

CNR NO.- MHNS-2800-0003-2026

**ORDER PASSED BELOW EXH. 20**

( Gulab Jagannath Gaikwad  
Vs  
Ratna Sambhaji Gaikwad & Ors. )

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

2. The defendant no. 2 has prayed for rejection of plaint on the several grounds. It is contended by the defendants that the plaintiff has instituted this suit for seeking relief of perpetual injunction. The defendant no. 2 has filed this application for rejection of plaint on the ground that the plaintiff has not impleaded the necessary parties to this suit. Plaintiff has suppressed the material facts and instituted this suit. The suit property was purchased vide sale deed bearing no. 1402/2019. The boundaries of the respective shares of the plaintiff and defendants have not yet been decided. As per the contentions of sale deed dtd. 26/04/2019 the possession of suit property was handed over to the respective purchasers. Plaintiff has no objection with respect to the possession. Plaintiff with malafide intention stating that the boundaries were not fixed. The revenue record of the suit property

reveals the names of other persons in the column of owners in the suit property. If plaintiff is desirous to effect the partition by specifying the boundaries then plaintiff has to implead all the necessary parties to this suit. The name of plaintiff is mutated over revenue record and since 2021 plaintiff is cultivating the land separately. Plaintiff has dug a well in his portion of the land and in such circumstances it cannot be said that the partition was not effected. Defendant no. 2 is the owner of suit property by virtue of sale deed therefore he has every right to enjoy his property. There is no cause of action for instituting this suit. The plaintiff has issued false notice to which the defendant no. 2 had sent a notice reply dtd. 16/12/2025. For want of necessary parties and for want of cause of action the plaint needs to be rejected. Lastly, prayed for allowing this application.

3. The plaintiff has resisted this application by filing his say below Exh. 26 and denied the claim of defendants in toto. Plaintiff has submitted that the defendant no. 2 is raising construction over the portion of plaintiff. Though the names of plaintiff and defendants were mutated over revenue record of the suit property but the boundaries of respective shares were not yet finalized. The plaintiff wants to seek relief only against the defendant nos. 1 and 2 therefore question of impleading the other persons as a

necessary parties will not survive at this juncture. Moreover, plaintiff can amend the plaint by impleading the other necessary parties. The application forwarded by the defendant no. 2 is intentional and vexatious merely to prolong the hearing of suit. Lastly, prayed for rejecting this application.

4. Heard Ld. Adv. S. A. Randive for the defendant no. 2 and Ld. Adv. Shri. S. K. Bhalerao for plaintiff at length. Considering the pleading, material on record and argument advanced, following points arise for my determination and I have recorded my findings thereon for the reasons discussed here in below.

	<b>Points</b>	<b>Findings</b>
1.	Whether the suit appears from the statement in the plaint to be bared by law and thereby warrant rejection of plaint vide order VII rule 11 of C.P.C. ?	<b>...No</b>
2.	What order ?	<b>...Application is rejected.</b>

**Admitted Facts :**

5. As per section 58 of Indian Evidence Act provides for admitted facts. The facts which are not disputed are the ownership of plaintiff and defendants over suit property. Execution of sale deed dtd. 26/04/2019.

6. Ld. Adv. S. A. Randive for defendant no. 2 vehemently submitted that the plaintiff have instituted the suit seeking the relief of perpetual injunction. The suit is barred as no proper cause of action has been adduced by the plaintiff further the suit is bad for non-joinder of necessary parties as the plaintiff has not made party to the persons whose names are over revenue record of the suit property. The possession of respective share was already handed over to the plaintiff and defendants at the time of execution of sale deed. The suit instituted with malafide intention as defendant no. 2 is raising construction over his own portion of the land. On these grounds the plaint needs to be rejected vide Order VII Rule 11 of C.P.C. Lastly, she prayed for allowing the application.

7. Ld. Adv. Shri. S. K. Bhalerao for plaintiff has submitted that the plaintiff has instituted suit for perpetual injunction. The plaintiff has purchased the suit property jointly with the defendants vide sale deed dtd. 26/04/2019. The suit property was purchased jointly and respective share was not determine by the parties. In such circumstances defendant nos. 1 and 2 are raising construction without ascertaining the boundaries of respective share. Plaintiff wants to seek relief only against defendant nos. 1 and 2 therefore question of non-joinder of necessary parties. Moreover, plaintiff can amend the plaint

if necessary by adding the necessary parties. Lastly, he prayed for rejecting this application.

8. Plaintiff has instituted this suit for perpetual injunction. The defendant no. 2 has challenged that the plaint does not disclose the cause of action and the suit suffers from illegality as plaintiff has not impleaded necessary parties and suit is bad for non-joinder of necessary parties.

9. Moreover, it is the settled principal of law that by bringing the defense of defendants the plaint can not be rejected. It is also settled position of law that only averments of the plaint should be considered while dealing with the application under Order VII Rule 11 of C.P.C.

10. Before looking in the powers under order VII Rule 11 of C.P.C. the following condition must be satisfied -

a) Where plaint does not disclose cause of action- if the plaint filed by the plaintiff does not disclose any cause of action, the Court will reject it. But in order to reject the plaint on this ground, the Court must look at the plaint and nothing else.

i] The power to reject plaint on this ground should be exercised only if the Court comes to the conclusion that even if all the allegations set out in the plaint are proved,

the plaintiff would not be entitled to any relief. For determining whether the plaintiff discloses cause of action or not, averments in the plaint alone are relevant and material. Further, defendant no. 2 raised the ground that the plaint is expressly barred by law as the suit is hit by non-joinder of necessary parties.

ii] In the present case in hand the plaintiff has specifically described the cause of action in para no. 11 of the plaint stating that the notice was issued by the plaintiff on 16/12/2025 requesting to stop the construction work started by the defendants over suit property. Moreover, the plaintiff has lodged report with the MIDC police station on 29/12/2025 stating the obstruction at the hands of defendants. This averment is sufficient to infer that the cause of action is disclosed in the plaint. Moreover, the averments in the plaint categorically summarize the details of the incidents which can suggest the cause of action. Therefore, the ground raised by the defendant no. 2 for rejection of plaint on count of non-disclosure of cause of action seems not proper.

iii] The another ground raised by the defendant no. 2 is that the suit is barred by law- d) Where the suit is barred by law- where the suit appears from the statements in the plaint to be barred by any law, the Court will reject the plaint. Therefore, in my considered view the application seems to be not maintainable as lack of statement in the

plaint from which suit appears to be barred by law.

11. The defendants raised the ground that the suit is barred by non-joinder of necessary parties. The plaintiff has instituted this suit seeking relief of perpetual injunction against the defendant nos. 1 and 2. The question of necessary parties is to be determined during trial stage. The same defect can be cured during trial. Therefore, the ground raised for rejection of plaint i.e. non-joinder of necessary parties seems not proper.

12. In view of above reasoning I answer point no. 1 in negative, and in answer to point no. 2. Hence, I proceed to pass following order :

### ORDER

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

Place : Sinnar.  
Date : 09/02/2026.

( Shri. L. C. Wadikar )  
Civil Judge Junior Division,  
Sinnar.