

R.C.S. No.14/2016
Gajanan Maharaj Sansthan
-Vs-
Amar Sharma

ORDER BELOW EXH.275

[Passed on 24.02.2026]

1. This is an application filed by defendant through his counsel under order 7 rule 11 of CPC to dismiss the suit for want of jurisdiction. Perused the application and reply filed by Ld. Counsel for the plaintiff below Exh.276.

2. It is the contention of defendant that previously the application on the ground of valuation of the suit property and court having no pecuniary jurisdiction was submitted under order 7 rule 11 of CPC for rejection of the plaint. The said application came to be rejected and revision application filed before Hon'ble High Court was also rejected with observation of Hon'ble High court that the question of valuation was kept open and at the time of trial it is found that defendant is licensee, in that event this question can be considered.

3. It is further submitted by the defendant that again the application was submitted when affidavit was filed by the plaintiff wherein it is specifically admitted that defendant is licensee in respect of the suit premises. That application came to be rejected by the court holding that question was already considered and the High Court has also dismissed the revision.

4. Defendant further submitted that he has obtained

from Sub Registrar Office, Shegaon the valuation certificate of the suit property on 31.12.2025 and stated in valuation report the value of the suit property is around Rs.7,30,000/-. This court has pecuniary jurisdiction up to Rs.5,00,000/-. In the cross examination of the plaintiff he admitted that defendant is licensee and not the tenant. Hence, the plaintiff has treated the defendant as a licensee and the suit is also filed by showing the status of the licensee. The Hon'ble High Court while considering the revision application has specifically stated that the status of the defendant as a licensee or tenant may be established during the course of the trial as it has been stated in the plaint that initially the shop premises was given on rent basis. In his evidence plaintiff has mentioned that defendant is licensee.

5. It is further submitted by the application for production of documents which the witness has admitted to be in a possession thereof was rejected. The writ petition against the order of this court filed before Hon'ble High Court was also rejected. However, on the basis of the cross examination the stand of the plaintiff was cleared in respect of defendant having been treated as a licensee. The defendant fortunately succeeded in getting register Bhadepatta of the initial years which has been placed on record and also admitted by the Hon'ble High Court.

6. It is further submitted by the defendant that be that as it may be the case of the plaintiff is that defendant is a licensee. Therefore, it was obligatory on the part of the plaintiff to value the suit according to the market valuation of

the property and not according to the 12 times of the rent which is applicable only to the tenant. On the basis of the valuation report of the suit property given by the Sub Registrar, Shegaon the value of suit shop is Rs.7,30,000/- which is beyond the pecuniary jurisdiction of the court. Therefore, to save further time of the court this suit is liable to be dismissed as not maintainable or alternatively plaint can be returned to the plaintiff to present it to the court having competent jurisdiction. Under such circumstances plaintiff is compelled to file the present application on the fresh ground and the public documents and also on the basis of the cross examination of the plaintiff from which it has been cleared that defendant has been treated as a licensee. This suit is under valued. With this contention Ld. Counsel for the defendant prayed for rejection of the plaint under order 7 rule 11 of CPC.

7. Ld. Counsel for the plaintiff strongly opposed the application and submitted that the instant application is filed on the basis of alleged valuation certificate issued by Sub Registrar, Shegaon. As per order 7 rule 11 of CPC the application is to be filed on the basis of the pleading in the plaint. Therefore, this application is not tenable which is filed on the basis of valuation report. The issue regarding the claim of the plaintiff in the pleadings and the claim of the defendant in W.S. have been framed and those issues would be decided at the culmination of the trial. The valuation certificate on the basis of which this application is filed has not been proved yet. This application is also barred by principle of res-judicate. The instant application is only filed

with intention to prolong the matter. The defendant is playing with court proceeding. Hence, Ld. Counsel for the plaintiff prayed for rejection of the application with heavy costs of Rs.25,000/-.

