

ORDER
(Below Exh.26)

1] This is an application for rejection of the plaint by virtue of Order 7 Rule 11(a) of the Code of Civil Procedure.

2] This is the suit for Permanent Injunction under section 38 of the Specific Relief Act. Read application. Perused Say. Heard both sides.

3] According to the defendants, plaintiffs have instituted this suit for permanent injunction but no specific date of cause of action for filing this suit is pleaded. Therefore, the plaint is liable to be rejected.

4] The plaintiffs filed their say on Exh.31 and resisted said application. They submitted that they pleaded the date of cause of action specifically in plaint para No. 9 and therefore the application is liable to be rejected.

5] Considering the above facts following points arise for my determinations. I have recorded my findings against them for the reasons as follows:

Sr. No.	Points	Findings
1	Whether the plaint is liable to be rejected on the ground of date of cause of action is not disclosed in the plaint?	No
2	What order?	The application is rejected.

REASON

AS TO POINT NO.1 :

6] It is worthwhile to mention here that, application under Order 7 Rule 11 of C. P.C. is required to be decided on the basis of averments made in the plaint. Means, the contents of the plaint are alone should be

taken into consideration while deciding the application under Order 7 Rule 11 of C.P.C. As held in **Begum Sahiba Vs. Nawab Mohd. Mansur, (2007) 4 SCC 343** if the plaint filed by plaintiff does not disclose any cause of action, the Court should reject it. But in order to reject the plaint court must look at the plaint and at nothing else.

7] Now turning to the facts of the plaint. This is the suit for simpliciter injunction. The plaintiffs in plaint para no. 9 pleaded that defendant no. 2 on 11.08.2018 has broken a *bandh* of the plaintiff and defendant no. 1 by stones. It is further pleaded that on 10.08.2018, the defendants set a tree on the bandh on fire and burned it. It is further pleaded that the defendants trying to encroach their lands, therefore they constrained file present suit. Thus after reading entire plaint, in my opinion, the plaintiffs have cause of action to institute present suit and specific date is also pleaded. Hence I have answered point no. 1 in the negative and in answer to point no. 2 the following order.

Order

- 1] Application Exh.26 is rejected.
- 2] Costs in main cause.

Date : 17/01/2020

(H.B. Pardeshi)
C.J. (J.D.), Ghansawangi.

CERTIFICATE

I affirm that, the contents of this PDF file are same words for words, as per the original judgment/order.

Name of Stenographer/typist : Smt. K. U. Patil (LG)

Name of Court : Civil Judge Jr. Dn.
Ghansawangi, Dist.
Jalna.

Upload on date : 17.01.2020.