

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

CIVIL REVISION APPLICATION NO.515 OF 2018

Smita Hemant Bothare

... **Applicant**

V/s.

M/s Comfort Intech Ltd

and ors

... **Respondents**

Mr.Pramod N. Joshi i/by Adv. Vrishali Raje, for Applicant.

Mr. Anil Yadav a/w Ritesh Singh i/by Sanjeev R. Singh, for Respondent
Nos. 1 & 2.

CORAM : SANDEEP K. SHINDE, J.

DATE : 16st August, 2019.

P.C. :

1] The applicant-plaintiff instituted a Short Cause Suit No.1235 of 2015, in the Court of City Civil Judge, at Greater Mumbai. Respondent Nos. 1 and 2 (defendant Nos. 1 & 2) appeared and raised preliminary issue as to the pecuniary jurisdiction of the Court to entertain the suit. The learned Judge held that the Court has no pecuniary jurisdiction to try and entertain the suit, however, has not passed orders in terms of Rule 10 of Order VII of the Code of Civil Procedure.

2] Mr. Joshi, learned counsel for the applicant fairly states that the valuation of the suit exceeds pecuniary jurisdiction of the City Civil Court. The statement of Mr. Joshi, is accepted.

3] Order VII, Rule 10, sub rule (2) of the Code of Civil Procedure 1908, contemplates the procedure of returning the plaint. It says that on return of the plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the parties presenting it and the brief statement of reasons for returning it.

4] The learned trial Court though held that it has no pecuniary jurisdiction to try and entertain the suit, has not recorded the reasons for the same. In this case, since the plaintiff accepts the position that the valuation of the suit exceeds the pecuniary jurisdiction, conditions contemplated that is recording of brief statement of reasons in terms of Rule 10 (2) of Order VII of Code of Civil Procedure stands complied with.

5] In view of the statement of Mr. Joshi, learned counsel for the applicant-plaintiff, the learned trial Court is directed to return the plaint for presenting it to the Court of competent jurisdiction, within three weeks from the date of uploading this order on the website. Since the

defendant has appeared in the Suit, plaintiff is directed to inform the trial Court the specific Court in which he proposes to present the plaint after it's return and such other particulars in terms of Rule 10(A) (2) of Order VII of the Code of Civil Procedure.

6] Civil Revision Application is disposed of in aforesaid terms.

[SANDEEP K. SHINDE, J.]