

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.658/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Samrat Shinde i/b. Mr. T. D. Deshmukh for the applicant

CORAM : K. K. TATED, J.
DATE : JUNE 21, 2016

P.C.:

1. Heard. By this Civil Revision Application, defendant Nos.1 and 2 challenge the order dated 30.04.2015 passed by the Civil Judge, Junior Division Ghodegaon, in application under Order VII Rule 11 (a), (b), (c) and (d) of the Code of Civil Procedure, 1908 rejecting the same.

2. It is the case of defendant Nos.1 and 2 that the respondent plaintiff filed Regular Civil Suit No.48/2015 for partition of HUF properties. He submits that in the said suit, the plaintiff seeks partition of block No.691 admeasuring 3H 44Rs. He submits that, out of said land, land admeasuring 40Rs converted as non agricultural land. He submits that these facts were in the knowledge of the plaintiff. He submits that the

plaintiff has referred to these facts in his pleading in plaint. He submits that the valuation of the said land admeasuring 40 Rs is more than Rs.1.40 crores. In spite of that the plaintiff valued the suit for Rs.2448/- only. Hence, the valuation made by the plaintiff was incorrect. Therefore, defendant Nos.1 and 2 made application under Order VII Rule 11 of the Code of Civil Procedure, 1908 for rejection of the plaint. He submits that the Trial Court failed to consider these facts. He submits that the Trial Court in paragraph 11 of the impugned order wrongly recorded that the plaintiff is not seeking any share in the non agricultural land. Hence, the impugned order is liable to be set aside.

3. Heard the learned counsel for defendant Nos.1 and 2 at length. In the present proceedings, the plaintiff filed Regular Civil Suit No.48/2015 for partition of HUF. In partition suit both the parties are acting as plaintiff. It is to be noted that, the plaintiff made specific averments in the plaint that defendant Nos.1 and 2 obtained N.A. permission by playing fraud on them. Hence, the said order was challenged by the plaintiff before the Revenue Authority and that matter is pending.

4. Considering these facts, whether land admeasuring 40Rs from block No.691 is an agricultural land or non agricultural land, is not decided by the Revenue Authority as on today. Hence, I do not find any reason to entertain the Civil Revision Application by which the defendant Nos.1 and 2 challenge the order dated 30.04.2015 passed by the trial court rejecting their application under Order VII Rule 11 of the Code of Civil Procedure, 1908.

5. Hence, the Civil Revision Application stands rejected. No order as to costs.

JUDGE