

ORDER BELOW EXH: 23**(APPLICATION UNDER O.7 R.11)**

1. The defendant no:2 and 3 have filed the present application under the provision of Order 7 Rule 11 of Civil Procedure Code for rejection of plaint. The plaintiff has filed written objection vide Exh:24.
2. I have read the application and reply and perused the record of the suit and heard the LA. for the plaintiff and defendant. They have made arguments in consonance with the application and objection respectively.
3. As per the submission of the Ld. Advocate for the defendants, in the present suit the plaintiff is seeking relief of cancellation of sale deed no: 1549/2022 dated: 15/07/2022. It is also submitted that the said sale deed was of Rs. 6,60,400/- but the plaintiff has not paid the court fee as per the amount of the said sale deed. It is also submitted that as the plaintiff has not deposited enough court fee, the present suit is required to be rejected as per the provision of Order 7 Rule 11.
4. On the other hand, the plaintiff has filed his written objection in respect to present application vide Exh: 24. It is contended that the defendant no: 2 and 3 have filed this application against the provision of specific relief Act and evidence act and hence is required to be rejected. It is also submitted that the facts submitted by the defendants are not true and he has deposited proper court fee on the plaint and hence seeking relief to reject this application.
5. Under the circumstances following points are arising for the determination of this application.

1. Whether this suit is undervalued ?

2. What order?

6. My findings on the above issues are as under:

1. In Negative

2. As per the Final Order

:REASONS:

7. The defendant has filed the present application under the provision of Order 7 Rule 11 of the Code of Civil Procedure. Before proceeding

further, it is desirable to refer the relevant provision of the Code of Civil Procedure. Order 7 Rule 11 reads as follows:

“REJECTION OF PLAINT- the plaint shall be rejected in the following cases-

a) Where it does not disclose a cause of action.

b) Where the relief claimed is undervalued, and plaintiff, on being required by the Court to correct the valuation within a time fixed by the Court, fails to do so.

c) Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper within a time to be fixed by the Court.

d) Where if suit appears from the statement in the plaint to be barred by any law.

e) Where it is not filed in duplicate.

f) Where the plaintiff fails to comply with the provision of rule 9.

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff.”

8. Keeping in consideration the relevant provision of the Civil Procedure Code, let me discuss the issues involved in the present application. As per the say of the defendant, the plaintiff has not deposited enough court fee and hence the present suit is required to be rejected as per the provision of Order 7 Rule 11. On perusing he case papers it transpired that the plaintiff has deposited the court fee on Rs. 6,62,000/- on date:23/01/2023. Hence the court fee on basis of relief was already been paid, the cause for taking action regarding this application is not available anymore. Hence, most humbly, the present Court answer the issue no.1 in negative and

following order is passed in respect to the issue no.2 in the interest of justice.

:: ORDER ::

- ❖ The present application of the defendant no.1 and 2 under the provision of Order VII Rule 11 vide Exh: 23 is hereby ordered to be ***rejected***.
- ❖ No order as to cost.

Today the order is read and pronounced in open court.

Date: 20/08/2024

Place: Lunawada

(K.M.Bhatt)

Addl. Civil Judge

Lunawada

GJ01559