IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

RESERVED ON: 30.10.2026

PRONOUNCED ON: 05.11.2026

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

C.R.P.No.1623 OF 2026
(CNR No.HBHC010353542026)

Between:

Cadila Healthcare Limited
(Now Zydus Lifesciences Limited),
Rep. by its Authorised Signatory,
Mr. Hiren Trivedi

…Petitioner

A N D

Mr. Abburi Ramaiah and another

…Respondents

ORDER: *(Per Hon'ble Sri Justice T.Vinod Kumar)*:

This civil revision petition is filed aggrieved by the order dated 06.04.2026 in I.A.No.413 of 2025 in C.O.S.No.44 of 2017 (hereinafter referred to as 'the impugned order'), on the file of the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes, at Hyderabad (hereinafter referred to as 'the Commercial Court).

2. The petitioner herein is the defendant No.2 in underlying suit filed before the Commercial Court.

3. The 1st respondent herein is plaintiff, whereas, the 2nd Respondent herein is the Defendant No. 1 in the underlying suit.

4. The underlying commercial suit numbered as O.S.No.44 of 2017, was filed seeking grant of permanent injunction and damages against the defendants for infringement of patent No. 239632.

5. The underlying suit is instituted by the 1st respondent herein under Order VII Rule 1 read with Section 151 of CPC and Sections 48, 104 and 108 of the Indian Patent Act, 1970 (for short 'the Act') against the Petitioner and the 2nd Respondent herein *inter alia* claiming infringement of the registered patent of the 1st respondent herein bearing No.239632 and as such the respondents are to be restrained from infringing patent No. 239632 registered/granted in favour of the 1st respondent and to award damages in a sum of Rs.1 crore.

6. While so, the petitioner/defendant No.1 herein filed the underlying interlocutory application before the Commercial Court,

numbered as I.A.No.413 of 2025 under Order VII Rule 11 read with Section 151 of CPC and sought for rejection of the plaint in order to curtail vexatious litigation and save precious time of the Hon'ble Court.

7. The 1st respondent herein in his counter-affidavit resisted the aforesaid interlocutory application on the ground that the cause of action for filing the suit first arose on 08.08.2016 when the petitioner herein issued a press release and again on 15.08.2016 when the 1st respondent herein to his shock and dismay discovered that the petitioner was selling the impugned products in India. Thus, it was contended before the Court below that the commercial suit is within its territorial jurisdiction for infringing the patent registered in the name of the 1st respondent.

8. The Commercial Court by taking note of the contentions urged by the petitioner and respondents in the underlying interlocutory application dismissed the same holding that the petitioner herein had failed to make out a ground for rejection of the plaint under Order VII Rule 11 of CPC.

9. The Commercial Court, while dismissing the underlying interlocutory application, had noted that in order to consider the subject interlocutory application, it is relevant to go through the averments of the plaint to see whether the cause of action is disclosed or not; that on the Petitioner herein having issued press release on 08.08.2026 and on 15.08.2016 the 1st respondent discovered that the petitioner was selling the infringed products within the territorial jurisdiction of Hyderabad Police and also having stated that the cause of action arose on 28.10.2016 when the petitioner confirmed the infringement of the patent rights through their e-mail, the same would have to be considered as plaint disclosing cause of action and the truth of cause of action shown would have to be decided in trial.

10. The Commercial Court, while rejecting the underlying interlocutory application, further noted that so far as the assignment of patent rights by the 1st respondent to M/s Samastha Laboratories Private Limited is concerned, the plaint clearly discloses that the assignment was still under application stage at the patent office for consideration and entering into the register of patents and thus,

on the date of filing of the suit, the assignment of patent rights in favour of M/s Samastha Laboratories Private Limited were not registered by the patent office; and that it is settled law that when a patent assignment is pending before the patent office, though it has been executed by both the parties but not yet formally recorded or registered in the register, it does not amount to valid assignment between the assignor and the assignee. Thus, the 1st respondent being the original patent right holder as on the date of filing of the suit is having *locus standi* and is entitled to file the suit.

11. By the present civil revision petition, the said findings of the Commercial Court are assailed.

12. Heard Mr. Avinash Desai, learned Senior Counsel representing Ms. Shireen Sethna Baria, learned counsel for the petitioner and Mr. Ramesh Babu Vishwanathula, learned Senior Counsel for the first respondent. Perused the record.

13. On behalf of the petitioner, it is mainly contended that the 1st respondent herein while presenting the commercial suit before the Commercial Court had claimed of holding

patent No.239632, though the aforesaid patent was assigned in favour of M/s Samastha Laboratories Private Limited to commercialize and legally exploit.

