

MHKO070006342019



**Order below Exh.61 in Special Civil Suit
No.14/2019.**

Shrenik Manikant Shaha

Vs

Vishnu Sudam Popalkar and anr.,

Defendant No.3 has filed the present application under Order 7 Rule 11(b) and (c) of the Code of Civil Procedure, 1908, for the rejection of the plaint. The plaintiff has filed his say (Exh.64) and objected to the application.

2. Heard Ld. advocate for the plaintiff and defendant No.3. Perused the record. In view of the application, say and argument advanced by the parties, the following points arise for my determination and I proceed to record my findings thereon for the reasons as follows-

Sr. No.	Points for determination	Findings
1.	Whether the plaint is liable to be rejected vide Order 7 Rule 11(b) and (c) of the Code of Civil Procedure on the ground that it is under valued and insufficiently stamped ?	No.
2.	What Order ?	As per final order..

REASONS

As to Points No.1 and 2 :-

3. Learned Advocate for defendant No.3 has submitted that the plaintiff has filed the present suit for specific performance of contract of sell. The two sets of properties are incorporated in the disputed contract of sell. The said properties are described in Clause A and B, respectively in plaint paragraph No.1. The plaintiff has valued the suit as Rs.10,51,900/-for the purpose of Court fees and jurisdiction.

However, in the contract of sell it is mentioned that the said amount is consideration amount for selling the suit property described in Clause B of the plaint. The plaintiff has paid the Court fees on the said amount. The plaintiff has not included the valuation of the suit property described in Clause A in the aforesaid amount. Therefore, according to the defendant No.3, the suit is under valued and insufficiently stamped. Learned advocate for the defendant No.3 has further submitted that the plaint shall be valued as per the market value of the suit properties. However, the valuation is not done as per the market value of the suit properties. Therefore, the plaint is under valued. Furthermore, he submitted that sufficient court fee stamp is not paid on the valuation. On the other hand, learned advocate for the plaintiff has submitted that suit is not under valued. Sufficient Court fee stamp is paid by the plaintiff. Hence, he has prayed to reject the application.

4. On perusal of record, it appears that the plaintiff has filed the present suit for specific performance of contract of sell in respect of the properties described in Clause A of the plaint. The plaintiff has specifically pleaded that the property described in Clause B is not a disputed property in the present suit as well as he has not claimed any relief regarding the said property. Therefore, it is clear that the plaintiff has sought specific performance of contract of sell only regarding the suit properties described in Clause A of the plaint and not regarding the property described in Clause B. Therefore, it is not necessary to pay the Court fees on the property described in Clause B of the plaint.

5. As per Section 6(xi)(a) of the Maharashtra Court Fees Act, 1959, in a suit for specific performance, the Court fee shall be computed on the consideration amount of the contract of sell. In the plaint, it is specifically mentioned that the consideration amount for executing the

sale deed regarding the properties described in Clause A was Rs.4,00,000/-. Therefore, it is necessary to pay the Court fees on Rs.4,00,000/-. It appears that the plaintiff for the purpose of jurisdiction and for paying Court fee, the suit is valued as Rs.10,51,900/-. It means that the present plaint is not under valued. It also appears that the plaintiff has paid the Court fee stamp on amount of Rs.10,51,900/-. Therefore, it is clear that the plaintiff has paid sufficient stamps.

6. It is alleged by the defendant No.3 that the valuation of the plaint shall be done on the market value of the suit properties. However, as discussed above, as per Section 6(xi)(a) of the Maharashtra Court Fees Act, 1959, the Court fee in a suit for specific performance shall be computed on the consideration amount of the contract of sell and not on the market value of the suit properties. Therefore, it is not necessary to pay the Court fee on the market value of the suit properties. Hence, there is no merit in the submission of the defendant No.3.

7. In view of above discussion, it is clear that the present application is devoid of merit. Therefore, it is liable to be rejected. Hence, I answer point No.1 in the negative and in answer to Point No.2 I pass the following order-

ORDER

The application (Exh.61) is rejected.

(P. A. Patil)

Date-17/12/2025.

Jt. Civil Judge Senior Division,
Jaysingpur.