

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO.1982 OF 2020

RAJLAXMI INFOTECH PRIVATE LTD THROUGH ITS
DIRECTOR
VERSUS
VAIDHYANATH URBAN CO OPERATIVE BANK LTD PARALI
VAIJNATH THROUGH ITS GENERAL MANAGEER

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Mr. S.G. Jadhavar, Advocate for the petitioner.

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CORAM : **Rohit B. Deo, J.**

DATE : 29th January 2020.

ORDER :-

. The petitioner is the plaintiff in Regular Civil Suit No. 54 of 2018 brought for perpetual injunction.

2. The plaint is rejected under Order VII Rule 11 (d) of the Code of Civil Procedure. The petitioner/plaintiff has challenged the order of rejection of plaint in Regular Civil Appeal No. 27/2018.

3. In R.C.A. No. 27/2018, the petitioner / plaintiff sought to amend the plaint by contending that the Deed of Assignment dated 29.03.2019 which was got executed by the respondent Bank as regards the properties situated in Chikhli, District Buldana, was fraudulent and null and void.

4. By the order impugned dated 27.12.2019, the application seeking permission to amend the plaint was rejected. The appellate Court has held that cause of action and the property is different.

5. It is not necessary to make any observation on the correctness or otherwise of the finding recorded by the appellate Court. Suffice it to observe, that at present the very tenability of the suit is under consideration. This petition can be disposed of by observing that if the suit is held to be tenable, the petitioner / plaintiff would be entitled to prefer appropriate application for amendment in respect of the properties situated at Chikhli, before the trial Court and such application shall be considered on its own merits and in accordance with law uninfluenced by any observation in the order impugned.

6. The petition is disposed of.

(ROHIT B. DEO, J.)

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