

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION,
AUSA DIST. LATUR

Reg. Civil Suit No. 501/2025

Radhmma S/o Parikshitirao Kulkarni Plaintiff

V/S.

Shripurna Laxminarayan @ Narayan Kulkarni Defendant

ORDER BELOW EXH. 15

(Dated:07/07/2026)

The applicant / defendant has filed this application for rejection of the plaint vide Order VII Rule 11 alongwith Order XIV Rule 1 and 2 of the Code of Civil Procedure.

2] The defendant submitted that, plaintiff Radhmma is maternal aunt of defendant and sister of his father Laxminarayan. The defendant have right and interest into the suit property Gat no.244 as the mutation entry of suit property is recorded in the name of plaintiff as manager of joint family. Similarly, the mutation entry no.1895 is recorded in the name of legal heirs of late Laxminarayan. Accordingly, the defendant submitted that, he has right, title and interest into the suit property.

3] The defendant further submitted that, he has filed R.C.S.No.118/2024 for the partition of suit property. However, the said suit has been dismissed by trial court and the defendant has filed first appeal R.C.A.No.146/2012 to the Hon'ble District Court. The said appeal also dismissed, therefore the defendant has filed second appeal no.172/2025 before the Hon'ble High Court at Aurangabad. Therefore, defendant submitted that, the impugned

appeals is continuation of previous suit. The said fact is suppressed by plaintiff. Therefore, the instant suit is not maintainable.

4] Moreover, the defendant submitted that, plaintiff has supposed to file regular darkhast for execution of decree passed in R.C.S.No.118/2004 after dismissal of first appeal. Similarly, defendant contended that, present suit is deserves to be dismissed on the ground of non joinder of necessary parties as plaintiff did not made parties to Prabha Vaibhav Agnihotri, Shridevi Prasad Chaitanya and Shobha Siddheshwar Danke to the suit. Therefore, plaintiff prayed that, in view of the provisions of law, plaintiff have no locus to file this suit. Plaintiff is not lawful owner of suit property. Therefore, defendant prayed to reject the plaint. The plaintiff is knowingly and intentionally suppressing the material facts and misleading the court. Therefore the defendants submitted that, the suit is non maintainable and the plaint is liable to be rejected in view of O.VII R.11 alongwith O. XIV R.1 and 2 of the Civil Procedure Code.

5] The plaintiff has filed her say at Exh.19 and vehemently argued to reject the application. The plaintiff has categorically denied the contentions of the application. The plaintiff contended that, the defendants has filed this application with ulterior motive, therefore application deserves to be rejected with heavy costs. Moreover, plaintiff submitted that, the defendants has no locus standi to file this application. The plaintiff indicated that the present suit is filed for the simplicitor injunction over suit

property. She further submitted that, the father of plaintiff late Parikshiti Kulkarni had partitioned his properties long back in the year 1961 among his children. Thereafter, the death of father of plaintiff in 1976, the plaintiff had obtained the suit property in her name. The mutation entry is recorded in the name of plaintiff to the records of right. The plaintiff reiterated that, the R.C.S.No.118/2004

is dismissed by trial court and then first appeal R.C.A.No.146/2012 is also dismissed. The second appeal no.172/2025 is also pending before Hon'ble High Court, however no interim stay has been granted by the High Court. Similarly, plaintiff submitted that, the R.C.S. No.118/2004 has been filed by the defendants and same was rejected by trial court. Therefore, there is nothing to file execution petition for the order passed in R.C.S.No.118/2004 by this plaintiff. Accordingly, the plaintiff submitted that, this application under O.VII R.11 r/w O.XIV R.1 and 2 is filed to prolong the matter. Therefore, prayed that, the application may kindly be rejected with heavy costs.

6] Following are the points for determination with my findings thereon for the reasons stated there under-

Sr. No.	Points for Determination	Findings
1	Whether suit is not maintainable as it is without cause of action and barred by law ?	No
2	Whether plaint is liable to be rejected?	No
3	What order?	As per final order

REASONS

7] To Point No.1 and 2:-

It is the contention of defendant that, defendant have right and interest into the suit property Gat no.244 as the mutation entry of suit property is recorded in the name of plaintiff as manager of joint family. Similarly, the mutation entry no.1895 is recorded in the name of legal heirs of late Laxminarayan. Accordingly, the defendant submitted that, he has right, title and interest into the suit property. The defendant has filed R.C.S.No.118/2024 for the partition of suit property and said has been dismissed by trial court. The defendant has filed first appeal R.C.A.No.146/2012 and the said appeal is also dismissed. Thereafter, second appeal no.172/2025 before the Hon'ble High Court. Similarly, it is the contention of defendant that, impugned appeal is continuation of previous suit. Therefore, the instant suit is not maintainable. However, on meticulous perusal of record it appears that, defendant himself has filed those civil suits and appeals, nonetheless the trial court and district court has dismissed such appeals. It is pertinent to note here that though defendant has filed second appeal before the Hon'ble High Court however the Hon'ble High Court not pleased to grant any interim stay or order regarding suit property. Therefore, at this juncture it can be safe to say that, no interim order has been passed by any court regarding the suit property.

8] Similarly, on careful scrutiny of the plaint and documents filed on record it appears that, plaintiff has filed present

suit for simplicitor injunction against the specific defendant. The plaintiff particulars shows that, on 29/06/2025 when defendant threatened plaintiff to vacate the suit property, the cause of action arose against specifically the present defendant. It appears that, the plaintiff sought relief exclusively against the present defendant and not the others. Therefore, it *res ipsa loquitor* appears that, the other parties mentioned by defendant such as Prabha Vaibhav Agnihotri, Shridevi Prasad Chaitanya and Shobha Siddheshwar Danke are not necessary for adjudication of the suit, at this stage.

9] Needless to mention that, the plaintiff has filed present suit is exclusively for simplicitor injunction. Though, there is appeal pending before Hon'ble High Court, however the Hon'ble Court has not pleased to pass any interim order regarding suit property. Therefore, it does not barred by any of the law or order. Similarly, defendant emphasized on the chronology of litigation regarding suit property such as R.C.S.No.118/2024, first appeal R.C.A.No.146/2012 and second appeal no.172/2025, however those cases has been filed by defendant and not by plaintiff. Therefore, such cases can not be termed as former suit. Similarly, all the previous cases were filed by defendant for partition, hence the present case is also not be called as continuation of pending appeal.

10] The defendant also highlighted the provisions of O.XIV R. 1 and 2, however the inquiry and framing of issues under O.XIV is considered separately during hearing at the stage of leading the evidence of the parties. Therefore, defendant has liberty

to file application under O. XIV subsequently. Moreover, on perusal of plaint it appears that, plaintiff has shown on 29/06/2025 when defendant threatened plaintiff to vacate the suit property the cause of action arose against specifically the present defendant. In such circumstance, it is needless to interpret the provisions of law. Order VII Rule 11 provides that:

Rejection of plaint: *The plaint shall be rejected in the following cases:-(a) where it does not disclose a cause of action;*

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

11] Therefore, in the light of the facts and above mentioned provisions of law it appears that, the grounds taken by

defendant for rejection of plaint, are not relevant. In addition to this it appears that, plaintiff has claimed simplicitor injunction exclusively as to her share in the suit property. Therefore, findings are recorded for above points. In view of the findings, following order is passed;

ORDER

1. The application (Exh.15) stands rejected.
2. Suit to proceed further as per rules.

Date:- 07/07/2026

Jt. Civil Judge Junior Division, Ausa.