



ORDER BELOW EXH.16.
(CNR No.MHWS110013062025)
Abdul Wahid Abdul Kadir Through Power of Attorney
Holder A. Rashid A. Wahid
Vs.
District Collector, Washim & Ors.

Present application has been filed by defendant Nos.1 and 2 under Order VII Rule 11 of the Code of Civil Procedure, 1908 thereby praying for rejection of plaint.

02) Perused application, say of plaintiff given on the overleaf of this application and documents on record. Perused written notes of argument filed on behalf of defendant Nos.1 and 2 at **Exh.20**. Also heard Learned Advocate appearing for plaintiff. However, learned A.G.P for defendant Nos.1 and 2 was absent for making oral submissions at the time of argument of present application. Hence, present application came to be kept for order without hearing oral submissions on behalf of defendant Nos.1 and 2.

03) It is contended in the present application that plaintiff has filed present suit for mandatory injunction thereby praying for granting mandatory injunction against defendant Nos.1 and 2, directing them to deposit compensation amount of proposed acquisition of suit land for Samruddhi Express Highway in the Court. It is further contended that the plaintiff has also filed similar type of suit i.e. R.C.S. No.86/2017 in the Court of Jt. Civil Judge Junior Division, Karanja in respect of same suit property. In that suit, application of temporary injunction filed by plaintiff also came to be rejected on 15/03/2018. As such, it becomes clear that present suit is

barred by the principle of res-judicata and therefore, plaint is required to be rejected.

04) It is further contended in the present application that the injunction which has been sought by the plaintiff in the present suit is barred under Section 63 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and therefore, plaint is required to be rejected as the present suit is not maintainable in view of Section 63 of aforesaid Act. It further appears from the written notes of argument filed on behalf of defendant Nos.1 and 2 at **Exh.20** that it is also contended that this Court has no jurisdiction to entertain present suit in view of Section 68 of Maharashtra Highway Act, 1955. Therefore, it is prayed that plaint is required to be rejected under Order VII Rule 11 of the Code of Civil Procedure, 1908 for the reasons stated above.

05) On the contrary, Learned Advocate for plaintiff has strongly opposed this application on the ground that present application is false and baseless and it is filed only with a view to prolong the matter. While considering application under Order VII Rule 11, only averments in the plaint are required to be taken into consideration. It is further submitted that plaintiff has sought only relief of mandatory injunction and therefore, this Court is having jurisdiction to grant said relief.

06) Learned advocate for plaintiff has further submitted that the present suit is not barred under Section 63 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation

and Resettlement Act, 2013 and Section 68 of Maharashtra Highway Act, 1955 in view of averments made in the plaint. Moreover, the principle of res-judicata is also not applicable in the present suit as suit bearing R.C.S. No.86/2017 filed by plaintiff is still pending and not decided. Therefore, plaint is not required to be rejected on aforesaid ground. As such, present application deserves to be rejected with costs. Hence, learned Advocate for plaintiff has prayed for rejection of this application.

07) Following points arise for my determination, I have recorded my findings thereon for the reasons discussed below.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether plaint is required to be rejected under Order VII Rule 11 of Code of Civil Procedure, 1908 ?	In the Negative.
2)	What order ?	Application is rejected.

REASONS

As to point No.1:-

08) I have perused record of the matter and also considered the submissions of learned advocate appearing for plaintiff. From perusal of plaint, it appears that plaintiff has filed instant suit for seeking relief of mandatory injunction. It is well settled law that when objection is raised under Order VII Rule 11 of C.P.C. 1908 then only plaint averments are required to be looked into. If the plaint is perused then it reveals that plaintiff has sought mandatory injunction against defendants thereby directing them to deposit amount of

compensation in the Court.

09) It is pertinent to note here that plaintiff has sought only relief of mandatory injunction and therefore, this Court is having jurisdiction to grant said relief. Moreover, the present suit is also not barred under Section 63 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Section 68 of Maharashtra Highway Act, 1955 in view of nature of relief sought in the present suit. Apart from this, the principle of res-judicata is also not applicable in the present suit as suit bearing R.C.S. No.86/2017 filed by plaintiff is still pending and not decided. The principle of res-judicata only bars the lis which is already decided on merits and not the lis which is pending. Thus, the plaint can not be rejected on the grounds as alleged by the defendant Nos.1 and 2 under Order VII Rule 11 of CPC. Therefore, I do not find any substance in the present application. Hence, I answer point No.1 in the negative.

As to point No.2 :-

10) In such circumstances, I am of the opinion that, the present application deserves to be rejected. Therefore, I proceed to pass following order.

ORDER

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

Date - 04/02/2026.

(S. W. Thombre)
Civil Judge, (Sr.Dn.),
Karanja (Lad).

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Karanja.
- 3) Date :- 04/02/2026
- 4) Order signed by the presiding officer on :- 04/02/2026
- 5) Order uploaded on :- 04/02/2026