

MHAU130001012025



R.C.S.No.75/2025  
**Mohammad Yousuf Sajjad Khan Vs. Municipal Corporation,**  
**Aurangabad**

**ORDER BELOW EXH.16**

Present application is made by defendant Nos.2 to 4 for rejection of plaint under Order VII Rule 11(a)(d) of the Code of Civil Procedure, 1908 (C. P. C.). Read the application and reply of the plaintiff at Exh.21. Heard Ld. Advocates for the rival parties.

02. Ld. Advocate for the defendant Nos.2 to 4 submitted that, the plaint itself admits the suit flat to be joint property of plaintiff and defendant No.2 and the defendant No.2 is original owner of property bearing CTS No.6822. There is no registered conveyance of sale in favour of plaintiff. The plaintiff admits joint ownership of suit property and, therefore, a suit for bare perpetual injunction does not disclose legally enforceable cause of action. There is no notice issued by defendant No.1 Corporation to plaintiff and the plaint is illusory and vexatious being based only on apprehension and allegations. The title of plaintiff over suit property is in dispute in the suit and the plaintiff cannot seek injunction against another co-owner without partition. Therefore, there is no cause of action for filing

suit and the suit is barred by law.

03. Ld. Advocate for plaintiff argued that, the pleading in para Nos.7 and 8 of the plaint does disclose a cause of action for filing present suit. If the property is admitted to be joint property on one hand and there is dispute about its title on the other hand, such dispute requires to be adjudicated at the conclusion of trial. Moreover, a co-owner can protect his possession over property against illegal act of another co-owner. The defendant Nos.2 to 4 have made this application to mislead the Court. Therefore, it is necessary to reject the application.

04. It is well settled that, the averment 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 law. The averments in the written statements as well as the contentions of the defendants are wholly immaterial while considering the prayer of the defendant for rejection of plaint.

05. In the present case, the reading of plaint makes it clear that the plaintiff is claiming to be joint owner of suit property and seeking perpetual injunction against defendant No.1 Corporation as well as defendant Nos.2 i.e. the joint owner of suit property alleging interference to his possession over it. He has pleaded incidents dated 09.12.2025 and 12.12.2025 allegedly taken place in respect of and on the suit property which, according to him, has given rise to present litigation. Apart from it, if the pleading of plaintiff is considered as a whole, it does disclose a cause of action for filing the suit. Even if it is assumed that, the plaintiff

cannot seek relief of injunction against defendant No.2, a co-owner of suit property, the plaint can still not be rejected as the plaintiff is seeking same relief against rest of the defendants. Moreover, whether the plaintiff can seek relief of injunction against defendant No.2 is a matter to be decided at the conclusion of trial and not at this stage. In view of above discussion it is clear that, there is no ground for rejection of plaint. Hence, I pass the following order:-

**ORDER**

Application stands rejected.

Date :-25.03.2026.

**(Shri. N.H. Tikhe)**  
Civil Judge Senior Division  
(Corporation Court), Aurangabad.

**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	: V.K.Chavan, Stenographer Grade-II,
Court Aurangabad	: C.J.S.D. (Corporation Court),
Date	: 25.03.2026
Order signed by the presiding officer on	: 25.03.2026
Order uploaded on	: 25.03.2026