded in the second suit were unknown to the plaintiff at the time when the first suit was filed, the court cannot reject the second suit under Order II Rule 2 merely by holding that the plaintiff could have instituted the first suit covering both the causes of action and later amended its suit. The possibility and permissibility of such amendment, even if it were presumed to exist, cannot be a governing

[79] **3. Joinder of causes of action**.—
(1) Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

consideration while examining whether the second suit was barred by Order II Rule 2 of the CPC.

G. Conclusion

113 For all the aforesaid reasons, we are of the opinion that the impugned judgment, in holding that the second suit instituted by Castrol was barred by Order II Rule 2 of the CPC, cannot sustain on facts or in law.

114 Resultantly, the impugned judgment is quashed and set aside. CS (Comm) 946/2025 would stand restored to the file of the learned Single Judge for further proceedings in accordance with law.

115 The appeal stands allowed accordingly, with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 20, 2026
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