



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

CIVIL REVISION APPLICATION NO.60/2022

Vishnu Mahadev Kohchande Vs. State of Maharashtra and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. Awchat, Advocate for applicant.

CORAM : ANIL L. PANSARE, J.

DATE : 06.09.2023

Heard.

Challenge is to the order dated 20.09.2021
passed by Civil Judge Senior Division, Kelapur below
Exh.-17 in Regular Civil Suit No.2/2020.

The applicant/original defendant no.3 had filed
the application under Order VII Rule 11 of the Civil
Procedure Code, 1908 (For short the, 'Code'), on the
count that the suit is undervalued and that the plaintiff
has no locus to file the suit.

The non applicant no.3/original plaintiff had
filed a suit seeking decree of permanent injunction
against the defendants therein from making payment of
compensation to applicant/original defendant no.3. The
plaintiff claims to be an adopted son of the original
owner.

The trial court has rejected the application on
the ground that the contention raised is a matter of
merit. The trial Court has further held that while
entertaining the application under Order VII Rule 11 of
the Code, the averments made in the plaint are to be
looked into and considering the same to be true, if the

grounds put forth in terms of Rule 11 of Order VII of the Code are made out, the plaint is liable to be rejected. The trial court has opined that there is a doubt as regards valuation of the suit property as the amount of compensation has not been disclosed. The court, however, has opined that this cannot be a ground for rejection of the plaint and can be dealt with separately.

Sub clause (b) of rule 11 of Order VII of the Code reads thus:

“11. Rejection of plaint-The plaint shall be rejected in the following cases:—

(a) ...

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so”

Thus, unless and until the Court has directed the plaintiff to correct the valuation within the stipulated time and unless the plaintiff fails to do so in the stipulated time, the plaint cannot be rejected on the ground that it is undervalued. As regards locus, the plaintiff claims to be an adopted son. Whether the adoption was valid or not is a matter of merit.

The sum and substance is that there is no perversity or illegality in the order impugned. There is no merit in the application. The same is, therefore, dismissed with no order as to costs.

Copy of order be served upon the trial Court.

(Anil L. Pansare, J.)