

Order Below Exh. 11 in R.C.S. No. 182/2024

The defendant has filed present application under Order 7 Rule 11 of the Code of Civil Procedure. It is contended that suit filed by plaintiff is not tenable in the eyes of law. The plaint does not disclose any cause of action. The plaintiff has not filed any document in support of his claim. The suit is under valued and proper court fee is not paid. Therefore, the defendant prayed to reject the plaint. On the contrary, plaintiff has failed to file his say. Therefore, present application proceeded without his say and argument.

2. The defendant argued in tune of application. Perused application and record.

3. The plaintiff has filed present suit for declaration and perpetual injunction against defendant. It is contended that the plaintiff become owner of the suit property by way of adverse possession. The defendant is real owner of the suit property and he is disturbing possession of the plaintiff. Therefore, plaintiff is seeking perpetual injunction. I have gone through the pleadings. The pleading specifically discloses date of entry of plaintiff in the suit property. Further, the possession of the plaintiff is hostile as mentioned in pleadings. The power of Court to reject the plaint can be exercised only when the Court comes to the conclusion that even if all the allegations set out in the plaint are established, the plaintiff would not be entitled to any relief. In present case, the plaint discloses that he is entitled to relief of declaration and perpetual injunction. Thus, the objection raised by defendant does not survive in the eyes of law.

4. The another objection of defendant is that no supporting document is produced along with suit. Order 7 Rule 14 discloses that plaintiff

shall produce documents on which he relies. In present case the plaintiff does not disclose that plaintiff has relied on any document. He has not relied on any document. The plea of plaintiff is that of adverse possession. Thus, the objection raised by defendant does not survive in the eyes of law.

5. The plaintiff does not disclose the nature of land. The defendant raised another objection as to plaintiff not being properly valued and proper Court fee is not paid. The defendant has not mentioned under which provision plaintiff should have calculated Court fees and how much court fee has to be paid. The plaintiff has filed present suit for declaration and perpetual injunction. I have already mentioned that plaintiff does not disclose nature of land but it is mentioned that open land Gat No. 55 situated in Iti Tal – Renapur, Dist- Latur. Further, the plaintiff calculated court fee as per agricultural land. Therefore, considering the Gat number mentioned in plaintiff and Court fee calculated by plaintiff, it discloses that the suit property is agricultural land. The plaintiff discloses that plaintiff has calculated *ad valorem* Court fee as per Section 6 (d). The defendant has not produced any document to show the nature of property and under which provision plaintiff should have paid Court fees. Therefore, the plaintiff has rightly calculated the valuation of property and rightly paid Court fee on it. Therefore, present application is liable to be rejected. Hence, I pass following order.

:- Order :-

1. Application is rejected.
2. No order as to cost.

Date :- 29/10/2025
Renapur

(D. M. Gitte)
Jt. Civil Judge Junior Division,
Renapur