

Order below Exhibit 25 in Reg. Civil Suit No. 354/2017

The defendant nos. 1 to 3 have filed instant application under order VII, Rule 11 (d) of the code of civil procedure for rejection of plaint.

02. It is contended that, the defendant nos. 1 to 3 are belonging from economic backward class. The government has provided scheme for construction of houses to such a back ward class community under the scheme of Pradhanmantri Awas Yojna. It is further contended that, defendant nos. 1 to 3 have applied under said scheme of government to Zillha Parishad. Accordingly, government sanctioned said scheme. It is further contended that, as per government sanctioned, defendant nos. 1 to 3 are erecting the construction on suit property. According to plaintiff the chief officer of Zillha Parishad, Kolhapur is chairman of said scheme. However, plaintiff has not made him as a party to this suit. It is further contended that, the plaintiff has also not issued notice prescribed under Section 280 of the Zillha Parishad and Panchayat samiti Act. According to defendant nos. 1 to 3 the present suit is required to be instituted in Civil Court Senior Division. Hence, he prayed for rejection of plaint.

03. On the contrary plaintiff has opposed said application. It is submitted by plaintiff that, he has not challenged the scheme. Therefore, the officers of said scheme are not necessary parties. Thus, the question of issuance of notice to them do not arise. It is further contended that, the defendant only to prolong hearing of exhibit 5 moved instant application. Hence, plaintiff prayed for rejection of application.

04. I have heard Ld. Advocates for both the parties at length.

05. It is contentions of defendant nos. 1 to 3 that, they are erected construction under the scheme provided by government for economic backward classes. Therefore, the plaintiff is required to make party to the officers of said scheme and also required to issue notice prescribed under Section 280 of the Zillha Parishad and Panchayat Samiti Act 1961. It is settled position of law that, while deciding application for rejection of plaint under Order VII, Rule 11, court is required to see the averements made in the plaint. Accordingly, I have gone through the averement made in the plaint. After perusal of entire plaint, plaintiff has not challenged the government scheme, even he has not seeking any relief against the government. Therefore, the officer of Zillha Parishad is not a necessary or proper party to the present suit. Therefore, the pre-suit notice contemplated under Section 280 of the Zillha Parishad and Panchayat Samiti Act is also not necessary. Hence, I found that, application is devoid of merits and liable to be rejected. Hence, I proceed to pass the following order.

ORDER

- 1] Application **Exh.25** is rejected.
- 2] No order as to cost.

Date:- 03/01/2018
Ichalkaranji.

Sd/-
(**P. M. Mane**)
7th Jt. Civil Judge Jr. Dvn,
Ichalkaranji.

I affirm that the contents of this P.D.F file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of stenographer	R. D. Patil (L.G.)
Name of Court	P. M. Mane, 7 th Jt. Civil Judge Jr. Dvn. & Judicial Magistrate F. C., Ichalkaranji.
Date of Dictation	03/01/2018
Judgment signed by P. O. on	03/01/2018
Judgment uploaded on	03/01/2018