

ORDER BELOW EXH.66 in R.C.S. No. 52 / 2013

CNR No.MHNG090005102013

(Passed on 07.12.2019)

1) This is the application for rejection of plaint under Order 7 Rule 11 of the Civil Procedure Code.

2) The Defendant No.1 contended that, the Plaintiff did not properly valued the suit. As per the ready reckoner value of the suit property is 3,66,828/-. But, Plaintiff did not paid the requisite court fee stamp. Defendant No.1 also filed certificate of the Sub-Registrar Office, Saoner showing the valuation of the suit property. Under such circumstances, plaint needs to be rejected. Hence, application is filed.

3) On perusal of the say of the Plaintiff, it appears to me that, the Plaintiff opposed the application on the ground that, application is not tenable in the eyes of law. As per the submission of Plaintiff, he has paid court fee stamp as per the provision of law. Hence, application liable to be rejected.

4) Head both sides, perused the application, say filed.

5) On perusal of order 7 rule 11 of Civil Procedure Code, it states that,

(a) Where it does not disclose a cause of action;

(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

...2...

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 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 from 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.

6) Thus, on perusal of the aforesaid provision, it appears that, the suit under order 7 rule 11 only can be rejected. When court has given the direction to the Plaintiff for proper valuation of the suit or for sufficiently stamp the suit. If Plaintiff has not complied the direction. In that event, suit can be rejected under order 7 rule 11 of Civil Procedure Code. Admittedly, in this suit till today no such direction given by the Court. Therefore, no question of rejection of plaint arises as per order 7 rule 11 of the Civil Procedure Code. But, fact remains that, the Defendant No.1 has filed certificate of Sub-Registrar Office stating

...3...

therein that, the valuation of the property is greater than that made in the plaint. It shows that, Plaintiff has wrongly mentioned the valuation of the suit property so also Plaintiff has not sufficiently paid requisite court fee stamp. Under such circumstances, if such direction can be given to the Plaintiff, it will suffice the purpose. But, in my considered opinion, at this stage, application is premature and it can not be allowed unless Plaintiff failed to complied the direction of the Court for payment of sufficient court fee stamp and for correction of valuation of the suit. Thus, in view of the above discussion, I pass the following order.

ORDER

- 1) Application is rejected.
- 2) Plaintiff hereby directed to make the correct valuation of the suit.
- 3) Plaintiff is directed to pay requisite court fee stamp as per the valuation made in the certificate of Sub-Registrar Office, Saoner.

Date :07.12.2019
Saoner.

(J. S. Kokate)
Civil Judge Junior Division,
Saoner.

...4...

C E R T I F I C A T E

“I affirm that the contents of this P.D.F. file of order is same word to word as per original order.”

Name of Stenographer : N. B. Payade

Endorsement

Case argued on	:	07.12.2019
Order dictated on	:	07.12.2019
Transcription ready on	:	09.12.2019
Order Checked and signed on	:	10.12.2019