

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10047 OF 2019

Tejrao s/o Genu Jadhav
and another

Petitioners

Versus

Mrs.Sujata w/o Kuldeepak Jadhav
and another

Respondents

Mr.S.S.Panale, advocate for the petitioners.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 13th August, 2019

PER COURT:

1 The petitioners, who are original defendants no.1 and 2 in RCS No.603 of 2017, are aggrieved by the order dated 27.06.2019, passed by the trial Court rejecting the application Exhibit-33. The petitioners had filed the said application invoking the provisions of Order VII Rule 11 of the Code of Civil Procedure for seeking rejection of the plaint.

2 It is contended that the property at issue does not belong to the husband of the plaintiff. It is a self acquired property of the father-in-law and the plaintiff, daughter-in-law, can seek no share out of the said property.

3 The learned Counsel for the petitioners has drawn my attention to the eight grounds formulated in the memo of the petition and submits that the impugned order deserves to be quashed and set aside.

4 I find that the plaintiff has brought on record certain documents and 7/12 extracts which would, *prima facie*, indicate that the suit property was a joint family property as it was purchased from the joint family income. There are pleadings to this effect in the plaint. In my view, these aspects would constitute a mixed question of facts and law and it is only after leading oral and documentary evidence, that the source of money for purchasing the suit property would be established.

5 In view of the above, the impugned order cannot be termed as being perverse or erroneous. This petition, being devoid of merits, is, therefore, dismissed.

RAVINDRA V. GHUGE
JUDGE

adb/