



Sahadu Mahadu Bhangе

Vs.

Baburao Changdev Bhangе

ORDER BELOW EXH. 17

This application is filed by the defendant Nos.1 to 3 for rejection of the plaint under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908 ("CPC").

2. Heard Ld. advocates of both sides. Considered their submissions.

3. The learned advocate for defendant Nos.1 to 3 submitted that the plaintiffs have instituted the present suit for partition and separate possession of the suit properties. He further submitted that, as averred in paragraph No.3 of the plaint, the plaintiffs have pleaded that “दावा मिळकती ह्या वादी व प्रतिवादी यांच्या एकत्र हिंदू कुटुंबाच्या वडीलार्जित मालकी व ताबे वहिवाटीच्या होत्या व आहेत.” It is further submitted that the plaintiffs and defendants are relatives of each other and belong to a Scheduled Tribe community. The provisions of the Hindu Succession Act, 1956, are not applicable to members of Scheduled Tribes unless a notification is issued by the Central Government which means that the parties are not entitled for partition of suit properties unlike other Hindus. Therefore, the suit for partition based on Hindu joint family law is not maintainable and is barred by law. Hence, he prayed that the application be allowed and the plaint be rejected.

4. The plaintiffs have strongly opposed the application by filing their say. The learned advocate for the plaintiffs submitted that the application is not tenable in the eyes of law. It is contended that the defendants have filed the

present application only to prolong the proceedings. Hence, he prayed for rejection of the application.

5. The points for determination and their findings with reasons are as follows:

SR. NO.	POINTS	FINDINGS
1)	Whether a plaint is liable to be rejected under Order VII Rule 11(d) of Code of Civil Procedure 1908 as barred by law ?	No.
2)	What order ?	Application is rejected.

REASONS

AS TO POINT NO.1

6. Perused the application, say thereon.

7. The present application has been made by the defendants under Order VII Rule 11 of the Civil Procedure Code, 1908 which provides as follows:

11. Rejection of plaint.—

The plaint shall be rejected in the following cases:

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct

the valuation within a time to be fixed by the Court, fails to do so;

- (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of Rule 9; Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

8. It is well settled that while considering an application under Order VII Rule 11 CPC, the Court is required to examine only the averments made in the plaint. For the purposes of deciding an application under Order VII Rule 11 of the Code, the averments in the plaint are germane; the defence taken by the

defendants in the written statement and in an application for rejection of the plaint, however strong, cannot be looked into at this stage.

9. Order VII Rule 11(d) CPC applies only when the bar of law is apparent on the face of the plaint and does not require any evidence or adjudication of disputed facts.

10. On careful perusal of the plaint, particularly paragraph No.3, it is specifically pleaded by the plaintiffs that:

“दावा मिळकती ह्या वादी व प्रतिवादी यांच्या एकत्र हिंदु कुटुंबाच्या वडीलार्जित मालकी व ताबे वहिवाटीच्या होत्या व आहेत.”

11. Thus, the plaintiffs have unequivocally pleaded that the suit properties are ancestral properties of a Hindu joint family and that they are entitled to claim partition and separate possession. The plaint does not contain any averment to the effect that the parties belong to a Scheduled Tribe, nor does it state that the provisions of the Hindu Succession Act, 1956 are inapplicable to them.

12. The objection raised by the defendants that the parties belong to a Scheduled Tribe and are governed by customary law is a matter of defence. Determination of the said plea would require evidence regarding the caste status of the parties, existence of applicable customs, and applicability or non-applicability of the Hindu Succession Act, 1956. Such disputed questions of fact cannot be adjudicated at the threshold while deciding an application under Order VII Rule 11 CPC. Merely because the defendants contend that the suit is barred by Section 2(2) of the Hindu Succession Act, 1956 the plaint cannot be rejected unless such a bar is evident from the plaint itself, which is not the case herein.

13. At this stage, accepting the defendant's contention would amount to conducting a mini-trial, which is impermissible in law while dealing with an application for rejection of plaint. Therefore, the suit does not appear to be barred by law on the basis of the averments made in the plaint. In view of the above considerations and reasons, the application under Order VII Rule 11(d) CPC is devoid of merits and is liable to be rejected. Hence I answer **point No. 1 in negative.**

AS TO POINT NO.2 :-

14. Considering the finding of point No.1. The application is liable to be rejected. Hence the following order is passed.

ORDER

Application is rejected with costs.

Place: Ghodegoan
Date: 07/01/2026

Sd/-
(Sneha Sunil Pulujkar)
2nd Joint Civil Judge Junior Division,
Ghodegoan, Dist.Pune.

CERTIFICATE

I affirm that the contents of this PDF file order are same word for word as per original order.

Name of the Court : Smt. Sneha Sunil Pulujkar,
2nd Jt. C.J.J.D. and J.M.F.C., Pune.

Name of the Steno : J. S. Kaite, Steno Grade - III.

Order date : 07/01/2026

Order signed by P.O. on : 07/01/2026

Order uploaded on : 07/01/2026