


MHSO070007082025 	<u>ORDER ON EXH. 26 IN R.C.S. No.583/2025</u> (Passed on 13 th April 2026)
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1. This application is filed by Defendants under Order 7 Rule 11 of Civil Procedure Code (hereinafter referred as “CPC” for the sake of convenience). The Plaintiffs have filed their say vide Exh.28. Heard Advocates for both sides. Perused the record.
2. It is submitted by Defendants that the Plaintiffs have filed the present suit for declaration and injunction. No cause of action has occurred to file this suit. Co-owners whose names are mentioned on 7/12 extract of C.S. No. 378 are not made parties. Plaintiffs have no legal rights in respect of suit property. Thus, they have no right to file present suit. If the suit is continued, the Defendants will be harassed and time of the court will be wasted. Hence, they prayed to reject the plaint as per provisions under O7 R11 of CPC.
3. The Plaintiffs objected the application stating that the contents in the application are false and frivolous. The suit property was purchased by the predecessors of the Plaintiffs by registered sale deeds dated 29.07.1970 and 12.08.1970 from original owner namely Laxman Dada Dandge. It has been given to the share of Plaintiff No. 3. Defendants No. 1 to 3 have no nexus with suit property but they are attempting to take illegal possession. Thus, present suit is maintainable. This application is

filed only to protract the proceeding. Therefore, the Plaintiffs prayed to reject the applicationn.

4. While considering application under Order 7 Rule 11 of CPC, scope is restricted and the Court has to peruse only plaint. No other documents can be perused while adjudicating the application of rejection of plaint. The application filed by Defendants or their defence or any other document filed on record cannot be looked into. If the grounds mentioned in the O7 R11 of CPC subclauses (a) to (f) are found to be present upon plain reading of plaint, then only plaint can be rejected.

5. At first the Defendants stated that necessary parties are not made party in suit. However, this is not a ground to reject the suit under O7 R11 of CPC. Moreover whether the co-owners mentioned on 7/12 extract of suit property are necessary party or not cannot be decided prima facie and requires adjudication on merit. Secondly it is stated that Plaintiffs have no legal right in respect of suit property and therefore, the suit is not tenable. Plaintiffs have filed suit for declaration that Plaintiff No. 3 is owner of suit property. Whether Plaintiff No. 3 has any right in the suit property or not, it is the subject matter of adjudication. It requires adjudication on merit. Upon prima facie reading of plaint, such fact-in-issue cannot be decided. Moreover, this is not a ground provided under O7 R11 of CPC for rejection of plaint. For all these reasons these two grounds stated by Defendants are not tenable and are liable to be rejected.

6. It is further stated by Defendants that there is no cause of action occurred to file present suit. However, the provision under O7 R11 of CPC provides ground in sub-clause (a) where it does not disclose a cause of action. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not, must be found out from reading the plaint itself. For the said purpose the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in its entirety, a decree would be passed. Non-Disclosure of Cause of Action refers to situations where the plaint fails to adequately express the underlying facts needed to support a claim. This deficiency can be remedied by rejecting the plaint. On the other hand non-Existence of Cause of Action implies that even if all the facts presented were true, they would not legally justify a claim. This is not a ground for rejecting a plaint under Order 7 Rule 11. The procedural provision that empowers courts to reject plaints on grounds that they do not disclose a valid cause of action; does not extend to situations where the claim is deemed legally insufficient because the cause of action is argued to be non-existent.

7. From the plain reading of the Plaint, the cause of action to file the suit appears to be clearly mentioned. The obstruction caused by Defendants No. 1 to 3 to the peaceful possession of the Plaintiffs is elaborately narrated. Thus, ground mentioned by Defendants that no cause of action arose to file suit, is not tenable. The present application filed by Defendants is not

maintainable in its present form and therefore, it is liable to be rejected. For the reasons mentioned above, following order is passed.

ORDER

1. Application at Exh. 26 is rejected.
2. No order as to costs.

Date:- 13.04.2026.

(Smt. S.S.Raul)
Jt. Civil Judge Junior Division,
Pandharpur, Dist. Solapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word as per the original order.

Name of Steno. :- D.S.Landage, Stenographer (Grade-III)
Court Name :- Jt.Civil Judge (Jr.Dn.) and J.M.F.C.,
Pandharpur. Dist. Solapur.
Date :- 13.04.2026.
Order signed by the :- 13.04.2026.
presiding officer on
Order uploaded on :- 13.04.2026.