

Order below Exhibit-14, filed by the defendant under Order-VII, Rule-11 of the Code of Civil Procedure, 1908 in Regular Civil Suit No. 116 of 2022.

APPEARANCE :

On behalf of the plaintiffs : Ld. Adv. Mr. V. H. Bhatt

On behalf of the defendants : Ld. Adv. Mr. C. S. Vithlapara

[1] The present suit has been filed by the plaintiffs for declaration, perpetual injunction and cancellation of sale-deed.

[2.1] The defendants have been duly served. Appearing through the Ld. Advocate, the defendants have filed their written objections at Exh. 13 and submitted this application on hand under Order-VII, Rule-11 of the Civil Procedure Code, 1908 (*hereinafter referred to as 'the Code'*) at Exh. 14.

[2.2] The defendants have mainly contended that the plaintiff has no ground / cause of action for filing the present suit; and has not mentioned any valuation of the property; that the plaintiffs have not paid appropriate Court Fees. Further submitted that the plaintiffs have narrated wrong information and false facts and they have submitted objections in that regard in Para-7 of their written statements at Exh.-13. Ultimately prayed to reject the plaint.

[3] The plaintiffs have filed their reply against the application on hand at Exh. 15 and denied the facts of the application on hand, inter-alia, contended that there is no

question of cause of action of sale-deeds in question as the disputed lands had already been hypothecated to the Kotak Mahindra Bank, Morabi Branch; that the Revenue Authority cannot decide the title as the jurisdiction in that regard is with the Civil Court; that the disputed sale-deeds have wrong boundaries, area and description, which shows that the deeds have been created falsely. Ultimately prayed to reject the application on hand with costs.

[4] At the outset, it is advantageous to refer the related provisions of law. Order-VII, Rule-11 read as under :

“Rule-11 : 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 the plaintiff, on being required by the Court to correct the valuation within a time to be 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, fails to do so;
- (d) Where the 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 provisions 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 reason 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-papers, 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.”

[5.1] The plaintiffs have pleaded the facts that the disputed land was come to their titles by virtue of succession entry No. 2314, dtd. 30/06/2011; that the defendant No. 1 created false sale-deed No. 898, dtd. 28/07/1987; that after 20 years, the defendants get mutated wrong revenue entry; that the Mamlatdar cancelled the said revenue entry No. 2064; that area, boundaries and description of lands are wrong in that sale-deed and possession is with the plaintiffs; that the land has already been hypothecated to the bank; that the defendant No. 1 has executed the sale-deed bearing No. 380/2022 in favour of the defendant No. 2; that revenue entry in this regard has been mutated vide No. 3144, dtd. 28/07/2022.

[5.2] Considering the entire complaints, the cause of action has been pleaded in para-16, on page Nos. 8 & 9. As per the pleaded facts, the revenue entry with regard the first sale-deed has been cancelled; and the defendant No. 1 had sold the disputed property to the defendant No. 2; and the revenue entry of this second transaction has been certified. In view of the pleaded facts, it becomes crystal clear that their exists cause of action based on sale-deed with false area, boundaries and description of the disputed land. Secondly, the first sale-deed has not been given any effect in revenue record. Thirdly, the disputed land had / have been hypothecated to the bank and on the basis of the same the

revenue mutation entry has been rejected.

[5.3] The defendants have come with the contentions and submission that the plaintiffs have narrated wrong information and the defendant-side has produced the date wise information in para-7 of the application on hand. Considering the same, it becomes clear that this is the question of recording and appreciating the evidence. Considering the same it becomes clear that the disputed land has been mortgaged and the revenue entry has been cancelled due to loan from bank. In these circumstance considering the facts pleaded, as if proven, their exists cause of action.

[5.4] The defendants have contended that the plaintiffs ought to go before the higher authorities of revenue authorities. Considering the relief as prayed for in the suit on hand, the Civil Court has jurisdiction to decide the title and on the basis thereof, cancellation of sale deed. Therefore, the said contention is not tenable at all. Secondly, there point / issue of jurisdiction does not cover under Order-VII, Rule-11 of the Code.

[5.5] The defendants have also contended that any valuation of the property has not been mentioned and has not paid the appropriate court fees; therefore, the present suit should be rejected. Considering the provisions of Order-VII, Rule-11(b), where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the

valuation within a time to be fixed by the Court, fails to do so, the plaint shall be rejected. Considering the elements therein, there is no order of the Court either for correction or payment of requisite court fees. Secondly, the defendants have not mentioned the exact value. Therefore, in view of the above, the said contention is not tenable.

[6] In view of the above discussions, the present application has no substance; therefore, deserves to be rejected. Hence, the following final order is passed in the interest of justice.

-:: ORDER ::-

- (a)** The application at Exh.-14 filed by the defendant under Order-VII, Rule-11 of CPC is hereby rejected.
- (b)** The cost shall follow the final disposal of the suit.

Pronounced in the open Court today, on this 27th day of March, 2025.

Halvad.

Date : 27/03/2025.

(Anilbhai Nanalal Gajjar)
Principal Senior Civil Judge,
Halvad, Dist. Morbi. (GJ-01166)