

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 338 OF 2015

Dilipkumar H. Saraf .. Applicant
vs.
Shankar K. Gaikwad & anr. .. Respondents

Mr. Sham Walve i/b Ms Anita A. Agarwal for the Applicant.

CORAM : M. S. SONAK, J.
DATE : 21 JULY 2015.

P.C. :-

1] This Civil Revision Application challenges the order dated 8 April 2015 made by the Small Causes Court, Pune, dismissing the applicant's application under Order VII Rule 1(d) of the Code of Civil Procedure, 1908 (CPC) seeking rejection of the plaint.

2] Learned Small Causes Court has correctly observed that at the stage of deciding the application under Order VII Rule 11 of the CPC, what is relevant is the statements made in the plaint. The power of rejection of a plaint under Order VII Rule 11(d) of the CPC cannot be exercised on the basis of the defence contained in the written statement or for that matter some material in the form of findings in some other suits. No doubt, the applicant is at liberty to raise all such issues by way of defence and invite the Court to cast

issues and lead the evidence on the basis thereof. However, at the stage of consideration of an application under Order VII Rule 11(d) of the CPC, what is important is a plaint and the statements made therein.

3] Accordingly, there is no jurisdictional error in making of the impugned order. This Civil Revision Application is, therefore, dismissed. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

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