

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.7017 of 2022

DINESH S/O JAGANNATH MUGAL VS KAILASH VISHWANATH MAHAJAN AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.D. Girdekar, Advocate for the Petitioner

**CORAM : ANIL S. KILOR, J.
DATED : 03.01.2023.**

Heard.

2. In this petition, a challenge is raised to the order below Exh. 42, dated 11.11.2021 passed by Civil Judge Junior Division, Murtizapur, rejecting the application filed under Order VII Rule 11 of the Code of Civil Procedure read with Sections 8 and 9 of the Bombay Court Fees Act for rejection of plaint.

3. The learned counsel for the petitioner submits that the order is erroneous and the learned trial Court has not appreciated the facts of the case in right prospective.

4. I have perused the impugned order, more particularly, paragraph 4 of the same, wherein, the Court has observed that as per Section 6 of the Bombay Court Fees Act, the plaintiff need not to pay Court fee on the valuation which is mentioned in the sale deed dated 23.03.2015, so also enquiry under Sections 8 and 9 of the Bombay Court Fees Act, not required.

5. It is further held that as per the plaint and prayer clause, the valuation of suit property is Rs.4,90,000/- on the basis of Essar Chitti executed on 22.05.2014. The plaintiff deposited the Court Fees on the said amount and the prayer is for specific performance of contract, declaration and injunction. Thus, the learned trial Court has found the valuation of the suit property is proper.

6. Moreover, the Court has observed that already the said point was decided by order below Exhs.19 and 38 and despite the said fact, deliberately the application Exh.42 was moved by the petitioner.

7. Thus, it is clear that there is no perversity in the impugned order, in fact, moving such application, despite the fact that on the earlier occasions, the similar request was rejected, is nothing but the abuse of the process of law. In the circumstances, I do not find any merit in the present petition, accordingly, it is **dismissed**.

[ANIL S. KILOR, J.]