

**ORDER BELOW EXH.14**  
**(Decided on 24/04/2024)**

Present application is filed on behalf of defendant Nos.1 to 3, 6 and 7 for rejection of plaint as per Order-VII Rule-11(c) of the Code of Civil Procedure.

2. It has been contended on behalf of defendants that, the plaintiffs have filed the present suit for perpetual injunction. It is contended that, a Revision Application bearing No.S./XI/1/2015 is pending before Maharashtra Land Revenue Tribunal i.e. Divisional Commissioner Office, Pune regarding the suit property and the same is admitted by the plaintiff. Therefore, this Court has no jurisdiction to file, try and entertain the present suit. There is no cause of action arose to file the present suit. The present suit is not tenable and maintainable in the eye of law. The contents in the suit are false and baseless. The Court fees paid by the plaintiff for the prayer clause No.11 is false and not correct. Therefore, on all above these grounds, plaint is liable to be rejected.

3. The plaintiff has filed his say on overleaf of application and contended that, the application is false and devoid of merit. There is no bar to decide the present suit by this Court. The plaint cannot be rejected for lack of jurisdiction. The cause of action is specifically mentioned by the plaintiff. The merit of the cause of action pleaded cannot be looked into at this stage. The plaint is properly valued and required court fee is also paid. Merely to avoid hearing on Exh.5, the application is filed. Hence, the plaintiff prayed that application be rejected.

4. Heard both the sides. Advocate for defendants argued that, this

court has no jurisdiction to entertain the present suit as litigation is pending before concern revenue authority. Cause of action never arose. Therefore, suit is not maintainable. On the other hand, Advocate for plaintiff argued as per his say.

5. It would be appropriate to make a reference to the provision of rule-11(c) of Order-VII of the Code of Civil Procedure which reads thus;

*“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;”*

6. From the above provision of law, it is clear that Court cannot travel beyond the statements in the plaint and has to decide the question pertaining to rejection of plaint only within four corners of the plaint and it is not permissible for the Court to enter into the merits of the case.

7. Defendants to substantiate their contentions relied on following decision of Hon’ble High Court of Bombay:-

1) In the case of **Satish Talakchand Shah V/s. Hirji Bhojraj & Sons Kutchi Oswal Jain Chhatralay Trust & Ors., 2014(1), ALL MR 345, decided on 02/09/2013.** It is held that, it is true that the plaintiff is free to make his or her own estimation of the reliefs

*sought in the plaint. But if valuation appears meager, arbitrary, and unreasonable the court can consider the prayers made and valuation made for reliefs of declaration and injunction in respect ownership title claimed over suit property, and may reject the plaint if valuation for the purposes of the Court fees and jurisdiction is found deliberately wrong.*

8. I have gone through the case law cited by defendant carefully. However the facts and circumstances of this case law and present case in hand are not similar. Therefore, with due respect to Hon'ble Apex Court, this case law is not helpful to the contentions of defendants.

9. As a matter of record present suit is filed by plaintiff for perpetual injunction. Defendants contended that, there is already revision pending before Revenue Authority. However, on perusal of contents of plaint and prayer, it does not seem that the prayer ought to be made before Revenue Authority which is made by plaintiff before this Court. As such perpetual injunction is a prayer which needs to be sought before Civil Court. Further, it is contention of defendants that no cause of action arose. However, as rightly argued by plaintiff whether cause of action arose or not is matter of trial which cannot be decided at this initial stage. Non-disclosure of cause of action is ground for rejection of plaint as per provision of O-VII rule 11(a) of C.P.C.

10. Further from perusal of plaint, there does not appear any sentence by virtue of which it can be said that present suit is barred by jurisdiction, cause of action and undervaluation. Defendants are claiming rejection of plaint on the ground that a revision appeal is pending before the Maharashtra Land Revenue Tribunal regarding the suit property and due to that this court has no jurisdiction to file, try and entertain the present suit. It is also mentioned in the application of the defendants that, there was no any cause of action arose to the plaintiff to file the present suit. On perusing the plaint, it can be seen that the

plaintiff has specifically mentioned the cause of action date wise. However, whether cause of action arose or not it can not be ascertained at this initial stage without considering and giving opportunity of evidence to both the parties.

11. The contentions about the variation of the dates in plaint and interim application as alleged by the plaintiffs are not grounds for the entire plaint is liable to be rejected. It is settled principle of law that issue regarding cause of action is mixed question of law and fact and therefore it has to be decided after giving fair opportunity to both parties to lead evidence. Suit is at preliminary stage. Issues are yet to be framed. Evidence is yet to be recorded. Therefore, at this point rejection of plaint on the ground of cause of action not arose, may cause irreparable loss to the plaintiffs.

12. Secondly the defendants prayed for rejection of plaint as suit is not properly valued. However, defendants failed to show what is correct valuation of suit. Therefore the contentions of defendants are vague in respect of valuation of suit. Therefore, only on the basis of contentions made in application can not be accepted for rejection of plaint. The defendants have not produced any documents or provision in which the plaint is liable to be rejected. Accordingly, plaint can not be rejected on the ground of this issue.

13. Therefore, in the result, from perusal of plaint and application, there does not appear any sentence by virtue of which it can be said that present suit is barred by any provisions of law. The learned advocate for defendants failed to satisfy as to how the plaint would be liable to be rejected or as to under which clause of Rule 11 of Order VII of the CPC, present plaint would be liable to be rejected. In the circumstances, it is clear that the application is without any substance. Hence the following order-

**ORDER**

1. Application (Exh.14) is rejected.
2. Cost in main cause.

Date : 24/04/2024

(Smt. P. S. Govekar)  
2<sup>nd</sup>Jt. Civil Judge, Jr. Division,  
Mohol.