

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL REVISION APPLICATION NO. 354 OF 2019****Nanasaheb Shankarrao Gaikwad (HUF)****Through its member****Nansaheb Shankarrao Gaikwad****..... Applicant****VERSUS****Aditya Birla Health Services Ltd.****..... Respondent**

Mr.Sukand R. Kulkarni for the Applicant.

Mr.R.M.Nirmal for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 9th AUGUST, 2019****P.C.**

By this application filed under section 115 of the Code of Civil Procedure, 1908, the applicant impugns the order dated 7th March, 2019 passed by the learned Additional Judge, Small Causes Court, Pune below Ex.27 rejecting the application filed by the applicant (original defendant) under Order 7 Rule 11(b) and (c) of the Code of Civil Procedure, 1908 *inter alia* praying for rejection of the plaint on the ground that the subject matter of the suit does not fall within the jurisdiction of the Small Causes Court as contemplated under section 26 of the Provincial Small Cause Court Act, 1887.

2. The applicant had filed a separate application under the provisions raising an issue of payment of court fees under section 6(j) of the Maharashtra Court Fees Act, 1959. The said application was rejected by the Small Cause Court on the ground that the suit was for declaration and for other reliefs. The said order has not been challenged by the applicant.

3. A perusal of prayer clause (c) of the plaint clearly indicates that the same relates to the recovery of the possession and would fall under section 26 of the Provincial Small Cause Court Act, 1887. In my view, the learned trial judge has rightly rejected the said application under Order 7 Rule 11(b) and (c) of the Code of Civil Procedure, 1908 filed by the applicant. I do not find any infirmity with the order passed by the learned trial judge. The suit is within the jurisdiction of the Small Causes Court and would fall under section 26 of the Provincial Small Causes Court Act, 1887.

4. Civil revision application is thoroughly misconceived and is dismissed with cost quantified at Rs.10,000/- (Rupees Ten Thousand only) which shall be paid by the applicant to the Kirtikar Law Library, High Court, Bombay within two weeks from today. A receipt showing the payment shall be produced before the Associate of this court within one week from the date of such payment.

[R.D.DHANUKA, J.]