

Order below Exh.28.

(Date : 26.08.2025)

Present application has been filed by the defendant for transfer of suit to the Court having jurisdiction competent to try on the ground of pecuniary jurisdiction. Plaintiffs by filing say below Exh.30 resisted the application.

2] Perused the application and say. It appears that, present suit has been filed for redemption of mortgage and possession on the basis of mortgage deed dtd.12.06.1996 and time extended mortgage deed dtd.13.11.2001. According to plaintiffs, the total mortgage money is of the Rs.3,00,000/-. As the period of mortgage comes to an end and the mortgage money becomes due, they are entitled to redeem the property. On the other hand, the defendant by filing written statement raised question over total mortgage money amount of Rs.3,00,000/- and contended that the total mortgage money is Rs.6,88,000/-. On this ground, defendant contended that the mortgage money amount is Rs.6,88,000/- and this Court has no jurisdiction to try the suit as value is beyond pecuniary jurisdiction.

3] On perusal of record it appears that, on rival pleadings of the parties issues came to be framed at Exh.19 on 08.11.2023. Defendant has taken the plea in his written statement that, total mortgage money is Rs.6,88,000/- and not Rs.3,00,000/-. The issues at Exh.19 shows that, the issues regarding mortgage money as claimed by plaintiffs as well as defendant has been framed at Sr. No.2 and 3 respectively. Thereafter, matter posted for evidence. The plaintiff no.1 filed evidence affidavit at Exh.25 on 04.03.2024. Then

on 06.03.2025 the present application came to be filed. The plaintiff has valued the suit for Rs.3,06,612/-.

4] It is to be noted that, as per Section 9 of the CPC, this Court has jurisdiction to try all the suits excepting suits of which their cognizance is either expressly. Section 6 of the CPC speaks that, this Court has no jurisdiction over the suit the amount or value of the subject matter which exceeds pecuniary limits of Courts jurisdiction. Admittedly, the pecuniary jurisdiction of this Court is upto Rs.5,00,000/-. It is the valuation made in the plaint which determines the pecuniary jurisdiction of the Court and not the amount for which decree may be passed.

5] Further, as per Section 21 of the CPC, the objection in respect of jurisdiction has to be taken at the earliest possible opportunity and in all cases where issues are settled, at or before such settlement. This section clearly speaks that the objection as to jurisdiction has to be taken before settlement of issues. In the present case, the issues have already been framed and the plaintiffs have filed their evidence. Similarly, the alleged mortgage deeds are for Rs.1,50,000/- each. The defendant has taken defence that after execution of alleged mortgage deeds he time to time gave additional amount to plaintiff's father. In the meeting of Tantamukti Samiti, plaintiff nos.1 and 2 had admitted that they have taken total amount of Rs.6,88,000/- from the defendant. However, the plaintiffs denied this fact. Therefore, this issue is triable one and cannot be decided at this stage. The fact that whether the mortgage money is Rs.3,00,000/- or Rs.6,88,000/- will be decided after conclusion of trial. For that purpose parties will have to lead evidence in support of

their respective contentions. There is dispute between the parties regarding mortgage money. Under these circumstances, the valuation made by the plaintiff in the plaint on the basis of documents i.e. mortgage deeds on which the present suit has been filed needs to be taken into consideration and the same will be to determines the pecuniary jurisdiction of the Court. Therefore, looking into the mortgage deeds which are of Rs.1,50,000/- each total amount of Rs.3,00,000/-, the said amount is within the pecuniary jurisdiction of this Court. The fact which would be decided after conclusion of trial could not become helpful to decide the pecuniary jurisdiction. Thus, the present application is devoid of merit and not tenable in the eyes of law. Hence, I proceed to pass the following order :

ORDER

The application is rejected.

Place : Saswad.
Date : 26/08/2025

[Tukaram P. Mote]
Jt. Civil Judge Junior Division,
Saswad, Dist. Pune.

CERTIFICATE

I affirm that, the contents of this P.D.F file of order are same as per the original order.

Name of Stenographer	:: Santosh K. Panchal, Stenographer (Grade - III),
Name of the Court	:: Shri. T. P. Mote, Jt. C.J.J.D. & J.M.F.C., Saswad, Dist. Pune
Date of Order	:: 26.08.2025
Order signed by P.O. on	:: 26.08.2025
Order uploaded on	:: 28.08.2025