

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

**WRIT PETITION NO.5294 OF 2015**

Mahadev Eranna Belle & Ors. .... Petitioners  
Vs.  
Guruling Gurugayya Swami & Ors. .... Respondents

Mr. Rohan Surve for Petitioners.  
Mr. S.D. Rayrikar, AGP for Respondent No. 6.

**Coram : NITIN W. SAMBRE, J.**  
**Date : 10TH FEBRUARY, 2021**

P.C.:

1. In a suit for declaration, the Petitioners-Defendants moved an application, Exhibit 102 praying therein that prayer clause 10 C(1) in the plaint be cancelled as proper Court fees is not paid. Another application, Exhibit 109 came to be moved praying therein that the Respondent be not permitted to proceed with the suit unless, the proper Court fees is paid. Both these applications are rejected vide order impugned dated 8<sup>th</sup> October, 2014. As such, this petition.

2. The fact remains that both these applications are not in the tune with the provisions of Order VII, Rule 11 of C.P.C., thereby seeking

rejection of the plaint on the aforesaid ground. Apart from above, the interest of the Petitioner is safeguarded by recording an undertaking of the Plaintiff that deficit Court fees if any will be paid at an appropriate stage of the proceedings.

3. That being so, no interference is called for. The petition fails. Dismissed.

**( NITIN W. SAMBRE, J. )**