

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.79 OF 2018  
(Shivraj s/o Kashinath Bhalerao Vs. Alka w/o Gajanan Anerao and  
others)

Mr.P.N.Kalani, Advocate for the applicant.

( CORAM : Ravindra V.Ghuge, J.)

DATE : 23/07/2018

PER COURT :

1. The applicant/original defendant No.2 is aggrieved by the order dated 04/01/2018, by which the Trial Court has disposed of application Exh.19 for being infructuous.

2. I have heard the lengthy submissions of the learned Advocate for the applicant and have gone through the petition paper book.

3. The applicant had moved Exh.19 seeking a direction under Order VII Rule 11 of the CPC that the plaint be rejected as the plaintiff has not deposited requisite court fees as per the market value of the properties mentioned in claim clause No.5 and 6. After application Exh.19 was filed, the plaintiffs voluntarily deleted claims at Sr.Nos.5 and 6 from the claim title and declared that their suit

would not be pressed with reference to the said two claims. Consequentially, the grievance of the defendant No.2 was rendered infructuous. The Trial Court has rejected Exh.19 concluding that it has become infructuous.

4. Contention of the applicant is that the plaintiffs could not have been permitted to delete clause 5 and 6 from the claim title after Exh.19 was filed. I do not find that the said submission is sustainable as the plaintiffs are the masters of their suit and have voluntarily decided to give up certain claims. In view of the above, the impugned order can not be termed as being erroneous.

5. As such, this civil revision application, being devoid of merit, is therefore, rejected.

( Ravindra V.Ghuge, J.)