

**Order below application vide Exh.49 for rejection of plaint vide
Order VII Rule 11 of the Code of Civil Procedure in RCS No.271/2019**

Dnyaneshwar Vs. Rangrao

CNR-MHLA110003502019

The application discloses that in plaint para No.6, the plaintiff pleaded that defendant No.1 executed gift deed bearing registration No.5131/2018 dated 14/11/2018 in favour of defendant No.2. However, the plaintiff has not paid Court fees with respect to the said gift deed. The plaintiff contended that defendant No.2 executed agreement to sale dated 22/02/1993 in his favour. Thereafter, the defendants got executed the said gift deed so as to deprive the rights of the plaintiff. The said gift deed is not binding on the rights of the plaintiff. Defendant No.2 has not claimed his ownership on the basis of the said gift deed, there is no counter claim. The defendant cross examined to the plaintiff. Lastly, the plaintiff prayed to reject the application.

2. Perused the record. Heard to both sides. Learned advocate for both the parties submitted contents of the application and say thereon respectively. Prima facie perusal of the plaint, it reveals that the plaintiff is claiming relief of specific performance of contract on the basis of agreement to sale dated 22/02/1993 causing the defendants to execute the sale deed with respect to land adm. 2 Acres 1 Guntha in Block No.486 situated at village Halsi (Tu.), Tq. Nilanga in his favour. The plaintiff is claiming his possession over the suit property. Consequently, he is claiming relief of perpetual injunction restraining the defendants from causing obstruction to his possession over the suit property. Undoubtedly, the plaintiff pleaded facts about execution of the

said gift deed by defendant No.1 in favour of defendant No.2 and it is not binding on rights of the plaintiff. However, mere pleading that the said gift deed was executed so as to deprive the rights of the plaintiff itself is not sufficient to direct the plaintiff to deposit the Court fees thereon without seeking specific relief with respect to it. Moreso, the plaintiff lastly never prayed any certain relief with respect to the said gift deed. On the contrary, the defendants contended that defendant No.1 executed said gift deed in favour of defendant No.2, on the basis of which defendant No.2 went into possession of suit property. The defendants never contended that how and under which circumstances, the Court fees is deficit. Mere fact that defendant No.1 executed the said gift deed in favour of defendant No.2, but Court fees has not been paid thereon, itself is not sufficient to hold that the present Court fees is deficit. The plaintiff has not claimed any relief on the basis of the facts by which the defendants are claiming that the plaintiff has not paid the Court fees. Moreso, the defendants never contended that the present Court fees is deficit with respect to the present claim. Moreover, in the available circumstances, if it finds that there is deficit Court fees, the plaintiff may be directed to later stage to pay the deficit Court fees. In the circumstances, I do not agree with submission of the learned advocate for the defendants that the Court fees is not paid on gift deed, so, the plaint may be rejected. Hence, I pass following order.

ORDER

1. Application vide Exh.49 is rejected.
2. No order as to costs.

Date :23/06/2025

(R.V. Pande)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.