


MHDH040008862023 	<u>R.C.S. No. 53/2023</u> Vilas Bhaskar More Vs Bhaskar Motiram More and Ors.
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ORDER BELOW EXH.39

(Passed on 19.01.2026)

This application is filed by the defendants for rejection of the plaint under Order VII Rule 11(b) and (d) of the Code of Civil Procedure, 1908 (in short 'C.P.C.').

02. Heard Ld. Advocate Shri. M. G. Shah for the plaintiff and Shri. S. E. Bhavsar for the defendants. Considered their submissions.

03. The Ld. Advocate for the defendants submitted that, the plaintiff has filed the present claim for a declaration and permanent injunction, and a court fee stamp of Rs. 400/- has been affixed to the claim. Since the subject matter of the dispute pertains to immovable property, it is necessary to value the property at its market price and accordingly affix the appropriate court fee stamp. However, the plaintiff has failed to do so. The plaintiff has alleged that the sale deed dated 07/12/2023 is illegal. The value of the said sale deed is Rs. 5,47,000/-, and the plaintiff ought to have affixed the court fee on the value of the sale deed. Instead, a stamp of only Rs. 200/- has been affixed. It is submitted that the plaintiff's plaint is barred under Order VII Rule 11 (b), (d) of the Code of Civil

Procedure, and the claim cannot legally proceed. Accordingly, on account of the insufficiency of the court fee stamp, it is prayed that the plaintiff's plaint be dismissed.

04. The plaintiff has strongly objected to this application. The plaintiff filed his say at Exh.41. The Ld. Advocate for the plaintiff submitted that, the application filed by the defendants is false and malicious, and the plaintiff does not accept it. The present application has been filed solely to delay the proceedings. The defendant's application is untenable. The plaintiff has paid the appropriate court fees. The defendant's objection regarding the levy of court fees based on the market value of the property claimed is incorrect, as the claim pertains to a declaration and injunction, for which the appropriate court fees have been duly paid. The defendants has raised an objection concerning the stamp duty on the sale deed value; however, the plaintiff has neither canceled nor rescinded the sale deed. Therefore, there is no necessity to pay stamp duty on the sale deed, which is not binding. The claim is for declaration and possession, and the stamp has been affixed with respect to the declaration. In view of the above, it is submitted that the defendant's application be dismissed with costs.

05. Heard both sides at length.

06. Considering the above submissions and contentions, the followings points arose for my determination and I have recorded my findings along with reasons which are as follows -

Sr. No.	Points	Findings
	i) Whether plaint is liable to be rejected under Order VII R11 (b) and (d) of Code of Civil Procedure 1908?	...No.
	ii) What order ?	Application is rejected.

REASONS

AS TO POINT NO. 1 -

07. Before considering the merit of this application it would be necessary to consider the provision of Order 7 rule 11 C. P. C. which stated as follows-

Rejection of plaint : The plaint shall be rejected in the following cases :

(a) ...

(b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) ...

(d) where the suit appears from the statement in the plaint to be barred by any law

(e) ...

(f) ...

08. Bare perusal of Order 7 Rule 11 (b) and (d) it is clear that, the plaint is liable to be rejected when relief claim in under-valued and on being required by the Court to correct the valuation within a time to be fixed by the Court, the parties fail to do so. Therefore, it is necessary to scrutinize whether plaint presented by the plaintiff is under-valued or not and whether the suit barred by provisions of any law.

09. Perused the application, and considered the submissions of both the parties.

10. It is contended by the Ld. Advocate for the defendant that, the plaintiff has not paid proper court-fees. It is alleged by the defendant, that the plaintiff has sought, the sale deed dated 07/12/2023 is illegal and the value of the said sale deed is Rs. 5,47,000/-, and the plaintiff ought to have affixed the court fee on the value of the sale deed, instead, a stamp of only Rs. 200/- has been affixed. Before considering the said argument, it is necessary to consider the settled principle laid down by the Division Bench of Hon'ble Bombay High Court in *Dilip Khushalchand (Srisrimal) Jain and others V/s. Hardik Deepakbhai Ramani and others, Writ Petition No.8968 of 2018* held that “*section 6 (iv)(ha) of The Maharashtra Court Fee Act would be applicable only to plaintiff who is party to the sale deed seeking declaration of avoidance of sale deed. It would not be applicable to the plaintiffs who are not party to the instrument seeking declaration of avoidance of sale deed. Such*

plaintiff whould be governed by section 6 (iv) (j) as it is not susceptible to monetary evaluation”.

