

**ORDER BELOW EXH. 16**

*(Passed on 18th day of January, 2025)*

The present application is filed by the defendant No. 1 for Rejection of Plaint under Order 7 Rule 11(b) of C.P.C.

2. Defendant has submitted that, plaintiff has filed a suit for declaration and permanent injunction in respect of suit property described in para no 1 of the plaint. The property described in para 1(b) i.e. Gat no 14/2 is converted into the non agricultural land. The said fact is evident from the averment made in the plaint. In the prayer clause 11(a) plaintiff are seeking declaration of ownership accompanied with a consequential relief of possession of the plaintiff as well as defendant. The said relief are susceptible to valuation according to Sec. 6 (iv) (d) read with section 6 (v) of Maharashtra court fees Act. The same is also valued which will not be less than Rs. 8,04,16,000/- the said relief of ownership accompanied with a consequential relief of possession being relief are susceptible to the independent valuation, which has to be at the market value as prevailing on the date of suit. However plaintiff has under valued the suit. If suit is valued correctly then will be transferred to the Civil Judge Senior Division Baramati. Plaintiff willfully under valued the suit and trying to create jurisdiction of this court. Therefore direction be given to the plaintiff to correct the suit valuation and to pay the deficit court fees. In the event of plaintiff failing the suit valuation within such prescribed time then plaint be rejected under O 7 R.11 (b) of CPC.

3. Call the say plaintiff. He opposed the application and submitted that the application is not true and correct. While deciding an application under O. 7 R. 11 the contents in the plaint are need to be seen. Considering the suit for declaration and injunction proper court fees is valued in para no 9 in the plaint. So far as the contention of defendant as to non agricultural land is concern, defendant has not filed order of Prant officer on record. Plaintiff has paid proper court fees hence application is liable to be rejected.

4. Perused the record. Heard both the side. While deciding the application for rejection of plaint. The averments in the plaint are germane. By filing present application defendant contended that plaintiff has not valued the suit correctly. Hence suit is liable to be rejected as per O.7 R.11 (b) of CPC. In order to find out whether appropriate court fees is paid by the plaintiff or not, the basic document which is required to be considered is the plaint. From the reading of plaint, ultimately, it is required to be found out as to what relief the plaintiff is seeking from the court. In the case in hand, on perusal of record in appears that plaintiff came with the relief that declaration as to plaintiff and defendant are owner and in possession of their share as per the partition of Tahsildar dated on 8/03/1989. so also prayed for restraining defendant no. 1 for taking possession, not to create third party interest, not to make any construction in the share of plaintiff which is partitioned by the order of Tahsildar.

5. As per Section 6 (iv) (j) of Maharashtra Court Fees Act -

in suit where declaration is sought, with or without jurisdiction or other consequential relief and the subject matter in dispute is not susceptible of monetary evaluation and which are not otherwise provided by this act, such suit lie on court fees of Rs. 30/-. Therefore, on persual of plaint it appears that suit is for declaration and injunction. Plaintiff in para no. 9 of the plaint has paid the court fees as per S. 6 (iv) (j) of Maharashtra Court Fees Act. Plaintiff has paid valuation for the relief of declaration and as such it can not be said that plaintiff has not valued the suit correctly. Therefore what needs to be looked in to in deciding such an application are the averment in the plaint. Hence considering all these facts and considering plaint averment I find suit is valued correctly and not liable to be rejected. Hence, I pass following order-

**ORDER**

The application is rejected.

Date: 18/01/2025.  
Daund.

**(S. D. Mukkanwar)**  
5<sup>th</sup> Jt. Civil Judge, Junior Division  
Daund, Dist- Pune