14. Further, it is contended that though the 1st Respondent herein claims that the assignment deed dated 12.04.2014, is still at the application stage before the patent office for consideration and entering into the register of patents; that as per the provisions of Section 68 of the Act, as substituted w.e.f., 01.01.2005, the assignment takes effect the moment the agreement between the parties concerned is reduced to the form of document embodying all terms and conditions governing their rights and obligations. It is contended that since, the 1st respondent by his own admission having admitted to the fact of executing an assignment deed dated 12.04.2014 assigning the patent registered in his name in favour of M/s Samastha Laboratories Private Limited, the 1st respondent cannot claim of holding patent No.239632 on the date of presentation of the suit and, thus, having *locus standi* or cause of action having arisen for him to sue the petitioner by the subject suit.

15. It is further contended that the assignment deed executed by 1st respondent takes effect on its execution i.e., 12.04.2014. That apart it is contended that as per the public information available on the patent register records, the deed of assignment has been taken on record on 16.04.2014. Hence, the 1st respondent failed to qualify as a patentee and lacks *locus standi* to initiate action for the alleged infringement against the petitioner. It is contended that as the 1st respondent herein, ceased to be a holder of patent, the underlying application under Order VII Rule 11 CPC was filed seeking rejection of the plaint, as the cause of action shown is not a valid cause of action.

16. It is contended that the Commercial Court failed to appreciate that Section 68 of the Act was substituted w.e.f., 01.01.2005, and even assuming that the assignment deed is pending registration with the patents office, the Court below ought to have seen that the 1st respondent cannot claim to be the holder of patents for maintaining the subject suit and ought to have rejected the plaint to prevent vexatious litigation against the petitioner.

17. In support of the aforesaid contentions, reliance is placed on the decision of the Division Bench of Delhi High Court in the case of ***M/s Sergi Transformer Explosion Prevention Technologies Private Limited vs. CTR Manufacturing Industries Limited & Ors***[1]**.**

18. *Per contra*, on behalf of the 1st respondent, it is mainly contended that in order to consider an application filed under Order VII Rule 11 of CPC, the Court is only required to consider the plaint averments and cannot take into consideration the defence raised by the defendant. It is further contended that merely by executing an assignment deed, the same would not amount to a registered patent being assigned in favour of the assignee, unless the same is taken on record; that as the 1st respondent is a patentee as defined under Section 2(p) of the Act, even after assignment of the patent, his rights are protected under Section 48 of the Act; that the definition of 'patentee' under the Act, includes the grantee or the proprietor of the patent and as such, the 1st respondent being a

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[1] 2015 SCC OnLine Delhi 12708

grantee of patent No. 239632 in the year 2004, he has every right and *locus standi* to present the commercial suit against the petitioner herein; and that the Petitioner herein having categorically admitted to the fact of 1st Respondent's registered patent, cannot now claim/contend that the 1st respondent lacks the *locus standi* to present the commercial suit.

19. In support of the aforesaid contention, reliance is placed on the decision of the Delhi High Court in the case of ***Kanak Trakru & Anr vs. Renu Trakru Singla & Ors***[2].

20. We have taken note of the respective contentions urged.

21. At the outset, it is beneficial to note that the power of rejection of plaint is conferred on the Courts to ensure that meaningless and abortive litigation are prevented from occupying the time of the Court ***(See: Azhar Hussein vs. Rajiv Gandhi***[3]***)***.

22. Further, the Hon'ble Supreme Court in ***Raghwendra Sharan Singh vs. Ram Prasanna Singh (Dead), by Legal***

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[2] 2026 LawSuit (Del) 314
[3] 1986 (supp) SCC 315 : AIR 1986 SC 1253

Representatives[4]**,** held that the averments in the plaint are germane to decide the question of whether the plaint discloses *any* cause of action. The Apex Court further held that if clever drafting has created an illusion of cause of action, the Court ought to nip it in the bud at the earliest so that bogus litigation ends at earlier stage. The relevant observations are as under:

> "6.7. In the case of Madanuri Sri Rama Chandra Murthy (supra), this Court has observed and held as under:
> 7. The plaint can be rejected Under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power Under Order 7 Rule 11 Code of Civil Procedure can be exercised by the Court at any stage of the suit. **The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power Under Order 7 Rule 11 Code of Civil Procedure.** Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated Under Order 7 Rule 11 Code of Civil Procedure to the exercise of power of rejection of plaint have to be strictly adhered to. **The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law.** It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the Defendant are wholly immaterial while considering the prayer of the Defendant for rejection of the plaint. **Even when the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and**

