

**Order below Exh.19 In R.C.S. No.819 of 2024**

Passed on this 17<sup>th</sup> day of February, 2026)

**Sunil. Vrs. Jagannath & Ors.**

CNR NO.MHLA060023552024

This is an application filed by the defendants for rejection of plaint as per Order 7 Rule 11 (a), (b) and (c) of the Code of Civil Procedure.

**2.** Perused the application, say of the plaintiff filed overleaf. Perused the plaint.

**3.** The defendants averred in the application that the suit is for partition but the real sister of the plaintiff viz Mahadevi W/o Vasant Landge is not arayed in the suit and the pedigree of the family of the plaintiff is false. Hence, on that ground the plaint is liable to the rejected.

**4.** The defendants further averred that the plaint discloses that defendant No.2 is the mother of the plaintiff but there is difference in the middle names of the plaintiff and defendant No.2. The explanation as to the difference in the names is not pleaded by the plaintiff. Further, the age of the plaintiff and age of defendant No.2 is such that naturally they cannot be a mother and a son. Therefore, the facts mentioned in the plaint are false. There are other discrepancies in the plaint which shows that the plaint is vague. On that account the plaint is liable to the rejected.

**5.** The defendants further averred that the plaint discloses that the suit property is house property. The plaintiff should have

paid court fee on market value of the suit property. The valuation of the suit property is more than Rs.40,00,000/-. The plaintiff has not paid requisite court fee on the market value of the suit property. Hence, the suit is liable to be rejected for want of proper valuation of the suit and deficient court fee. Hence, requested to allow the application.

**6.** The plaintiff contented that the application is imaginary and false. It is filed just to prolong the adjudication of the suit. The grounds raised in the application are out the purview of Order 7 Rule 11 of the C.P.C. The defendants failed to file any documentary proof in support of the contention that the valuation of the suit property is Rs.40,00,000/-. Hence, requested to reject the application.

**7.** Heard both the sides. Both the sides argued as per the application and say.

**8.** As far as the first ground about the falsity of the facts in the plaint is concerned, the question of determination of falsity of facts is a mixed question of facts and law. Therefore, it cannot be decided at this preliminary stage. Further, the falsity of facts is not ground provided for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure. Therefore, the plaint cannot be rejected on the ground raised in the application that there is difference in the names of the plaintiff and defendant No.2 without explanation, unnatural difference in the age of the plaintiff and defendant No.2 and other facts.

**9.** As far as non joinder of necessary parties is concerned, it is also a mixed question of facts and law. Whether the suit is bad for non joinder of necessary parties or not shall be decided on hearing evidence. The suit is bad for non-joinder of necessary parties but it is not a ground for rejection of the plaint as per Order 7 Rule 11 of the Civil Procedure Code.

**10.** As far as the third ground about improper valuation of the suit property and deficient court fee paid by the plaintiff is concerned, this is a valid ground because the plaint discloses that the suit property is a house property bearing gram panchayat property No.1229 and new plot No.1587 which is described in plaint para No.2. As per Section 6(v) of the Maharashtra Court Fees Act, for suits for possession of land, houses and gardens, the valuation of the subject matter shall be according to the market value of the house or garden. Therefore, as per Section 6(v) of the Maharashtra Court Fees Act, for suits in which the subject matter is a house, the court fee has to be paid on the market value. In the present suit the plaintiff has prayed for partition and separate possession. Therefore, he ought to have valued the suit on the market value of the suit property. For determination of market value, the plaintiff shall file valuation report issued by the competent authority. It is the duty of the plaintiff to file document of valuation. Therefore, even if the defendants only claimed that the valuation is more, the plaintiff ought to have produced the valuation report at the time of institution of the suit. The record shows that no such document is produced on record by the plaintiff. Therefore, the application deserves to be partly allowed and it is

proper to direct the plaintiff to submit valuation report of the subject matter of the suit property issued by the competent authority. In result, I pass the following order;

**ORDER**

1. The application is partly allowed.
2. The plaintiff is directed to produce current valuation report of the suit property issued by the competent authority within 7 days from today.
3. The failure of the plaintiff to comply the above direction will be treated as automatic rejection of plaint.

Place: Ahmedpur.

**(Swanandi D. Wadgaonkar)**

Date:- 17.02.2026.

Jt. Civil Judge, J.D., Ahmedpur.