

Special Civil Suit No.1450/2012
Order below exhibit No.160
CNR No.MHPU02-012968-2012

Read application and reply of plaintiff below exhibit No.162. Heard both learned counsel at length.

2] The application is filed by defendant No.1 Under Order VII Rule 11 of Code of Civil Procedure Code. Hence, for decision of this application following points arised for my consideration and I have recorded my findings there on with reasonings.

<u>Points</u>	<u>Findings</u>
1] Whether suit is liable to be rejected in view of Order VII Rule 11(d) of Code of Civil Procedure Code?	: No.
2] What order?	: Application is hereby rejected.

REASONS

3] In virtue of Provisions Under Order VII Rule 11, the plaint is liable to be rejected on following grounds.
Order VII Rule 11 speaks as.-

Rejection of plaint- The 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 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:

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9 (provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the time fixed by the requisite stamp-papers, as the case may be within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

4] It is settled position of law that for consideration of an application Under Order VII Rule 11, only pleadings in plaint and documents attached therewith are only required to be seen.

5] The defendant No. 1 has raised objection that the plaintiff had filed suit for declaration and injunction. The plaintiff has sought declaration that the sale-deed executed by defendant No.2 in favour of defendant No.1 is declared to be void. The defendant No.1 entered into the agreement for development with the original plaintiff and with the subsistence of the said agreement the defendant No.2 through defendant No.1 being power of attorney as the owner sold and conveyed the suit land in favour of defendant No.1. Hence, the plaintiff ought to have claim title over the suit property, but he failed to do so. The plaintiff is not seeking any relief of specific performance of the agreement from defendant No.1. He also failed and neglected to move any application Under Order II Rule 2 of the Code of Civil Procedure or to seek the relief of

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