

WRIT PETITION NO. 3269 OF 2015

Mr. Balaji L. Sagar Killarikar, Advocate for petitioner
Mr. U. R. Kulkarni, Advocate for respondents no. 1 to 4

ORDER

1. This writ petition has been moved by petitioner – original defendant no. 13, questioning order dated 20-02-2015 passed by learned Joint Civil Judge, Senior Division, Nilanga, whereunder he has rejected applications of present petitioner under Exhibits-191 and 193 in Regular Civil Suit No. 414 of 2012 seeking rejection of plaint and calling for report of the Sub-Registrar about valuation of the suit property since, according to petitioner, plaintiffs had undervalued the same and since there is no cause of action against defendant no. 13 with reference to Order VII, Rule 11 of the Code of Civil Procedure, 1908, petitioner may be deleted from the array of defendants in the suit.

2. Learned trial judge, after hearing the parties, has rejected aforesaid applications of defendant no. 13, observing that the plaintiffs have pleaded cause of action to file suit and further that no declaration is sought in respect of sale deed in favour of defendant no. 13.

3. Looking at the nature of the order as has been passed by learned judge, it cannot be gainsaid that by its very character and essence, it is an order at interlocutory stage of the suit and it would always be open for petitioner to agitate said grounds in the further proceedings at the appellate stage, if occasion for the same arises.

4. Therefore, in stead of causing interlude in proceedings of the suit and since it is at the stage of final hearing, I leave it open for the petitioner to take up the objections, as have been raised in the applications which are rejected, in the appeal if occasion for the same arises. Petition stands disposed of.

5. In view of disposal of writ petition, interim relief stands abated.

SUNIL P. DESHMUKH, J.

pnd