

ORDER BELOW EXH. 1 IN R.C.S. NO. 741/2022

1. While going through the plaint it is noticed that all the allegations and transactions mentioned in the plaint are seen to be happened at Amalner, Dist. Jalgaon and further the reliefs claimed in this suit are also criminal in nature and cannot be claimed in the Civil Court. So, the preliminary issue is raised that how this suit is maintainable. In view of preliminary issue raised, the Learned Advocate for plaintiff argued that as the plaintiff is residing within the jurisdiction of this Court and all the corresponds, in respect of alleged corruption and wrongs committed by the defendants, are made at the address of plaintiff, which is situated within the jurisdiction of this Court, this Court has jurisdiction to try and entertain the present suit. The Learned Advocate for plaintiff further submitted that even if a small fraction of cause of action accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter.

2. After going through contents of plaint and considering the argument advanced by Learned Advocate for the plaintiffs, following preliminary issues arise for my determination, on which I have recorded my findings, with reasons, thereon as under.

<u>PRELIMINARY ISSUES</u>	<u>FINDINGS</u>
1] Whether this court has jurisdiction to grant reliefs prayed in the suit ?	:- No.
2] Whether the suit is maintainable ?	:- No.
3] Whether the plaint disclose a cause of action ?	:- No.
4] What order?	:- As per final order.

REASONS

3. As to issues No. 1 to 4 :-

I gave thoughtful consideration to the submissions made by Learned Advocate for the plaintiff. I have gone through the documents filed on record. Perused the plaint, particularly allegations against the defendants and the relief claimed by the plaintiff. Taking into consideration all these aspects, firstly here I would like to mention that, it is admitted fact that all the defendants, against whom the allegations of corruption and wrongs committed by them, are the resident of Amalner, Dist. Jalgaon. Further, the allegations in respect of corruption and wrongs committed by the defendants are also happened at Amalner, Dist. Jalgaon. Further, on the allegations of corruption the plaintiff also prayed the various reliefs in respect of the alleged corruption.

4. So, taking into consideration all above aspects, before expressing the view that whether this Court has jurisdiction to grant the relief claimed and whether the plaint disclose any cause of action, it is necessary to give cursory look to the concerned relevant provisions in respect of entertaining the suit which has no cause of action or the Court has no jurisdiction to grant the relief, which are embodied in the Order 7 Rule 11 of the Civil Procedure Code. In view of provision of Order 7 Rule 11 of Civil Procedure Code, the plaint can be rejected at any stage of the suit. On this aspect it is worthwhile to refer the authority of Hon'ble Supreme Court in the case of **Rajendra Bajoria & Ors. Vs. Hemant Kumar Jalan & Ors., 2021 SCC Online SC 764** in which the Hon'ble Apex Court ruled that,

“ Thus, none of the reliefs sought in the plaint can be granted to the plaintiff under the law. The question then arises as to whether such a suit should be allowed to continue and go for trial. The answer in our view is clear, that is, such a suit should be thrown out at the threshold. Why should a suit which is bound to be dismissed for want of jurisdiction of a court to grant the reliefs prayed for, be tried at all? Accordingly, we hold that the trial court was absolutely right in rejecting the plaint and the lower appellate court rightly affirmed the decision of the trial court in this behalf.”

While ruling the above, the Hon’ble Apex Court cast duty on the Court to examine the averments in the plaint and the reliefs sought to entertain the suit by observing as under ; -

“ What should the Court do if it finds that even taking the averments in the plaint at face value, not one of the reliefs claimed in the plaint can be granted ? Should the Court send the parties to trial ? We think not. It will be an exercise in futility. It will be a waste of time, money and energy for both the plaintiffs and the defendants as well as unnecessary consumption of Court's time.

When the court is of the view just by reading the plaint alone and assuming the averments made in the plaint to be correct that none of the reliefs claimed can be granted in law since the plaintiffs are not entitled to claim such reliefs, the Court should reject the plaint as disclosing no cause of action. The reliefs claimed in a plaint flow from and are the culmination of the cause of action pleaded in the plaint. The cause of action pleaded and the prayers made in a plaint are inextricably intertwined. In the present case, the cause of action pleaded and the reliefs claimed are not recognized by the law of the land. Such a suit should not be kept alive to go to trial.....”

In this authority the Hon’ble Apex Court further observed that ; -

“ It could thus be seen that this Court has held that reading of the averments made in the plaint should not

only be formal but also meaningful. It has been held that if clever drafting has created the illusion of a cause of action, and a meaningful reading thereof would show that the pleadings are manifestly vexatious and meritless, in the sense of not disclosing a clear right to sue, then the court should exercise its power under Order VII Rule 11 of CPC. It has been held that such a suit has to be nipped in the bud at the first hearing itself.”

5. Further, in the case of **Official Trustee, West Bengal and Ors. V. Sachindra Nath Chatterjee and Anr. 1969 AIR SC 823 : 1969 (3) SCR, 92**, the Hon’ble Apex Court held that,

“ Before a Court can be held to have jurisdiction to decide a particular matter, it must not only have jurisdiction to try the suit brought but must also have the authority to pass the orders sought for. It is not sufficient that it has some jurisdiction in relation to the subject matter of the suit. Its jurisdiction must include the power to hear and decide the questions at issue, the authority to hear and decide the particular controversy that has arises between the parties.”

6. Taking in mind the all above legal aspects in respect of jurisdiction of the Court and rejection of the plaint along with the observation made by the Hon’ble Apex Court as mentioned above, I have gone through the pleading i.e. the contention of the plaint. On plain reading of the plaint as a whole, it is clear that no cause of actions arose within the jurisdiction of this Court rather the reliefs sought cannot be granted by any Civil Court and the plaint is not meant for civil actions. So, it can be said that, the plaint does not disclose cause of action. Only some correspondes were made by plaintiff’s office which is situated at Nashik is no way authorized the plaintiff to present the suit in this Court, as such for confer the jurisdiction of the Court, the Court must not have only jurisdiction to try the suit brought, but also have the authority to

pass the orders sought for. Its jurisdiction must include the power to hear and decide the questions at issues. In this context, here I would also like to mention that, as the plaint is meant for some criminal action, in view of Section 41(h) of Specific Reliefs Act, the present suit also not maintainable on that count also. As such, when equally efficacious relief can certainly be obtained by any other usual mode of proceeding then injunction cannot be granted.

7. Thus, considering all above aspects and discussion in foregoing paragraphs, I in-hesitantly come to the conclusion that the suit under the allegation of corruption and alleged wrongs done by the defendants with the reliefs sought do not fall within purview of the Civil Court, which results that the suit is not maintainable. Therefore, in view of specific provisions of Order 7 Rule 11 of Civil Procedure Code and as clarified by Hon'ble Apex Court in the case of **Rajendra Bajoria** (cited supra) the plaint has to be rejected. With these reasons, I hold that this Court has no jurisdiction to grant the reliefs sought in the plaint & entertain the present suit and consequently it can be said that the plaint does not disclose the cause of action. Accordingly, I answer all the issues No.1 to 3 in the negative and to answer issue No.4, I proceed to pass the following order.

ORDER

1. The plaint is hereby rejected.
2. Decree be drawn up accordingly.

Nashik.
Date:- 02/05/2023.

Sd/-xxx
(D. S. Zanvar)
Jt. Civil Judge, S. D. Nashik.