

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 121 OF 2017

Mrs.Vaishali Bhagwat Goykar	...	Applicant
V/s.		
Sanjau Vasantryao Borate	...	Respondent

- Mr.Santosh S. Musale a/w. Mr.Prashant Mairale for the Applicant.
- Mr.N.P. Mule for the Respondent.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 19th MARCH, 2018.

P.C. :

1] Heard learned counsel for the Applicant and learned counsel for the Respondent.

2] By this Civil Revision Application, filed under Section 115 of the Code of Civil Procedure (*for short, "C.P.C."*) the Applicant is challenging the order dated 6th August 2016 passed by the 9nd Jt. Civil Judge Senior Division, Pune, thereby rejecting the Application at Exhibit-21 filed in Special Civil Suit No.1352 of 2015.

3] The said application was filed by the present Applicant who is Defendant before the trial Court for rejection of the plaint on

the count that the real transaction between the parties was of money lending. The Applicant has already repaid the entire amount lent to him. There was no such agreement between the parties in respect of the sale of the property and therefore, the suit for specific performance of the agreement filed by the Respondent-Plaintiff is not tenable and hence, plaint has to be rejected.

4] Thus, the very contention raised by the Applicant for rejection of the plaint pertains to the merits of the suit claim. The plaint can be rejected only for the specific clauses laid down in Rule-11 of Order-7 of C.P.C., namely, when it does not disclose the cause of action or is not properly valued and no proper court fees stamps is paid despite the opportunity and thirdly, if it is found to be barred by any express provision of law. None of these contentions being raised in the case and all the contentions raised in the application being pertaining to the merits of the suit claim, the trial Court has rightly dismissed this application. In the Revisional jurisdiction, no interference is warranted therein.

5] The Civil Revision Application therefore stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]