

MHBU13000323-2016



Order below Exh. 64 in R.C.S. No. 19/2016
Pravin & another vs. Namdeo & others.

This is an application filed by defendant No.1 & 2 for rejection of plaint as per Order VII Rule 11 of the C.P.C.

2. It is contention of the defendants that the suit has filed for partition and declaration. Plaintiffs have prayed for non bindingness of partition deed dated 02/01/2006 and cancellation of deed dated 03/04/2006. The main reliefs of the plaintiffs are illegal. As there is earlier partition plaintiffs have no right of seeking partition. The suit is illegal. Accordingly, prayed for rejection of plaint.

3. Plaintiffs have filed their say at Exh.65. He submitted that he has paid court fee for declaration of deed dated 03/04/2006. Other declaration is ancillary relief of partition. Accordingly, prayed for rejection of application.

4. Heard. Perused the record. This is suit for partition and declaration. Plaintiffs are son and wife of defendant No.4. Defendant No.4 is son of defendant No.1. It is contention of the plaintiff that defendant No.4 have refused to maintain plaintiffs and thrown out of the house. Plaintiffs have undivided share in the suit property. To avoid the share of plaintiff No.1 defendant No.1 execute partition deed on 03/04/2006. From the pleading it appears that plaintiffs sought partition to the defendants on 11/01/2016. On refusal of partition they have filed this suit

for partition. Right of partition and bindingness of partition deed will be decided after the evidence of the parties. At this stage, on plain reading of plaint it can not be said that suit is barred by law of limitation. Therefore, plaint can not be rejected as per Order VII Rule 11 of the C.P.C. Hence, proceed to pass following order.

ORDER

Application is hereby rejected.

Date :- 20/09/2022.
Place :- Chikhli

(H.D. Deshinge)
Civil Judge Jr.Dn.
Chikhli.

Certificate

I B.B. Theng, Stenographer (L.G.) affirm that the contents of this PDF file Judgment/ Order are same words, as per original Judgment/Order.