

**ORDER BELOW EXH. 73 IN RCS NO.28/2018****CNRNOMHSN070009292023****Kamal Kumbhar Vs.Ravindra**

This application is filed by defendant No. 1 for rejection of the plaint under Order VII Rule 11(b) & (C) of the Code of Civil Procedure, 1908. (Hereinafter for the sake of brevity it will be referred as "CPC" in short.)

02. Applicant submitted that he had filed an application vide Exh.61 for rejection of plaint on the ground of non payment of proper court fees and for incorrect valuation of suit property. The said application has been allowed by this court and thereby plaintiff has been directed correct the valuation of suit property and pay proper court fees. Despite this direction, plaintiff did not pay proper court fees as per Govt. valuation. The plaintiff did not make valuation of agricultural land. She did valuation of only house property. In fact, said valuation is also incorrect. The plaintiff has shown the said house as "kaccha" house. It is further submitted that the Govt. valuation of suit agricultural property is more than Rs.18,00,000/-. Therefore, relief claimed by plaintiff is under valued. The relief of mesne profit is without payment of court fees. In view of above reasons, applicant prayed for rejection of the plaint as per order VII Rule 11 (b) of the CPC.

03. Plaintiffs strongly opposed this application by filing her reply vide Exh No.74. She contended that present application is filed only to protract the trial. The defendant No.1 is not sure about the valuation of suit property. The plaintiff has rightly valued suit property as per Sec.6 IV of the Bombay Court Fees Act. Suit properties are agricultural land therefore, their valuation is proper as per assessment of said land.

Further, the valuation of house suit properties is also proper as per Govt. valuation certificate. Lastly, she prayed for rejection of the application.

04. Perused the application and reply. Heard arguments of both parties. The Ld. Advocate for applicant argued that relief claimed in the plaint is under valued. The valuation of suit properties is more than 40,00,000/-. Therefore, plaint shall be rejected for non payment of proper court fees. On the other hand, the Ld. Advocate for plaintiff argued that plaintiff has paid proper court fees as per Govt. valuation certificate issued by Sub-Registrar Office. Hence, this application is not maintainable.

05. Considering averments of plaint, application, and arguments of both parties, following points have arisen for my determination. I have recorded my finding thereon for reasons given below-

<b>Sr. No.</b>	<b>Points</b>	<b>Findings</b>
1.	Whether relief claimed is under valued ?	In the negative.
2.	Whether proper court fees is paid as per valuation?	Yes.
3.	Whether plaint is liable to be rejected?	No.
4.	What order?	Application is rejected.

### **REASONS**

06. Before proceeding further, it is necessary to state relevant provisions of the C.P.C. As per order VII Rule 11, the plaint can be rejected for six grounds. Rule 11 is reproduced as under:

**Rule 11 of Order VII:**

**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 under-valued, and the plaintiff on being required by the court to so 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.]

07. Perusal of above provision shows that as per order VII Rule 17 of the Code plaint can be rejected if it comes under any ground of clauses (a) to (e). Upon perusal of application shows that this application is filed on the ground that relief claimed is under-valued. (Clause b).

08. Coming back to facts of present case, present applicant had filed an application vide Exh. 61 for rejection of plaint on similar ground. Said application came to be partly allowed and thereby plaintiff was directed to make valuation of suit property correctly and to pay proper court fees. The said order shows that there was no specific directions to pay court

fees on specific amount. As per the said order, plaintiff has amended the plaint and has paid court fees of Rs. 12,635/-. According to plaintiff, the valuation of 1B-1 and 1B-2 is Rs. 15,61,080/-. Therefore, she has paid court fees upon her 1/4th share. The defendant has taken objection to this valuation, but there is no supporting documents in respect of said objection. On the other hand, plaintiff has filed on record valuation certificate issued by Sub-Registrar Office, Kavathe-Mahankal vide Exh. 67/1. The plaintiff has valued the suit property as per this certificate. The objection of defendant is not that the valuation as per this certificate is incorrect. He is on his previous ground that valuation of agricultural land and house property is in lacs. But he did not file supporting documents to show higher valuation than mentioned by plaintiff. Prima facie there is no reason to doubt valuation certificate filed by plaintiff. Suit property 1-A is agricultural land. Plaintiff has rightly paid court fees as per Section 6 (vii) of the Maharashtra Court Fees Act on 200 times of the revenue assessment of the Agricultural land in respect of her 1/4th share. Valuation in respect of agricultural land is squarely following under section 6 (vii) of the Maharashtra Court Fees Act which is correct as per valuation.

09. So far as, house suit properties are concerned, valuation is right as per valuation certificate. There is no contrary evidence to show higher valuation. Hence, I answer point No.1 in negative and point No. 2 in affirmative. Plaint is not barred for improper valuation. Hence, I answer point No. 3 in negative.

10. In view of above discussion, I come to conclusion that plaint is rightly valued and proper court fees is paid by plaintiff. Hence, application shall be rejected. Resultantly, in answer to point No. 4, I pass the following order:

**ORDER**

1. Application Exh. 73 is hereby rejected.
2. No order as to costs.

Date: 09/01/2024

sdxx  
(Arun R. Vyawahare)  
Civil Judge, Junior Division,  
Kavathe-Mahankal.

**Certificate**

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

Name of the Stenographer - H.P.Haridas

Court - CJJD and JMFC, Kavathemahankal.

Date - 09.1.2024

Order signed by the

Presiding Officer on -09.1.2024

Order uploaded on -10.1.2024