



**ORDER BELOW EXH.34**

(Passed on 21/08/2024)

The present application is moved by the defendant No.1 for praying to reject the plaint vide Order VII Rule 11 of Code of Civil Procedure, 1908.

02. The defendant No.1 contended that it is the contention of the plaintiff that he has demanded Rs.8,25,000/- from defendant No.1 for encroched portion of the suit property. Therefore the plaintiff has to pay the court fees on an amount of Rs.8,25000/-. However the plaintiff has paid court fees only Rs.400/-therefore the calculation of the court fees has been incorrect and the court has no jurisdiction to entertain the suit.

3. The learned advocate for plaintiff filed say vide Exh.40 .It is submitted by the plaintiff that,he has sent the notice to defendant No.1 for demanding an amount of Rs.8,25000/- for the suit property encroched by the defendant No.1 however the defendant No.1 has not paid the amount for encroched portion therefore the plaintiff has filed the suit for removal of encroachment and he has not prayed for an amount of Rs.8,25,000/- therefore he is not liable to pay court fees for an amount of Rs.8,25,000/- Hence application is liable to be rejected.

04. Heard the learned Advocates for both side.

05. Admittedly, the plaintiff has instituted present suit for removal of encroachment and injunction. In Para 1 of the plaint, the plaintiff has described suit property. According to him, he is owner and possessor of the suit property. However, defendants made encroachment over the suit property so that the plaintiff instituted present suit for removal of encroachment and injunction. The contentions in the present application are not sufficient to indicate reason for rejection of the plaint.

6. In this application, Defendant No. 1 has raised objection of court fees. On perusal of plaint it is observed that although the plaintiff by sending notice demanded an amount of encroached portion of the suit property ,however while filing the present suit the main prayer of the plaintiff is for removal of encroachment. The plaintiff has not prayed for compensation of Rs.8,25,000/- of the encroached portion of the suit property. Therefore,in my view the plaintiff has paid the accurate court fees according to his prayer in the suit. Considering aforesaid discussion, there is no substance in the present application. Thus, this application is devoid of merits and liable to be rejected with costs.

**:- ORDER :-**

1. The application stands rejected
2. Costs in cause.

Place: Roha  
Date: 21.08.2024.

(Smt. M. C. Hasge)  
Joint Civil Judge Junior Division,  
Roha-Raigad.