8. Heard Ld. Counsel for the defendant and Ld. Counsel for the plaintiff.

9. On perusal of record it is revealed that this matter is fixed for evidence of the defendant from 16.01.2026 and defendant has filed their evidence affidavit on 11.02.2026. Today, this matter is fixed for further examination in chief and cross examination. It is expected from the defendant to proceed with the evidence as this matter was made time bound by Hon'ble High Court in its judgment of writ petition No.5689/2025 along with other 11 writ petition. Prima facie it is crystal clear that the defendant is prolonging the matter.

10. Now, the question arise whether the instant application under order 7 rule 11 of CPC is maintainable or not. The instant application is filed on the basis of valuation report of suit shop and the alleged admission of the plaintiff in the cross examination. It is a well settled position of law that while considering an application under order 7 rule 11 of CPC only content of the plaint needs to be appreciated and what is stated in the written statement may not be relevant. Therefore, this application which is filed on valuation report and admission of the plaintiff is not tenable in view of the settled position of law in respect of order 7 rule 11 of CPC.

11. The defendant contended that the Hon'ble High Court has kept open the status of the defendant as a licensee or tenant while deciding the earlier writ petition. In this regard Ld. Counsel for the plaintiff has invited my attention to the observation of Hon'ble High Court in Civil Revision application No.144/2018 wherein Hon'ble High Court observed as under :-

8. "The above noted development clearly demonstrate that it is matter of trial, upon leading of evidence by the rival party as to whether the revision applicants are in a possession of suit shop as a licensee or as a tenant. This clearly show that the fundamental basis of the contention raised in the application under order 7 rule 11 of the Code can be decided and put to rest only after full based trial before the trial court in the pending suits. The only contention that would remained is the contention pertaining to the valuation of the suit, which according revisional applicant ought to have been made on the basis of value of the property in question and not on the basis of the licensee as claimed in the plaint. This issue would also be relatable to the aforesaid fundamental issue"

12. It has been cleared from the observation of the Hon'ble High Court in revision application No.144 of 2018 that the valuation of the property is connected with the issue of status of the defendant as a licensee or tenant and for that purpose the issue has been framed by this Court and those issues were party substituted by Hon'ble High Court. Therefore, issue of valuation of the suit property and status of the defendant as a licensee or tenant can only be decided

after culmination of the trial i.e. at the time of judgment.

13. Ld. Counsel for the plaintiff contended that these issues which have been raised by the defendant in the instant application have already been decided and it will act as a res judicate against the defendant. In support of his contention Ld. Counsel for the plaintiff relied on judgment of Hon'ble Apex Court in **S. Ramchandrarao Vs. S. Nagabhusanrao 2022 CJ (SC) 871** wherein it has been held that the doctrine of res judicate is attracted not only in a separate subsequent proceeding but also at the subsequent stage of same proceeding. The contention raised in this application has already been decided previously by Hon'ble High Court. Therefore, the ratio laid down in above mentioned authority is squarely application to the present case.

14. It is a matter of record that this suit is time bound suit. In spite of that the defendant kept on filling the application on the contention/issue which have been decided earlier. Even today the defendant sought the adjournment for conducting the hearing on the present application despite the facts that defendant is also aware that this suit was made time bound by Hon'ble High Court. It show that defendant wants to prolong the matter and have no regard to the rulings and direction given by Hon'ble High Court. Therefore, I found the substance in the submission of Ld. Counsel for the plaintiff that this application are required to be rejected with heavy costs in order to deter the defendant from filling the such application in future, and compel the defendant to

expedient the matter as early as possible. In view of above reason I am not inclined to allow this application which is liable to be rejected with heavy costs. Hence, I proceed to pass following order.

ORDER

1. Application for dismissing the suit under order 7 rule 11 of CPC for want of jurisdiction is rejected with costs of Rs.10,000/- out of which Rs.5,000/- shall be paid in Legal Aid, Shegaon and Rs.5,000/- be paid to the plaintiff.
2. Defendant is directed to proceed with evidence and no adjournment on any ground shall be allowed.

Date : 24.02.2026.

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

I, *P. K. Ingle*, Stenographer Grade-III 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.