

Order Below Exh 9 in R.C.S. No.331/2024.

The present application is filed by defendant under Order 7 Rule 11 of the C.P.C for rejection of plaint.

2. Perused the application and say filed by the plaintiff.

3. Heard the learned advocates for both the parties at length.

4. According to defendants in the previous suit I.e. RCS 283/2009, the plaintiff and defendants of the present suit had already entered into compromise with respect to the suit property. Therefore, as the decree in the previous suit RCS 283/2009 was based on a compromise the plaintiff cannot file the present suit. According to defendants the present suit is bad as per Order 23 Rule 3 of the C.P.C. Hence, he prayed for rejection of the plaint under Order 7 Rule 11 of the C.P.C.

5. It is well settled that while deciding application Order 7 Rule 11 of the C.P.C application the Court only has to consider the plaint of the plaintiff. I have carefully perused the plaint.

6. The present suit if filed by the plaintiff seeking

the relief of injunction against the defendants from alienating and creating third party interest in the suit property. As per the pleadings in the compromise entered in the previous suit R.C.S 283/2009, it was agreed between the parties that the suit property i.e. 2 acres land in Gat no. 57 village Dhondalgaon, Tal. Vaijapur, would be given to defendant and he along with his second wife would reside in the suit property. However, during the lifetime the defendants would have no right to alienate the same. According to plaintiff even though it was agreed between the parties that defendant would not alienate in the suit property, however, defendant is in process of alienating the same. Hence, plaintiff was constrained to file the present suit.

7. As per the relief claimed by the plaintiff the plaintiff has not challenged the compromise deed or the compromise entered in the previous suit R.C.S No. 283/2009. It is the case of the plaintiff that defendant is not abiding by the terms of the compromise and is trying to alienate the suit property. Hence, I do not consider that the present suit is barred by any provision on Order 7 Rule 11 of the C.P.C. Resultantly, I proceed to pass following order;

ORDER

The present application is hereby rejected.

Vaijapur.
Date: 06/08/2024

(Smt. S. K. Khan)
2nd Jt. Civil Judge, J.D. Vaijapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	: S. M. Bhosale, Stenographer Grade-III,
Court	: Smt. S. K. Khan, 2 nd Jt. Civil Judge J.D., Vaijapur, Dist. Aurangabad.
Judgment delivered on	: 06/08/2024
Judgment signed by the presiding officer on	: 06/08/2024
Judgment uploaded on	: 07/08/2024.