

Nikita

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

CIVIL REVISION APPLICATION NO.7 OF 2019

Axis Housing Private Limited ... Applicant

V/s.

Shyamsundar Radheshyam Agrawal and
Ors. ... Respondents

WITH

CIVIL APPLICATION NO.361 OF 2017

IN

CIVIL REVISION APPLICATION NO.7 OF 2019

Axis Housing Private Limited ... Applicant

V/s.

Shyamsundar Radheshyam Agrawal and
Ors. ... Respondents

Mr. Girish S. Godble, Sr. Adv. i/b Ms. Neha Bhide, a/w
Ms. Shilpa Pawar for the Applicant.

Mr. Sandesh D. Patil a/w Mr. Pavan Patil i/b Ms. Anusha
Amin, for Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2023

P.C.:

1. By this revision application under Section 115 of the Code of Civil Procedure, 1908, Defendant No.3 is challenging maintainability of suit under Clause (a) of the Order 7 Rule 11 of the Code of Civil Procedure, 1908.

2. According to defendant No.3, plaint does not disclose cause

of action.

3. It is well settled that for the purpose of decision on application under Order 7 Rule 11, averments in the plaint needs to be accepted as correct.

4. If the averments disclosed in the plaint are accepted as correct, same discloses cause of action, the suit can be decided on merits.

5. On perusal of the plaint, along with the documents annexed, it appears that the plaintiff has pleaded cause of action based on two agreements dated 24th November 2002 and 25th January 2004.

6. On perusal of the agreement, it appears that facts which constitute cause of action, are pleaded. On merits, whether the plaintiff is entitled to relief or not will be decided during trial.

7. There is no merit in the application.

8. The civil revision application stands disposed of.

9. In view of dismissal of the application, all pending interlocutory applications are disposed of as infructuous.

(AMIT BORKAR, J.)