

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 561 OF 2015**

Navnath Jagannath Magar and
Anr.

..Applicants

Vs

1. Smt. Jainnabi @ Bayama
Rajjak Shaikh and Ors.

.. Respondents

Mr. Abhijit P. Kulkarni, Advocate for Applicants.

Ms. Savita A. Prabhune, Advocate for Respondents no.1 to 10.

CORAM : R.G.KETKAR,J.

DATE : 10/02/2016

PC:

1. Heard Mr.Abhijit kulkarni, learned counsel for the applicants and Ms. Savita Prabhune, learned counsel for respondents no. 1 to 10 at length.

2. By this Application under section 115 of the Code of Civil Procedure, 1908, (for short, "C.P.C."), the applicants have challenged the Judgment and order dated 2.5.2015 passed by the learned Jt. Civil Judge, Jr. Dn., Baramati below Exh.32 in Regular Civil Suit No.364 of 2014. By that order, the learned trial Judge rejected the application made by defendants no. 1, 3 to 6, 10-a, 12 to 15 under Order VII, Rule 11 of C.P.C. for rejecting the plaint. Defendants no. 1, 3 to 6, 10-A, 12 to 15 contended that plaint is liable to be rejected under Order 7(11)(b) on the ground that the relief claimed is under-valued and the plaintiff, on being required

by the Court to so correct the valuation within a time to be fixed by the trial Court, failed to do so. These defendants also prayed for rejection of the plaint under Order 7, Rule 11(c) on the ground that though the relief is properly valued, the plaint is written upon paper insufficiently stamped and the plaintiff, on being required by the Court to supply the requisite stamp paper within a time fixed by the Court, failed to do so.

3. The learned trial Judge rejected the application on the ground that in view of Notification dated 1.10.1994 issued by the Government of Maharashtra, the plaintiffs are not liable to pay court fees.

4. Ms Prabhune states that respondent 1A - Mubarak Rajjak Shaikh and Badruddin Ismail Kazi, legal representative of respondent no.10-Chandbi Ismail Sayyed are present in the court. She has tendered photocopy of Aadhaar Card which are taken on record and marked "X" for identification. Upon taking instructions from them, she states that (1) the plaintiffs have paid court fees on land as they are not claiming any right in house property; (2) the plaintiffs are also not seeking exemption from payment of court fees. Ms Prabhune further states that within two weeks from today the plaintiffs will suitably amend paragraph 8 of the Plaint deleting prayer for exemption from payment of court fees. Statements made by Ms Prabhune, on instructions, are recorded.

5. In view thereof, impugned order is dissolved and no further orders are necessary in this Civil Revision Application. Liberty is reserved to the defendants if so advised to take out appropriate application. Civil Revision Application is disposed of accordingly.

(R.G.KETKAR, J.)