[4] (2020) 16 SCC 601

> **the power Under Order 7 Rule 11 Code of Civil Procedure can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.**"
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> ***(emphasis supplied)***

23. In the case of ***Dahiben vs. Arvindbhai Kalyanji Bhanusali (D) thr. L.Rs. and Ors***[5]**,** it was reiterated that if the allegations in the plaint show a *prima facie* cause of action, the Court cannot further enquire into the truth of such allegations. The Apex Court reiterated that the suit must be instituted when the right asserted in the suit is infringed, or when the defendant in clear and unequivocal terms threatens to infringe such a right. The relevant observations are as under:

> "…
> 14. … A three-Judge Bench of this Court in State of Punjab v. Gurdev Singh, MANU/SC/0612/1991 : (1991) 4 SCC 1 held that the Court must examine the plaint and determine when the right to sue first accrued to the Plaintiff, and whether on the assumed facts, the plaint is within time. **The words "right to sue" means the right to seek relief by means of legal proceedings. The right to sue accrues only when the cause of action arises. The suit must be instituted when the right asserted in the suit is infringed, or when there is a clear and unequivocal threat to infringe such right by the Defendant against whom the suit is instituted.**"
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> ***(emphasis supplied)***

[5] (2020) 16 SCC 366

24. In the case of ***Patil Automation Private Limited and Ors. vs. Rakheja Engineers Private Limited***[6] the Hon'ble Apex Court held that the power to reject a plaint under Order VII Rule 11 of CPC is available to the Court for being exercised *suo motu* and need not be only on an application made by the defendant. The Relevant observations are as under:

> "68. On a consideration of the scheme of the Orders IV, V and VII of the Code of Civil Procedure, we arrive at the following conclusions:
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> …
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> (C**) Order VII Rule 11 does not provide that the court is to discharge its duty of rejecting the plaint only on an application. Order VII Rule 11 is, in fact, silent about any such requirement.** Since summon is to be issued in a duly instituted suit, in a case where the plaint is barred Under Order VII Rule 11(d), the stage begins at that time when the court can reject the plaint Under Order VII Rule 11. **No doubt it would take a clear case where the court is satisfied. The Court has to hear the Plaintiff before it invokes its power besides giving reasons Under Order VII Rule 12.** In a clear case, where on allegations in the suit, it is found that the suit is barred by any law, as would be the case, where the Plaintiff in a suit under the Act does not plead circumstances to take his case out of the requirement of Section 12A, the plaint should be rejected without issuing summons. Undoubtedly, on issuing summons it will be always open to the Defendant to make an application as well Under Order VII Rule 11. **In other words, the power Under Order VII Rule 11 is available to the court to be exercised suo motu.** (See in this regard, the judgment of this Court in Madiraju Venkata Ramana Raju (supra)."
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> ***(emphasis supplied)***

[6] (2022) 10 SCC 1

25. The facts at hand shall be examined in the light of the aforesaid position of law.

26. Before adverting to the averments in the plaint it is of consequence to note that during the pendency of the underlying commercial suit, the patent had expired in 2024. Therefore, there is no continuing infringement of the registered patent beyond 2024.

27. In the plaint filed before the Commercial Court, the 1st Respondent herein claimed himself to be the holder of a registered patent. It is further stated that he had executed an assignment deed dated 12.04.2014 in favour of M/s Samastha Laboratories Private Limited and the same is still at the application stage before the patent office for consideration and entering into the register of patents.. The implication of the aforesaid statement made by the 1st respondent is that he continues to be the holder of the patent, though he had assigned the same in favour of third party. On the basis of the aforesaid specific assertion, the 1st respondent presented the underlying plaint as plaintiff.

28. The petitioner herein in the underlying interlocutory application specifically claimed that the 1st respondent is neither the holder nor owner of patent No.239632; and that from the public information available on the patent register records, the patent is held by M/s Samastha Laboratories Private Limited from 16.04.2014, under assignment deed dated 12.04.2014. As such, the 1st respondent does not qualify as a patentee to maintain the underlying commercial suit. Thus, the suit is liable to be rejected, as the same does not disclose a valid cause of action. The 1st respondent filed its counter-affidavit to the underlying interlocutory application on 26.08.2025. In the counter-affidavit, the 1st respondent did not deny the specific assertion of the petitioner that the patent being registered in the name of M/s Samastha Laboratories Private Limited w.e.f., 16.04.2014, as per the public information available on the patent register record.

