

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2899 OF 2015

Ashok S. Jadhav & ors.

.. Petitioners

vs.

Jan Mohammad Kamruddin Momin
and ors.

.. Respondents

Mr. T.S. Ingale i/b Mr. Nagesh Chavan for the Petitioners.

CORAM : M. S. SONAK, J.

DATE : 23 MARCH, 2015.

P.C. :-

1] The order made in Civil Revision Application No. 108 of 2015 will govern the present petition, as well.

2] In view of the reasoning therein, this petition is not entertained. Besides, in a situation where an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) is rejected, a revision application would lie under Section 115 of the CPC. This is an additional reason not to entertain the present petition.

3] The learned counsel for the petitioners, however, points out that in the present case, rejection of plaint was applied for on the grounds of under valuation and consequent non-payment of appropriate Court Fees. The impugned order has not adverted to this aspect at all.

4] In view of the aforesaid, this petition is dismissed. However, liberty is granted to the petitioners to take out a fresh application for rejection of the plaint on the ground that the suit is under valued or insufficiently stand. If such an application is taken out, then within a period of two weeks from today, learned Civil Judge to consider and decide the same in accordance with law.

5] It is made clear that this Court has not examined the issue or expressed any opinion with regard to the merits or de-merits of the plea based upon under valuation or sufficiency of Court Fee.

6] With the aforesaid observations, this petition is dismissed. There shall be no order as to costs.

7] All parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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