

MHNS160013102024



R.C.S./235/2024
Pakulabai Rajaram Jadhav Vs. Yashwant Dhondiba Malode
ORDER BELOW EXH. 42.
(Passed on 06/05/2026)

01. This is an application filed by defendant No. 1 and 2 under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint.

02. According to the defendant, the suit of plaintiff is not tenable. It is the contention of defendant that, the plaintiff has sought declaration and partition of their share in the suit property. It is the contention of the defendant that, the property belong to Punegaon left canal i.e. Government of Maharashtra but said party are not added in this suit. It is the contention of defendant that, the suit is not filed within limitation period. It is the contention of defendant that, plaintiff has paid court fee of Rs. 9,230/-. However has not paid court fee on mesne profit and interest thereon for previous three years as per law. It is the contention of defendant that, plaintiff failed to pay the the requisite Court Fees and therefore, defendant prayed to reject the plaint. The plaintiff has filed say and submitted that, they have paid sufficient Court Fees and prayed to rejected an application. Heard. Learned council for both the side. Perused the record.

03. It is significant to note that the plaintiff though claiming mesne profit of Rs. 75,000/- per year of last three year with interest but he has not paid court fee accordingly. The defendants therefore prayed that, plaintiff has not paid sufficient court fees as per law and therefore prayed to reject plaint.

04. The plaintiff has as come specific case of Rs. 75,000/- per year mesne profit. It is not the case that, plaintiff prayed for inquiry into mesne profit. When the plaintiff has claiming specific amount and therefore he is required to pay court fee on the said amount. The plaintiffs ought to have pay Court fee as per Section 6 of Maharashtra Court Fees Act up to the extents I.e their specific recovery of Rs. 2,25,000/-. It is needless to mention that merely the suit is under valued is not a ground to reject the plaint straightway. Other ground i.e. addition of Maharashtra Government as party is not ground for rejection of plaint. But, if court come to the conclusion that, said party is necessary party and after addition of party Government in this suit the plaint can be returned to present before the proper forum. The plaint can not be rejected on that ground.

05. The Order 7 Rule 11 clause[b] deals as, “*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;*”

The Court is empowered to reject the plaint when after giving an opportunity to plaintiff to correct the valuation but,

plaintiff fails to correct it within the time given by the court. Therefore, plaintiffs can be directed to pay Court fee after doing proper valuation of suit property as per the market value shown in the ready reckoner.

06. Hon'ble Supreme Court in Saleem Bhai vs. State of Maharashtra 2003 AIR SCW 174 held that the application under Order VII Rule 11 can be filed at any stage before conclusion of trial. Hon'ble Supreme court observed that trial court can exercise power under Order VII Rule 11 at any stage of the suit either before registering the plaint or after issuing of summons to defendant at any time before conclusion of trial. As such, I think that stage is not relevant, but what is relevant is the merit in the ground raised in application under Order VII Rule 11 of Code of Civil Procedure. The plaintiff has paid court fee on Rs. 2,25,000/- i.e. Rs. 9,030/- and Rs. 200/- for injunction and therefore appeared to pay court fee as per law. For the discussion made above, I proceed to pass following order.

ORDER

1. The application is rejected.
2. Costs to follow in main cause.

Chandwad.
Date -06/05/2026

(S.S.CHHALLANI)
Civil Judge (J.D.)
Chandwad.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of Stenographer	<i>Namdev M. Shedge</i> Stenographer Grade -III
Name of Court	C.J.J.D. & J.M.F.C., Chandwad.
Date of Dictation	06/05/2026
Judgment/order signed by the PO on	06/05/2026
Judgment/order digitally signed by the PO on	06/05/2026
Judgment/order uploaded on	06/05/2026