

**R. C. S. NO. 10/2024****ORDER BELOW EXH. 26**

(Shri. Nikhil Sanjay Shinde Vs. Shri. Rajendra Narayan Shinde)

The present application is filed by defendant no. 4 under Order VII Rule 11 of the Civil Procedure Code for rejection of the plaint. The defendant contended that, the plaintiff has paid insufficient stamp on incorrect valuation of the suit property. The house property in para no. 1C is of Rs. 5,47,878/- as per government valuation. Valuation of gold 11 *tola* in para no. 1E(₹) of the plaint has to be considered as per price on the date of presentation of the suit. The valuation of the suit property exceeds pecuniary jurisdiction of this court. Hence, prayed to allow an application and to reject the suit.

2. The plaintiff has filed say at Exh. 30 and denied the contentions of application as false and illegal. The plaintiff contended that the plaintiff has properly valued the suit property and has paid proper court fees stamp. The plaintiff has prayed for  $\frac{1}{4}$  share in house property described in para 1E(₹) of the plaint. The plaintiff is ready to deposit court fee of his share as per order of the court. The plaintiff has filed an application to delete the suit property 1E(₹) and 1U and para no. 7 of the plaint. Hence, prayed to reject an application.

3. Heard argument by both Ld. Advocates.

4. The suit is for declaration, partition, separate possession and permanent injunction. It is well settled that while deciding to reject a

plaint, what is to be seen is only the averments made in the plaint. If, the plaint discloses that the suit is properly valued and sufficient court fee has been paid, a defence cannot be looked into, to reject the plaint. Therefore, in order to determine whether the plaint discloses cause of action for the suit, it is necessary to see the averments made in the plaint.

5. The defendant mainly objected the suit on the ground of insufficient court fees stamp as per market value of the suit properties. However, the plaintiff has filed application at Exh. 32 for deletion of suit properties described in para no. 1E(₹), 1U and para no. 7 of the plaint. The plaintiff has filed amendment application after filing this application. The said application has been allowed. Therefore, at this state the contentions of plaintiff about valuation of those properties cannot be considered.

6. The defendant no. 4 has produced valuation certificate from the Sub-Registrar, Purandar for the suit property described in para no. 1E(₹). The plaintiff has prayed for share in that property however, in plaint para no. 16, the suit valuation for the partition has been considered as per 200% of the suit property and for the purpose of declaration, permanent injunction suit property has been valued of Rs. 1000/- each. As per valuation certificate issued by Sub-Registrar office, Purandar valuation of the suit property described in para no. 1E(₹) is of Rs. 5,47,878/-. The plaintiff has not paid court fee on market value of the house property in para no. 16 of the plaint, the whole suit property is valued at Rs. 3,000/- on which court fee of Rs. 600/- has

been paid. It appears that the plaintiff has not properly valued the suit property and proper court fee not paid. The plaintiff has to value the suit property properly and proper court fee which are required to be paid under section 6 of the Bombay Court Fees Act is to be paid. Considering the circumstances, in view of above discussion, it clears that the suit is not properly valued. It will be just and proper to direct the plaintiff to correct the valuation to pay deficit court fee within 30 days from this order. Hence, I pass the following order.

### **ORDER**

1. The application at (Exh. 26) is hereby partly allowed.
2. The plaintiff is directed to correct valuation of the suit property as per market value and pay deficit court fee within 30 days from the date of this order.
3. On failure to comply by the plaintiff as per order, necessary order will be passed as per Order VII Rule 11 of the Civil Procedure Code.

Saswad.  
Date : 04/09/2025.

**(Mrs. S. K. Deshmukh)**  
Civil Judge, Jr. Dn., Saswad.