

MHYA070016452022



R.C.S. No.85/2022

Mo. Tofik Abdul Vs. Mo. Firoj

ORDER BELOW EXH.31

(Date 31/07/2026)

01. The present suit was filed for permanent injunction. Thereafter amendment was carried out and now the suit is for permanent injunction, declaration along with specific performance of contract. Defendants have filed the present application for rejection of plaint at Exh.31. Perused the application, say filed and record. Heard both the sides.

02. Defendants no. 4 and 5 filed the application for rejection of plaint as per order VII Rule 11. the advocate for defendant argued that an application was filed by the plaintiff for amendment of plaint. The same was allowed. Before amendment the suit was for declaration as the sale transaction is not binding on the plaintiff but later on the same is changed and now the suit was for specific performance of contract. So the court fees was then paid as per Section 6(4) ha of Maharashtra Court Fees Act but after amendment it is necessary to pay the court fees as per Maharashtra Court Fees Act for specific performance of contract. So he prayed to reject the suit as it is not properly valued. So he prayed to reject the suit.

03. He further submitted that the valuation of the suit property above Rs.5,00,000/- so the pecuniary jurisdiction for the suit increases; therefore, this Court has no pecuniary jurisdiction to proceed the suit. Lastly, he prayed to reject the plaint on these grounds.

04. The plaintiff's advocate filed say and he strongly opposed the application. He submitted that this application is not tenable. As the issued of court fee or deficit court fee will be decided at the time of trial. The main suit is filed for only injunction against the defendants for not create third party interest in the suit property. But later on during the pendency of the suit the defendants has sold out the suit property so the amendment was caries out. Therefore proper court fee is paid by the plaintiff. He submitted on this ground the suit cannot be dismissed or rejected. He further contended that, defendants filed this application only to prolong the matter. Lastly, he prayed to reject the application.

05. Perused the application and say. I have gone through the record. From the contention of both the parties, following points arise for my determination and I recorded my findings with reasons thereon.

<u>No</u>	<u>Points</u>	<u>Findings</u>
1	Whether plaint is liable to be rejected under Order 7 Rule 11 of the Civil Procedure Code ?	No.

2	What Order ?	As per final order..
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06. According to defendants the plaintiff has not valued the suit property but only on this ground the plaint can not be rejected. The application is filed under Order 7 Rule 11 of the C.P.C. As per that rule only in certain cases the court can reject the plaint which are described in that rule. Even if the plaintiff has not valued the court fees if supposed anything remains to be paid, then deficit court fees can be recovered from the plaintiff later on also. The only question regarding limitation and barred of jurisdiction has to be look into while deciding the application under Order 7 Rule 11 of the C.P.C. The other grounds can be considered at the time of trial. In P.V. Guru Raj Reddy -Vrs- P.Narendra Reddy & others in Civil Appeal No. 5252 of the 2006 decided on 13 February, 2015. Hon'ble Apex Court observed that, the point of limitation and bar of jurisdiction has to be decided when there is an application under Order VII Rule 11.

07. So far as the court fees is concern the suit can not be rejected on the ground of court fees. The court fees act is a fiscal statute. Though it is to be constructed strictly, it is to be kept in mind that the Act was passed not to arm the litigant with a weapon of technicality against his opponent but it is to collect the revenue for the benefit of the State. Thus, the object of the Court Fee is to secure the revenue and not to coerce the litigant. So on that ground the suit can not be rejected instead plaintiffs were

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given a chance to pay the court fees. Here the plaintiff paid court fees of Rs.200/- and claimed for declaration and specific performance of contract. The paid Court fees is under valued. Hence, directions to pay the proper Court Fees is given here under.

08. So, far as the increase of pecuniary jurisdiction is concern it is the administrative difficulty and it will be decided after paying the court fees. Therefore, the plaint is not liable to be rejected on the said grounds. As per provision Order 7 rule 11 of the Civil Procedure Code, I Pass following order.

:-: ORDER :-:

- (1) The application stands rejected.
- (2) Plaintiff is directed to make proper valuation of the suit and shall pay requisite Court Fees, as per the provisions of the Maharashtra Court Fees Act, within 6 weeks from today or whenever extended by this Court .

Date- 31/07/2026

(Smt. Dr. S. V. Rajkuntwar)
Jt. Civil Judge Junior Division
Darwha, Dist. Yavatmal.

CERTIFICATE

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

Name of Stenographer	Mr. Praful D. Rangari (Stenographer Grade 3)
Court Name	Smt. Dr. S. V. Rajkuntwar Jt. Civil Judge (Jr. Dn.), & Judicial Magistrate F. C., Darwha, Dist. Yavatmal
Date of Order/Judgment	31/07/2026
Order signed by P.O. on	31/07/2026
Order uploaded on	01/08/2026