29. Since, the question as to when the assignment deed dated 12.04.2014 would take effect was raised, it is beneficial to look Section 68 of the Act which deals with assignment of a patent. For the sake of convenience, the position of law under Section 68 of

the Act before and after the amending Act 15 of 2005 are extracted as below:

Section 68 (pre amendment)	**Section 68 (post amendment)**
68. Assignments, etc. not to be valid unless in writing and registered – An assignment of a patent or of a share in a patent, a mortgage, license or the creation of any other interest or of a share in a patent, a mortgage, license or the creation of any other interest in a patent **shall not be valid unless the same were in writing** and the agreement between the parties concerned is reduced to the form of a document embodying all the terms and conditions governing their rights and obligations **and the application for registration of such document is filed in the prescribed manner with the Controller within six months from the commencement of this Act or the execution of the document,** whichever is later or within such further period not exceeding six months in the aggregate as the Controller on application made in the prescribed manner allows: PROVIDED that the document shall, when registered, have effect from the date of its execution.	68. Assignments, etc. not to be valid unless in writing and duly executed – An assignment of a patent or of a share in a patent, a mortgage, license or the creation of any other interest in a patent **shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the of form a document** embodying all the terms and conditions governing their rights and obligations and duly executed. (*underlining supplied to highlight the amendment*)

(emphasis supplied)

30. From a reading of the amended Section 68 of the Act, as noted above, w.e.f., 01.01.2005, it now only stipulates that the agreement embodying the terms and conditions of assignment should be in writing between the parties for it to be valid. The effect of omitting the requirement of 'registration' by Amendment Act, 2005 would mean that the patentee on assigning a registered 'patent' in favour of an assignee under an assignment deed duly reduced into writing would cease to be considered as a 'registered patentee' and the assignee steps into the shoes of the assignor on execution of such assignment deed.

31. Thus, even assuming the averments made in the plaint are correct, a meaningful reading thereof fail to *prima facie* disclose the 1st respondent's right to sue since, the assignment deed in favor of M/s Samastha Laboratories Private Limited takes effect from the date of its execution under Section 68 of the Act. Thus, the finding of the Commercial Court that the assignment in question is not a valid assignment as the assignment deed though executed by both parties, was still under application stage at the patent office for consideration and is thus not formally registered/recorded, in the

view of this Court is an observation made without considering the statutory provisions and the position of law post the amending Act 15 of 2005 and thus, the finding is erroneous.

32. That apart, it is to be seen that the 1st Respondent herein in their counter-affidavit filed to the underlying interlocutory application did not deny the specific assertion of the petitioner; that as per the patents register record, the patent stood in the name of M/s Samastha Laboratories Private Limited from 16.04.2014. At this stage, it may be noted that though the 1st respondent in the plaint, claimed that the assignment deed is at application stage before the patent office, he has not filed any document to substantiate the said claim. On the said fact being brought to the notice of the Court below, the Court ought to have drawn inference from the aforesaid conduct of the 1st respondent, since the said patents register being a public document is available in the public domain. Thus, we find fault with the reasoning of the Commercial Court in this regard.

33. Further, when the said fact is taken into consideration, the 1st respondent has no *locus standi* to present the subject suit on 08.02.2017 as neither his claim of being the patent holder nor his claim that the assignment deed by which he had assigned his right, interest in the patent in favour of M/s Samastha Laboratories Private Limited, is still under application stage at the patents office for consideration and entering into the register of patents, holds true, as the said act was already completed on 16.04.2014. In the light of the aforesaid admission by the 1st respondent, the camouflaged statements made in the plaint so as to present an illusionary cause of action, would have to be considered as suppression and misrepresentation.

34. It is to be seen that had the Commercial Court considered the averments made in the plaint in light of amended Section 68 of the Act and in consonance with the aforesaid aspect that public documents disclosing the assignment having taken on record on 16.04.2014, thereby the 1st respondent not being the holder of the patent anymore, it is apparent that with intelligent drafting the underlying plaint presents an illusionary cause of action. In such

circumstances, permitting the 1st respondent herein to proceed with the underlying commercial suit, when no 'right to sue' had accrued on him against the petitioner herein, on the basis of an illusionary cause of action shown in the plaint, would be in vexation of the ends of justice.

