

R.C.S. No.14/2016
Gajanan Maharaj Sansthan
-Vs-
Amar Arun Sharma
CNR No.MHBU07-000664-2016.

ORDER BELOW EXH. 183
[Passed on 19.12.2024]

1. This is an application filed by the defendant to decide finally the objection taken under order 7 rule 11 of CPC. Perused the application and say filed by the Ld. Counsel for the plaintiff. Heard Ld. Counsel for the defendant and Ld. Counsel for the plaintiff.

2. The defendant submitted that according to provision of order 7 rule 11 of CPC the said objection can be filed at any stage of the suit. If suit can be dismissed at the threshold, then such objection cannot be delayed. The object of the filing the application is not to delay the trial but it is pursuance to the views expressed by Hon'ble High Court in the earlier revision. The plaintiff in his evidence admitted that the defendant is a licensee and not the tenant. Therefore, this court be pleased to consider the said objection as a preliminary question and suit be dismissed as threshold. Therefore, defendant prayed for deciding preliminary question raised in the application filed on 28.08.2024 at Exh. 181.

3. Ld. Counsel for the plaintiff strongly opposed the application and submitted that defendant is trying to prolong the matter as the evidence of the PW.2 was filed on 07.02.2024 and since then defendant avoided to take the cross examination of PW.2 by filing the various frivolous application. Hence, Ld. Counsel for the plaintiff prayed for

rejection of the application.

4. It is matter of record that defendant has filed the application at Exh. 180 for dismissal of the suit under order 7 rule 11 of CPC. During the pendency of the application at Exh. 180 defendant was asked to take the cross examination as defendant has been avoiding to take the cross examination. Thereafter, defendant filed the instant application which become infructuous after rejecting the application at Exh. 180. Hence, this application needs to be filed as it is infructuous. Hence, following order.

ORDER

This application is filed as it becomes the infructuous after rejection of the application at Exh. 180.

[N. D. Meshram]
Civil Judge Jr. Dn. Shegaon,
Dist. Buldana.

Date : 19.12.2024.

I, *P. K. Ingle*, Stenographer of C.J.J.D. & J.M.F.C. Court No.1, Shegaon affirm that the contents of this P.D.F. file order is correct word to word as per the Original Order.