

**Order below Exh.14 in R.C.S.No.63/2017**  
**CNR NO-MHBU13-000873-2017**

**Anil**  
Vs-  
**Chhaya.**

Present application has been filed by defendant under Order VII Rule 11(b) of the C.P.C.1908 thereby praying for rejection of plaint.

02) Perused application, say and documents on record. Also heard Learned Advocates for both parties.

03) Learned Advocate for defendant has submitted that plaintiff has filed present suit against the defendant for possession of encroach land i.e. agricultural land admeasuring 0H. 49R land from Gut No.101, located at mouza Ambashi, Tq. Chikhli, Distt. Buldana. However, valuation of suit property as per market value is Rs.10,00,000/- but plaintiff has not properly valued the suit and has not sufficiently paid court fees. As such, plaint is required to be rejected under Order VII rule 11(b) of the C.P.C. Hence, prayed for grant of this application.

04) On the contrary, Learned Adv. for plaintiff has strongly opposed this application and submitted that plaintiff has rightly valued the suit. The subject matter of the suit is agricultural land and plaintiff is seeking possession of encroached land. According to Section 6 of the Maharashtra Court Fees Act, 1959, there is no need to value suit property according to market value of property when the

possession of agricultural land is sought. Plaintiff has rightly valued the suit as per Section 6(V)(b) of the Maharashtra Court Fees Act, 1959 and rightly paid the court fees on land revenue assessment of the suit property. As such, present application deserves to be rejected.

05) Following points arise for my determination, I have recorded my findings thereon for the reasons discussed below.

<u>Sr.No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether plaint is required to be rejected under Order VII Rule 11(b) of C.P.C. 1908 ?	In the Negative.
2)	What order ?	Application is rejected.

### REASONS

#### As to point No.1:-

06) I have perused record of the matter and also considered the submissions of Learned Advocates for both parties. From perusal of plaint, it appears that plaintiff has filed suit for possession of encroached land to the extent of 0H. 49R land. It is well settled law that when objection is raised under Order VII Rule 11 of C.P.C. 1908 then only plaint averments are required to be looked into. If averments in the plaint are perused then it reveals that plaintiff has sought only relief of possession of encroached land which is agricultural land. As such, I find substance in the submissions of learned advocate for plaintiff as suit is properly valued and court fees has been paid sufficiently in view of Section 6(v)(b) of the Maharashtra

Court Fees Act, 1959. Thus, I do not find any substance in the application. Hence, I answer point No.1 in the negative.

**As to point No. 2 :-**

07) In such circumstances, I am of the opinion that, the application deserves to be rejected. Therefore, I proceed to pass following order.

**ORDER**

1. Application is hereby rejected.
2. No order as to costs.

Sd/-

Date:- 07/02/2019.

(S.W. Thombre )  
Civil Judge (Jr. Dn. ) Chikhli.

Certificate

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