

MHND260000592023

**Order below Exh. 10**

This is an application filed by the defendant under Order 7 Rule 11 of the Code of Civil Procedure.

2. According to the defendant, the suit is not maintainable, as per section 20 of Hindu Adoption and Maintenance Act, the person who claims maintenance, not possessed any immovable property and source of earning. The said fact suppressed from this court.

3. The defendant filed documents of owned and possessed immovable property of plaintiff no. 1 Devidas, as per provisions Order VII Rule 11 of C.P.C. the suit is legally barred as per provisions of section 20 of Hindu Adoption and Maintenance Act.

4. Suit is for Maintenance each of Rs. 10,000/- per month. The court fees is exempted to lady litigant, plaintiffs ought to have made valuation of the suit at Rs. 2,40,000/- The plaintiff no. 1 ought to have pay the court fees on his claim Rs. 1,20,000/-, as per suit Valuation Act, the valuation of the suit always to be made of the Maintenance amount for a year. The plaintiff no. 1 not paid the court fees as required for their claim, on the point of non payment of court fees suit may be dismissed. Hence, prayed to allow the application and reject the plaint.

5. Plaintiffs opposed this application by filing say overleaf on the

ground that the defendant is daughter of plaintiffs having monthly income to the tune of Rs. 50,000/-. Plaintiffs are entitled for maintenance under section 20 of Hindu Adoption and Maintenance Act. Finally prayed to reject the application.

6. Following points arose for my determination, to which, my findings with reasons thereon are as under:

Sr. No.	Points	Findings
1	Whether the suit is properly valued, plaintiffs paid requisite court fees or ward by any law ?	Yes.
2	Whether the plaintiff liable to rejected under Order VII Rule 11 of Code of Civil Procedure?	No.
3	What order?	Application is rejected.

REASONS

Point no. 1 to 3:-

7. Read application, say. Heard learned Advocate for the defendant and plaintiffs.

8. **Under Order VII Rule 11 following aspects has to be considered and plaint has to be rejected.**

a) where it does not disclose a cause of action, or b) where the relief claimed is under-valued, 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

(Provided that, the time fixed by the Court for the correction of the valuation of 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 from correcting the valuation or supplying the requisite stamp papers, 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.)

9. Admittedly suit is for maintenance under section 20 of Hindu Adoption and Maintenance Act. Though defendants are coming with the case that plaintiffs suppressed material facts with regard to ownership of land as well as house properties. On the contrary, both these two aspects has to be decided by adducing evidence from respective parties. In present case, written statement of the defendant is at Exh. 11 while the defendant filed counter claim below Exh. 13. Substantial pleadings of parties are on record. In such circumstances the plaint can not be rejected at the threshold. Considering all these aspects of the matter, this application is devoid of merits. Hence, my findings to point no. 1 and 2 in the negative and answer to point no. 03 I pass following order:-

ORDER

1. The application is rejected.
2. Cost in cause.

Place:-Ardhapur
Date : 24/07/2024

(Q. R. Syed)
Jt. Civil Judge Junior Division,
Ardhapur.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Jr. Clerk : B. G. Labde

Court of : Jt. Civil Judge Junior Division, Ardhapur

Date of pronouncement of Judgment/Order : 24/07/2024

Judgment/Order signed by the Presiding Officer : 24/07/2024

Judgment/Order uploaded on : 24/07/2024