

MHPU010083972023



ORDER BELOW EXH.-28 IN
COMMERCIAL SUIT NO.17/2023

By this application, defendant No.3 has prayed for rejection of the plaint under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC). The rejection has been prayed *inter alia* on the following grounds.

- (i) The suit is suffering from non-joinder of necessary parties as the flat purchasers have not been added as the parties to the suit.
- (ii) The plaintiff has suppressed the material facts from the court.
- (iii) The plaint doesn't disclose a cause of action.
- (iv) The defendant is ready to comply his obligations. Only because of prohibition for registration in Gunthewari area, a registered instrument could not be executed.
- (v) The plaintiff has failed to describe the suit property properly by giving specific area in possession of the respective parties.
- (vi) The plaintiff has not properly valued the suit and;
- (vii) The plaintiff doesn't have strong case.

2] The plaintiff by his reply (Exh.30) has opposed the application. In short, it is contended that none of the grounds raised satisfy or can come under any of the provisions of Order 7 Rule 11 of the CPC.

3] I have heard Smt. Panchpor, the learned counsel for the plaintiff and the learned counsel for defendant No.3 at length in support of the respective pleadings and rival contentions /submissions.

4] On the basis of the above and perusal of the material placed on record, the following points for determination arise, to which I have given the findings for the reasons thereto.

Sr. No.	Points	Findings
1.	Whether defendant No.3 has proved that the plaint is liable to be rejected under Order 7 Rule 11 of the CPC ?	... In negative.
2.	What order ?	The application is rejected, as per the final order.

REASONS

AS TO POINT NO.-1 :-

5] Before appreciating the contentions of the parties, it is apt to note some legal principles about rejection of plaint. Rejection of plaint is very drastic order. Hence, unless the conditions as per Order 7 Rule 11 are strictly complied, there cannot be rejection of plaint. Secondly, for rejection of plaint only plaint pleadings and the documents of the plaintiff are relevant. No amount of defence or documents of the defendant can be

relied. The above principles are laid down in the matter of **Liverpool and London S.P. and I Association Ltd. Vs. M. V. Sea Success I (2004) 9 SCC 512.**

6] As rightly contended by Smt. Panchpor any of the grounds raised by defendant No.3 can come under Order 7 Rule 11. Neither the suit is barred by any law including CPC, nor it is barred due to any of the non-compliance as per Order 7 Rule 11. Even it is not the case that the plaintiff has failed to pay the deficit court fees despite an order of the court. In the present matter, defendant No.3 has only omnibusly pleaded that the suit has not been valued properly. But what is proper valuation and proper court fees have not been pleaded by defendant No.3. If defendant No.3 proves any contra valuation as proper valuation then the plaintiff can be directed to pay the deficit court fees. If the plaintiff fails to do the same then only the plaint can be rejected. However, that is not the case in the present matter. Except the contention about court fees as above which has been rejected by me, all other contentions are about defence. As discussed above, those cannot be considered for rejection of plaint. The suit is *inter alia* for specific performance of contract and on failure for cancellation. Even the suit comes under the definition of Commercial Dispute as it is pertaining to a development agreement of an already non-agricultural land i.e. the suit property. Even section 12-A of the Commercial Courts, Commercial Division and Commercial

Appellate Division of High Courts Act, 2015 ('C. C. Act') will not come in a way of the plaintiff. Neither there is an application by defendant No.3 about the same nor there can be findings that the suit doesn't contemplate an urgent interim relief. Already this court has granted one interim relief.

7] In view of the above discussion, I find that for any of the contentions raised in the application (Exh.28) the plaint cannot be rejected. Thus, I proceed to pass the following order.

ORDER

The application is rejected.

(Dictated and pronounced in open court.)

Date : 11/08/2025

(A. L. Tikle)
District Judge-2, Pune.

C E R T I F I C A T E

I affirm that the contents of this P.D.F file judgment are same word for word as per original Judgment.

Name of the Court	:	Shri. A. L. Tikle, District Judge-2, Pune
Name of steno	:	S. Y. Shaikh, (Stenographer Grade-I)
Date of Order	:	11.08.2025
Order signed by P.O. on	:	20.08.2025
Order uploaded on	:	20.08.2025