35. In ***Manjula and Ors. Vs. D.A. Srinivas***[7]**,** the Hon'ble Supreme Court held that on a meaningful reading of the plaint the Court must satisfy itself that a genuine triable issue and not a mere illusion of cause of action exists. It was further held that Court must be vigilant against any camouflage or suppression made in the plaint. The relevant observations are as under:

> "24.4. If, however, **by clever drafting of the plaint, it has created the illusion of a cause of action,** this Court in Madanuri Sri Ramachandra Murthy v. Syed Jalal (MANU/SC/0485/2017 : 2017:INSC:366 : (2017) 13 SCC 174) **held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage. The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court.**"
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> ***(Emphasis supplied)***

[7] MANU/SC/0453/2026 : 2026 INSC 465

36. By virtue of the aforesaid authoritative pronouncement of the Apex Court, on finding that the plaint consists of camouflaged and suppressed facts, it becomes the duty of the Court deciding the application under Order VII Rule 11 of the CPC, to nip bogus litigation at its bud. It is of consequence to note that no plaintiff presenting a plaint would willingly admit he lacks a right to sue, therefore the legislature in its wisdom enacted Order VII Rule 11 of CPC as a preliminary check to curb vexatious litigation. Therefore, it become the duty of the Court to take a holistic approach by considering the averments made in the plaint along with documents filed along with the plaint, and information available in public domain in order to ascertain if any camouflage or suppression of facts was made, and whether the plaint presents a genuine triable issue.

37. *Lastly,* the 1st respondent contends that even after assignment of the patent in favour of the third party, the 1st respondent continues to be considered as holder of 'patentee' as defined under Section 2(p) of the Act and thus has a right to maintain the subject suit.

38. In order to appreciate the aforesaid contention, it is appropriate to refer to the definition provided under the Act:

> "patentee" means the person for the time being entered on the register as the grantee *or* proprietor of the patent"
>
> ***(emphasis supplied)***

39. A reading of the term 'patentee', as defined under the Act, would show that it is the person whose name is entered in the register from time to time either as a grantee 'or' proprietor of the patent, who can be considered as a 'patentee'. At the cost of repetition, the 1st Respondent herein did not file any document to substantiate his claim that the assignment deed dated 12.04.2014 was pending registration before the patents office and, thus, the patent stands in his name as 'Grantee' . On the contrary, a perusal of the patent register record placed on record now shows that w.e.f., 16.04.2014, the third party i.e., M/s Samastha Laboratories Private Limited is considered as a 'patentee', while the 1st respondent's name is shown as the grantee. The reflection of name of M/s Samastha Laboratories Private Limited as a 'patentee' upon registration/ recording of the assignment deed would mean that the said third party i.e., M/s Samastha Laboratories Private

Limited is to be considered as proprietor of the patent by virtue of the assignment deed executed by the 1st respondent/plaintiff on 12.04.2014.

40. Further, the use of the word 'or' in the definition of patentee under Section 2(p) of the Act clearly pre-supposes that it recognizes two classes of persons as 'patentee', viz., (i) original grantor if he continues to hold the same without assigning in favour of third party ***'or'*** (ii) a third party who by virtue of the assignment deed becomes 'patentee'. The definition cannot be understood as permitting both classes of persons to parallelly maintain their status as a 'patentee'. Thus, the contention of the 1st respondent/plaintiff of having a right to sue even after execution of the assignment deed being a 'grantee' for maintaining the subject suit, does not appeal to this Court, as acceptance of such a contention urged would result in the term 'or', being read as 'and', which is neither the purport nor intention of the legislature.

41. In view of the aforesaid discussion, we are of the considered view that the Commercial Court had erred in considering the

relevant applicable provisions of the Act and also the scheme of Order VII Rule 11 of CPC while adjudicating the underlying interlocutory application and concluding such issues are matters of trial. The decision of the Delhi High Court on which reliance is placed by the 1st respondent deals with the general principles governing Order VII Rule 11 CPC which are well settled. Further, in view of the decision of the Apex Court in ***Manjula and Ors (supra)***, the aforesaid decision relied on by the 1st respondent would not advance the case of the 1st respondent/plaintiff.

42. In view of the above, we of the considered view that the impugned order of the Commercial Court cannot be sustained.

43. Accordingly, the civil revision petition is allowed setting aside order dated 06.04.2026 in I.A.No.413 of 2025 in C.O.S.No.44 of 2017. Consequently, I.A.No.413 of 2025 in C.O.S.No.44 of 2017 is allowed. In view of the same, the plaint as presented and numbered as commercial suit *vide* C.O.S.No.44 of 2017 stands rejected. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

T.VINOD KUMAR, J

ANIL KUMAR JUKANTI, J

05.11.2026
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