

	<p style="text-align: center;"><u>Order below Exh.62 in Reg. Civil S. No. 83/2018</u> (Passed on this 20th day of March of 2023) <u>Sidhaji Vrs. Pundlik & Ors.</u> CNR NO.MHLA060002582018</p>
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01. The present application is filed by the defendants for the rejection of plaint under Order VII Rule 11 of Civil Procedure Code (for short 'the C.P.C.'). It is contended that the defendants that, the plaintiff has mentioned wrong boundaries of the suit properties. As the suit property is immovable property, so that, it would be necessary to given detail description of suit property as per under order VII Rule 3 of the C.P.C. Therefore, plaint is liable to be rejected.

02. According to defendants plaintiff has pleaded wrong boundaries towards the South and North side. Further stated that, prior to this suit, there was compromise in between the Regular Civil Appeal No.15/2015. In the said compromise plaintiff and defendants have parties and agreed to the boundaries of suit property. Even though, plaintiff has filed false and bogus suit in order to grab the property of defendants by giving wrong boundaries.

03. I have called the say of the plaintiff. The learned counsel of plaintiff has given say on this application and opposed this application. On the ground that, the plaintiff has filed suit for declaration and injunction. He has pleaded sufficient description of immovable property according to the rule of plaint. The matter at final stage. In order to prolong the matter defendants have filed false application. Hence, he has prayer for rejecting the application.

04. I heard the Ld. Shri. D.L. Ghogre for defendants and Shri. N.N. Demgunde Advocate for plaintiff. Upon consideration the application, the say and hearing of both sides, the following points arise for my determination to which I have recorded my findings for the reasons to be followed:

Sr.No.	<u>Points</u>	<u>Findings.</u>
1.	Whether the plaint is liable to be rejected ?	<u>No.</u>
2.	What order ?	Application is rejected.

REASONS

Point No.01:-

05. In support of the application, the defendant No.1 has filed affidavit and supported his contention in respect of application. On the contrary, the learned counsel of plaintiff has objected that, the present application is vague and there is baseless.

06. Before going to discussion it would be see the contents of order VII Rule 3 whether the subject matter of the suit is immovable property-

"Whether the subject matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identity it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers".

07. No doubt where the subject matter of immovable

property, it is necessary to the plaint shall contain a description of the property sufficient to identity. Thus, I have gone through the plaint, it reveals that, the plaintiff mentioned Gat No. 6 adm. 0 H 24 R. However, he has pleaded four boundaries of that property. In this context, defendants have contended that, the plaintiff mentioned wrong boundaries.

08. In the backdrop of above provision it is clearly mentioned that, either boundaries or numbers. The pleading of plaintiff is sufficient to identification because the suit of plaintiff is for declaration and ownership. However, there is no boundary dispute in between the parties. Further I would like to say that, the ground mentioned by the defendants is not come under the provision of under Order VII Rule 11 of C.P.C. Therefore, defendants are not deserves to allow the relief. Therefore, I answer to the **Point No. 1 in the negative.**

Point No.02:-

09. In the backdrop of above discussions and my negative finding on point No.01. It is clear that, the defendants are not deserves to allow the application. Thus, the plaint is not liable to be rejected. However, as the matter at the conclusion, it would be better to given direction of both parties to proceed with the suit on top priority. In the result, as answer to the **Point No.2, I pass the following order:-**

:- ORDER :-

- 1.** The application is rejected.

2. Cost in the main clause.
3. Considering age & stage of the suit, parties are directed to proceed with the suit on top priority.

(Dictated and pronounced in open Court)

Place :- Ahmedpur,

Date :- 20.03.2023.

(Shyam S. Tondchire)
IIIrd Joint Civil Judge (Jr.Dn.)
Ahmedpur.