


MHGA090019872025 	<u>Regular Civil Suit No. 84/2025</u> Bhaurao Shravan Nikhade Vs Gajanan Maroti Nikhade & Ors.
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ORDER BELOW EXH. 23

Defendant no. 1 to 6 has filed present application under the provisions of Order VII, Rule 11 of the Code of Civil Procedure, 1908. According to them, as per S.11 of the Bombay Revenue Jurisdiction Act, this Court has no jurisdiction to entertain the present suit. The plaintiff has directly challenged the order of Tehsildar in the prayer clause. The Tehsildar has passed the order on behalf of Government. Hence, Government was required to be made a party in the suit as Government is a necessary party. Therefore, the present suit is barred for non-joinder of necessary party. Therefore, plaint must be rejected.

2. Plaintiff filed his say at overleaf and have denied all the contentions of defendants. According to plaintiff, Tehsildar is not a necessary party. The plaintiff has no cause of action against Tehsildar as such. He has not claimed any relief against Government. As per S.143(4) of the Maharashtra Land Revenue Code, 1966, a suit can be instituted directly against the order of Tehsildar. Therefore, the plaintiff has prayed for rejection of application.

3. Heard Ld. Advocates for both the sides. Perused the record.

4. The main object of the Order VII, Rule 11 of the Code of Civil Procedure, 1908 is to reject the plaint at the very beginning that are of a frivolous, vexatious and improper in nature, thus saving judicial

time and resources. The provision is exhaustive in nature and provides for the rejection of plaint on following grounds:-

- 1) where it does not disclose a cause of action;
- 2) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within time fixed by the court, fails to do so;
- 3) where the plaint is insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp within time fixed by the court, fails to do so;
- 4) where the suit appears from the statement in the plaint to be barred by any law;
- 5) where it is not filed in duplicate;
- 6) where the plaintiff fails to comply provisions of Rule 9.

5. It is a settled law that while considering the provisions of Order VII Rule 11 of CPC, the Court has to look into the averments made in the plaint only. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order VII Rule 11 CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order VII Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to.

6. The present suit is for declaration and perpetual injunction. The plaintiff has claimed that this Court has no jurisdiction to entertain

the present suit in light of S.11 of the Bombay Revenue Jurisdiction Act. However, as per S. 143(4) of the Maharashtra Land Revenue Code, 1966, a civil suit can be instituted against a decision of the Tahsildar under this Section within a period of one year from the date of such decision to have it set aside or modified. Hence, S.11 of Bombay Revenue Jurisdiction Act would not be applicable in this case.

7. Admittedly, the plaintiff has not added Government or particularly Tehsildar as a party in the suit. As per prayer clause, the plaintiff has prayed relief of declaration thereby challenging the order of Tehsildar dated 13/11/2025. However, he has also claimed remedy of perpetual injunction against defendant no.1 to 5. There is no provision in law that the plaint can be rejected on the ground of non-joinder of necessary party. So also, it is a settled law that there cannot be a piece-meal or part rejection of plaint. In view of aforesaid discussion, the application is liable to be rejected. Hence, the following order:

ORDER

1. The application below Exh. 23 is rejected.
2. No order as to costs.

Date : 29.01.2026.
Place : Chamorshi

Sd/-
(Shri. S.A. Bhaisare)
Jt. Civil Judge, (Jr.Dn.),
Chamorshi