



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 CIVIL REVISION APPLICATION NO. 157 OF 2022

Shaikh Shaffik Shaikh Abdul Razak And Ors

VERSUS

Mohd Abdul Ahad Abdul Basit And Ors

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Advocate for the Petitioner : Mr. Dharurkar Chaitanya V

Advocate for Respondents : Mr. Shaikh Mujtaba Gulam Mustafa

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CORAM : SANJAY A. DESHMUKH, J.

DATED : 19th AUGUST, 2026

PER COURT :-

1. This revision is preferred against the order dated 12.02.2022, passed by the learned 7th Joint Civil Judge, Junior Division, Beed below Exh.48 in Regular Civil Suit No. 161 of 2021. The application Exh.48 was filed by the defendants, the present applicants for rejection of plaint, as it was not properly valued and proper court fees was not paid. It is contented that the property is N.A. property and construction was carried out for resident purpose. There is a tin shed in the suit property. It was therefore submitted to reject the plaint.

2. The respondents contended that though there was N.A. order, the N.A. use was not started within a year and therefore, conditional order was not passed as it is not N.A. land. It is therefore,

prayed to reject the application.

3. The learned trial court in para 12 and 13 observed as under:-

"12. According to the Maharashtra Land Revenue (Conversion of use of land and nonagricultural assessment Rules, 1969) 4(c) the applicant shall commence the non agricultural use applied for within one year from the date of the order made by the Collector in that behalf; falling which, unless the said period is extended by the Collector from time to time, the permission granted shall be deemed to have lapsed;

13. According to the above mentioned provision the specific use of land as non-agricultural must be commenced within one year from date of order of Collector. In the case in hand defendants have not made clear on record that the original owner of namely Gangaram Mali was using suit property for the purpose mentioned in permission. Therefore, at this stage record is not clear regarding whether suit property is non agricultural land or not. However the 8A extract shows that property no.1442 is given to the house in suit property bearing survey no. 335. Admittedly there is a house in the suit property and plaintiff has not assessed its value for necessary court fees at the time of valuation of suit. Plaintiffs have only paid court fees as per 7/12 Extract of suit property. So, at the most, necessary issues about valuation of the suit and payment of Court fees can be framed. But, in my view, the plaint cannot be rejected in

view of Order VII, Rule 11 (b) of Civil Code, unless plaintiff fails to value the claim properly or he fails to pay the ordered Court fees. Therefore, in my view, Clause (b) of Rule 11 of Order VI of Civil Code is inactive in the present circumstances of the case. It would not be just and proper to rejection the plaint on claimed ground at this stage. Hence, the upcoming order is passed.”

4. On perusal of the impugned order, particularly the conclusion drawn by the learned trial court, it is crystal clear that as per Rule 11-B of the Civil Procedure Code, 1908, unless the plaintiff fails to value the plaint properly or fails to pay the court fees properly, the plaint cannot be rejected. Unless that course is followed, the application for rejection of the plaint cannot be filed and allowed.

5. In view of the above, the reasons and findings of the learned trial court are legal and correct and no interference is warranted. The application therefore, deserves to be rejected. The civil revision application is accordingly, rejected.

(SANJAY A. DESHMUKH, J.)

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