



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
APPEAL FROM ORDER NO.541 OF 2023**

|                           |     |             |
|---------------------------|-----|-------------|
| Laxmi Rakesh Rai and Anr. | ... | Appellants  |
| versus                    |     |             |
| Savitri P. Rai and Ors.   | ... | Respondents |

Mr. Sujit Mashal i/by Mr. Idris Balasinorwala, for Appellants.  
Mr Ismail A. Nasikwala, for Respondent Nos.1 to 3.  
Mr. Alok D. Mishra, for Respondent No.5.

**CORAM: N.J.JAMADAR, J.**

**DATE : 12 JULY 2023**

**P.C.**

1. Heard the learned Counsel for the parties.
2. The learned Counsel for the Appellants submits that the learned Judge, City Civil Court, while rejecting the Notice of Motion has made certain observations which, according to him, are in dissonance with the settled legal position and that the said observations have the propensity to cause serious prejudice to the case of the Appellants/Plaintiffs in the suit.
3. It was further submitted that the Defendant No.5 has taken out an application for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908 and the Plaintiffs apprehend that the observations in the impugned order will seriously prejudice the Plaintiffs case.
4. The parameters on which an application for rejection of the plaint on the

ground that there is either bar of jurisdiction or no cause of action is made out, are well settled. The plea is required to be decided on the basis of a meaningful reading of the averments in the plaint as a whole as it is in the nature of demur.

5. Yet to rule out the possibility of prejudice to the Appellants/Plaintiffs, it is clarified by way of abundant caution that the learned Judge, City Civil Court while deciding the application for rejection under Order VII Rule 11 of CPC, or any other proceedings in the said suit, shall not be influenced by any of the observations made in the impugned order.

6. With the aforesaid clarification, the Appeal stands disposed.

**( N.J.JAMADAR, J. )**