



ORDER BELOW EXH.18 IN SPL. CIVIL

SUIT NO.23/2020

CNR No.:MHKO050006222020

Sujata Sevekari (Mali).

v/s.

Vimal Mali

Present application is filed by defendant under the provisions of Order VII Rule 11 of the Code of Civil Procedure (in short “the Code”) for rejection of plaint.

2. Plaintiff has filed say at Exh.20 and has raised strong objection to present application.

3. Perused the application and say. Heard learned advocates for both the sides.

4. It is the contention of the defendant that suit property is agricultural land and it is hit by the provisions of Bombay Prevention of Fragmentation and Consolidation Act. Further, it is the contention of the defendant that suit is premature. Hence, it is prayed that plaint needs to be rejected.

5. According to plaintiff, the application is vague. Further, according to plaintiff, if it is the case of defendant that suit is premature, then it is certainly filed within prescribed period of limitation. Further, according to plaintiff, she is co-sharer in the Gat Number of the suit property and therefore, suit

is not barred in view of Section 31 (3) of Maharashtra Prevention of Fragmentation and Consolidation of Holding Act Hence, it is prayed that application be rejected with costs.

6. It is the case of plaintiff that she is co-sharer in the Gat Number of the suit property. Section 31 (3) of the Maharashtra Prevention of Fragmentation and Consolidation of Holding Act provides that

“Nothing in sub section (1) shall also apply to any land which is to be transferred (i) to the tenant of the holding or his heir or (ii) to the owner of the adjoining holding to cultivates his land personally or

7. Hence, on this ground, at this preliminary stage, plaint cannot be rejected. Moreover, it is not the case of defendant that suit is not filed within the prescribed period of limitation. Hence, in view of above discussion, application is liable to be rejected. Therefore, I proceed to pass the following order.

ORDER

Application (Exh.18) is hereby rejected.

Date : 05.05.2022

(Amit P. Kokare)
Civil Judge Senior Division,
Ichalkaranji, District Kolhapur