

MHJN040022182024 	RCS No.292 /2024 Kalyan Vs. Bharat & Ors.
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**Order below Exh.14**

1. Present application is filed by the defendants under Order VII Rule 11 of the Civil Procedure Code challenging maintainability of the suit.
2. According to the defendants present suit is not maintainable as the plaintiff is not owner of the suit property ie. 0 Hectare 56 R land in Gat No.26. It is further contended that the plaintiff has not annexed any ownership documents and therefore, plaintiff has no right to file suit for permanent injunction. The plaintiff is not having any supporting document to establish his case. Therefore, the defendants have prayed for dismissal of suit as not maintainable under Order 7 Rule 11 of CPC.
3. Ld Advocate for the plaintiff filed say overleaf the application. It is submitted that the plaintiff has become owner and possessor of the suit property by way of sale deed and defendant has executed the sale deed without consideration. Thereafter, mutation entry was affected. In such circumstances, present application as filed, is nothing but prolonging the suit. Hence, he prayed for dismissal of application.
4. Heard learned advocates for both the parties. Perused plaint. The suit is filed for permanent injunction. It is well settled that to decide the issue under order 7 rule 11, it is necessary that statements and averments in the plaint are required to be considered. The points, raised by defendant, are his defences in the Written Statement.

**Order VII Rule 11 of CPC reads as follows: -**

*"11. Rejection of plaint - The plaint shall be rejected in the following cases: -*

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, 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) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- (e) where it is not filed in duplicate;]*
- (f) where the plaintiff fails to comply with the provisions of rule 9:*

*Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.*

5. As far as maintainability of suit is concerned, the ground which is taken by the defendant is ownership of the plaintiff over the suit property. It is to be noted that ownership of the plaintiff will be proved at the time of trial by taking evidence. Opportunity will be given to the defendant also. As per order VII Rule 11, plaint can be rejected on various ground as mentioned. However, in the present application defendant failed to made out specific sub rule of 11. He finally argued that he is unable to mention specific rule under which his application lies. Therefore, no justified ground is given by the defendants to consider the prayer of dismissal of suit under order VII Rule 11 of CPC.

6. So far as contentions of defendants are concerned, they are the points of defence which will be considered at the time of trial. Perusal of plaint, nowhere shows that suit is not maintainable. In view of above, application cannot be considered in absence of specific contention under Order VII Rule 11 (a) to (e). Hence, following order -

**ORDER**

The application is rejected.

Date-18.12.2024

Jt. Civil Judge (J.D), Ambad.

**CERTIFICATE**

I affirm that the contents of this PDF file are word to word as per original Order.

Name of Steno : S.M. Sapkal  
Name of the Court : Jt. Civil Judge Junior Division, Ambad  
Date : 18.12.2024

Sd/-  
Signature of Stenographer