



ORDER PASSED BELOW EXH.29 IN
REGULAR CIVIL SUIT NO. 50/2022
(Anjum and anr. Vs Mohd. Musawir and anr.)

1. Heard learned Advocate Shri G. V. Biyani for defendant No.1 and learned Advocate Shri M. Z. Khan for the plaintiffs. Perused the application, say at Exh.34 and record.
2. Defendant No.1 has filed present application under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint on the ground that plaintiffs have not paid proper court fee for the relief of mandatory injunction, whereby demolition of alleged illegal construction is claimed.
3. It appears that earlier also defendant No.1 had filed similar application at Exh.17. By order dated 10.10.2023, this Court rejected the said application. However, plaintiffs were directed to clarify valuation and court fee. Thereafter plaintiffs filed pursis at Exh.27 stating that the suit is valued at Rs.1,000/- for court fee and jurisdiction and court fee of Rs.200/- is paid.
4. The main contention of defendant No.1 is that, as the relief is for demolition of construction on immovable property, court fee must be paid on market value of the property. However, from plaint averments it appears that plaintiffs are not claiming declaration of title, possession, ownership or recovery of any specific property. Their grievance is about alleged illegal and unauthorized construction on plot No.1 and Government road, causing obstruction to public road. Therefore, the suit is essentially for mandatory injunction.

5. At the stage of Order VII Rule 11 CPC, only averments in the plaint are required to be seen. Defence of defendant or disputed questions regarding correctness of valuation cannot be finally decided at this stage unless from plaint itself it is clear that suit is undervalued or insufficiently stamped.

6 Under Order VII Rule 11(b) and (c) CPC, plaint can be rejected only when the plaintiff, after being required by the Court to correct valuation or supply deficit stamp within time fixed by Court, fails to do so. In the present case, plaintiffs have complied with earlier direction by filing pursis at Exh.27 and clarified valuation. Therefore, at this stage, plaint cannot be rejected merely on objection raised by defendant.

7. The defendant No.2 relied on the judgment in *Agricultural Produce Market Committee v. Shahnawaz Kasim Shaikh (2009 (5) ALL MR 339)* is distinguishable. In that case, relief was susceptible to monetary valuation because the plaintiffs were seeking protection from payment/refund of market fees. In the present matter, the relief claimed is not directly for recovery of money or monetary benefit capable of exact calculation.

8. Whether the valuation made by plaintiffs is ultimately proper or whether deficit court fee is required can be considered separately under the Maharashtra Court Fees Act, if necessary. But the plaint cannot be rejected straightway under Order VII Rule 11 CPC on the basis of the present application.

9. Moreover, similar objection was already considered while deciding Exh.17. Filing repeated applications on same ground without substantial change in circumstances cannot be encouraged. Hence, I proceed to pass following order.

ORDER

1. Application at Exh.29 is rejected.
2. No order as to costs.

Date : 19/06/2026

(Khwaja.C. Kalal)
Jt. Civil Judge Jr.Division, Mangrulpir,
Tal. Mangrulpir, Dist. Washim.

<u>CERTIFICATE</u>		
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 Court	:-	Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Mangrulpir, Dist. Washim.
Presiding Officer	:-	Khwaja C. Kalal
Judgment/Order uploaded by	:-	N.F.Syed (Stenographer-III)
Date of Judgment/Order	:-	19/06/2026
Judgment/Order signed by the presiding officer on	:-	19/06/2026
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