

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 4395 OF 2022**

MOHAN GUNDU VACHANE PATIL  
VERSUS  
SUDHIR NARAYANRAO LOHAREKAR AND OTHERS

...  
Advocate for Petitioner : Mr. S.B. Madde  
....

**[CORAM : NITIN B. SURYAWANSHI, J.]**  
**DATE : 27<sup>th</sup> April, 2022**

**ORDER :**

. The petitioner is aggrieved by the order passed by the learned Civil Judge Junior Division, Lohara, below Exh.28 in R.C.S. No. 397 of 2017, thereby rejecting the application filed by petitioner/original defendant No.2 under order VII rule 11(a)(d) of the Code of Civil Procedure.

2. The petitioner/original defendant filed the said application contending that, the plaintiff has not properly valued suit. As per Section 6(v) of the Bombay Court Fees Act, the suit is undervalued. The subject matter of the suit property is susceptible of monetary valuation therefore, the suit be valued as per market value of the suit property. The

pleadings in the plaint are against the provisions of Maharashtra Land Revenue Code (hereinafter referred as 'the MLR Code). The plaintiff has suppressed the material facts from the Court. Hence he prayed for rejection of the plaint.

3. The plaintiff resisted the said application. The Trial Court after hearing the parties, rejected it holding that, the only relief claimed in the plaint is of permanent injunction. The provisions of MLR Code are not attracted in the suit. Since the suit is filed for simplicitor injunction and no relief of declaration of ownership is claimed by the plaintiff, there is no question of wrong valuation of the suit.

4. It is a matter of record that, the suit is filed by the plaintiff for simplicitor injunction. The cause of action for filing the suit is obstruction on the part of the petitioner/original defendant therefore, there is no question of wrong valuation of the suit. The Trial Court is justified in holding that, in the suit is no relief of declaration of ownership is claimed by the plaintiff and hence, there is no question of valuation of suit. Pleadings in the suit do not

indicate that, provisions of MLR Code are attracted in the suit. Therefore, the order passed by the Trial Court cannot be faulted with. There is no substance in the writ petition.

5. Writ petition is dismissed.

6. No costs.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**