11. Perused the plaint. It appears that plaintiff has filed the suit for declaration that the sale-deed is illegal and not binding upon him. Further, prima-facie appears that, the plaintiff is not the party to the said instrument. Hence, considering the prayer and ratio laid down in *Dilip Khushalchand (Supra)*, the plaintiff has properly valued the suit and paid appropriate court fees as per section 6(iv)(j) the Maharashtra Court Fees Act, 1959.

12. The defendant has further argued that, the plaintiff has not specifically stated the provision of law under which he has paid the said court fees. Thus, the plaintiff has not complied with Order VII Rule 1(i) (Bombay Amendment). The defendant in support of his contentions has relied upon *Lokesh S/o. Ramraoji Navghare and another Vs. Janardhan S/o Haribhau Bhisikar and another Writ Petition No.1150 of 2014.*

13. Perused the O.7 R.1 deals with the particulars to be contained in plaint. The provisions of O.7 R.1 (i) [Bombay Amendment], are as under;

(i) a statement of the value of the subject-matter of the suit for the purposes of jurisdiction and of Court-fees, so far as the case admits, showing the provisions of law under which the valuation for Court- fees and jurisdiction is separately made.”

14. Further, in the case of *Lokesh Vs. Janardhan 2014 (5) Mh.L.J. 789* it has been held by the Hon'ble Bombay High Court in paragraph no.8 as under - *"8. Valuation clause in the plaint cannot be vague. It must reflect as to how the suit is valued under the Suits Valuation Act and Rules framed thereunder for the purposes of jurisdiction of the Court and furthermore, as to how the suit is valued under the Maharashtra Court Fees Act for the payment of Court fees payable under the relevant and appropriate provisions thereof."*

15. Perused the plaint. The plaintiff in paragraph No. 8 has mentioned about suit valuation for the purpose of jurisdiction. The plaintiff has valued the suit and paid court fees of Rs.400/- in respect of relief of declaration and perpetual injunction.

16. The paragraph no.8 in plaint discussed above is vague in respect of the provisions of law under which the suit is so valued and court fees are determined. The Ld. Advocate for the plaintiff while arguing the present application has submitted that he has paid the court fees as per the Maharashtra Court Fees Act. But the said fact has not been mentioned in plaint paragraph No.8. However, in view of the provisions of O.7 R.1 (i) [Bombay Amendment] and the ratio laid down by the Hon'ble Bombay High Court in the case of Lokesh (supra), it would be appropriate to direct the plaintiff to amend the paragraph no. 8 of the plaint in order to incorporate detailed

pleading mentioning the relevant provisions of law under which such valuation is made.

17. Hence, it can be concluded that the plaintiff has paid requisite court fees as the per provisions of law. But, the plaintiff has not complied with the provisions of O.7 R.1 (i) [Bombay Amendment]. However, non compliance of provision O.7 R.1 (i) [Bombay Amendment] cannot be the ground for the rejection of the plaint. Hence, from the above discussion it is clear that plaint is not liable to be rejected by virtue of Order VII Rule 11 (b) and (d) of C.P.C. Hence, I answered point No. 1 in the negative.

AS TO POINT NO. 2 -

18. Considering the finding of point No. 1. The application is liable to be rejected. Hence the following order is passed-

<u>:- ORDER :-</u>	
1.	The application at exh. 39 is rejected.
2.	The plaintiff is directed to amend paragraph No.8 so as to incorporate details under which relevant provisions of the law suit valuation is made as envisaged by the provisions of O.7 R.1 (i) [Bombay Amendment].

3.	The plaintiffs to carry out aforesaid amendment within a period of 15 days from the date of this order.
4.	Both the parties to bare their own costs.

Sd/-

Place : Dondaicha

Date : 19.01.2026

(Runali D. Pawar)Jt. Civil Judge Junior Division,
Dondaicha

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Sd/-

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