

**ORDER BELOW EXH-15**(Dated 11th November, 2022)

The present application is moved under Order 7 Rule 11 of the Code of Civil Procedure for rejection the plaint. The defendant contended that the plaintiff has filed the main suit for permanent injunction and come up with the case that by virtue of an lease deed @ Lagvan Patta dtd. 27/02/2020, she is cultivating the suit field and that the defendants have no right to interfere into her possession upon the suit field till conclusion of period of tenancy. She further pleaded that value of Lagwan Patta is Rs. 1,00,000/- and thus, the subject matter of the suit is existence of Lagwan Patta which is susceptible in monetary evaluation. Hence in suit for declaration and permanent injunction, the value of the suit shall be atleast Rs. 1,00,000/-. However, on perusal of para 13 of the plaint, the suit is valued at Rs.1,000/- and she is affixed the court fees of Rs. 200/- thereupon. The plaintiff has not given the clarifications as to how she had valued the suit and affixed the court fees. Hence, the plaintiff has undervalued the suit and has not stamped properly upon the plaint. Hence, plaint is liable to be rejected under Order VII Rule 11 (b) and (c) of the Code.

2. The plaintiff filed the reply on Exh-20 and denied the entire contents of the present application. She opposed the said application on the ground that the defendant has filed the suit simpliciter for permanent injunction and not for relief of declaration. The claim of the plaintiff is only to restrain the defendants from disturbing the peaceful possession of plaintiff on

suit field. Hence, as per provisions of law, she has properly valued the suit and filed the accurate stamp duty. The present application is intentionally filed by defendants merely to prolong the matter and to delay in granting injunction. Hence, the present application is not maintainable and is liable to be rejected.

3. I have thoughtful consideration to the submission advanced by both parties. I have gone through records, present application and say thereon. It is well settled that once an application is filed under Order VII Rule 11 of the CPC, the court has to dispose off the same before proceeding with the trial and before deciding injunction application. It is pertinent to note that there are two modes of rejecting a plaint- firstly, the defendant can apply the form of Interlocutory Application at any stage of the procedures and secondly, there is Suo moto rejection - Order VII Rule 11 of CPC. By its motion, the court can, on its own, try or reject the suit, if the conditions mentioned explicitly in CPC, are fulfilled. To conclude, one needs to understand the following grounds where a plaint can be rejected: -

1. Where the suit is undervalued,
2. Where there is an absence of a cause of action,
3. Where any statement in the plaint is such that it is barred by law,
4. Plaint is not filed in duplicate.

4. Now it is necessary to discuss here that the defendants have claimed the rejection of plaint on ground that the plaintiff has not valued and not stamped properly for filing the present suit

under *Order 7 Rule 11 (b) and (a) of the Code of Civil Procedure*. It is reflected from the record that the present suit is filed for simpliciter permanent injunction. It is further reflected from plain reading of claim and prayer of the plaintiff that defendant No.01 executed the notarized Lagvan Patta i.e. lease deed in her favour for period of five years after accepting the amount of Rs.1,00,000/-. Thus, the plaintiff has come up before this court and asking for relief of permanent injunction to restrain the defendants from disturbing and obstructing the possession of the plaintiff till completion of lease deed i.e. till the year 2023-2024. Hence, even if the plaintiff has filed the suit only for permanent injunction and not for declaration but ultimately she claimed the relief on basis of document i.e. notarized lease deed and value in Lease deed is mentioned as Rs. 1,00,000/-. Thus, the document on basis of which the plaintiff sought the relief is susceptible to monetary evaluation. Now in this regard, I have gone through the provisions of Section 6 (iv)(j) of Maharashtra Court fees Act, 1959 as well as section 7 (iv) (d) of the Court Fees Act, 1870 discussed as below;

“Section 6-Computation of fees payable in certain suits

(iv) xxxxxxxx

(a) to (i) xxxxxxxx

(j) For other declaration: In suits where declaration is sought, with or without injunction or other consequential relief and the subject-matter in dispute is not susceptible of monetary evaluation and which are not otherwise provided for by this Act - ad valorem fee

payable, as if the amount or value of the subject-matter was One thousand rupees.

Section 7. Computation of fees payable in certain suits :

The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows :

(iv) in suits - x x x x (c) for a declaratory decree and consequential relief.- to obtain a declaratory decree or order, where consequential relief is prayed, (d) to obtain an injunction x x x x x according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits, the plaintiff shall state the amount at which he values the relief sought.”

5. After careful reading of both these provisions, it is gathered that in all cases, the plaintiff ought to have state the amount which he/she values the relief sought, with the reasons for the valuation. Undoubtedly, the amount of Rs. 1,000/- is calculated as ad-voleram fee when the subject-matter in dispute is not susceptible of monetary evaluation and which are not otherwise provided for by this Act. However, in present case, as discussed earlier, the relief of permanent injunction sought by the plaintiff is susceptible to the monetary evaluation on basis of lease deed worth Rs. 1,00,000/-. But after going through the Para No.13 of the plaint, it reveals that the plaintiff has valued the suit as Rs.1,000/- and paid the minimum fee of Rs. 200/-. She has neither mentioned nor stated the amount at which she valued the relief sought with the reasons for the valuation. Thus, in my view, the present suit is not valued and stamped properly for the purpose of court fees as

well as for the purpose of jurisdiction. It is important to note that the valuation of the property becomes material and relevant for the purpose of valuation of the suit, for the purpose of jurisdiction as well as payment of Court fee. However, at the same time, it is well settled that the plaint cannot be rejected straightway on count of undervaluation of court fees without according an opportunity to the plaintiff to pay the deficient court fees within prescribed period. If after according the opportunity to the plaintiff, she failed to pay the requisite court fees within reasonable time, then in such case, the plaint is liable to be rejected on the said count. Needless to state that the plaintiff shall seek the necessary amendments in this regard and properly valued the court fees, failing which the suit is liable to be rejected. Thus, in light of above discussions, the present application is not tenable and deserves to be rejected at this stage. As a result, I proceed to pass the following order;

ORDER

1. The present application is rejected.
2. The plaintiff shall properly value the court fees and pay the requisite court fees within 15 days from date of this order failing which the plaint is liable to be rejected.
3. No order as to costs.

Dated: 11/11/2022

(Smt. D.K. Sahu)
2nd Jt. Civil Judge Junior Division,
Chandur Bazar.