



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

910 CIVIL REVISION APPLICATION NO. 61 OF 2024

CHABUBAI AMBADAS TAMBE
VERSUS
DAMODHAR NAMDEV GAIKWAD AND OTHERS

...
Ms. Anagha V. Rotte – Advocate for Applicant

....

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 26th April, 2024

PER COURT :

1. Heard learned Counsel for applicant.
2. The applicant is original defendant No.1 in Regular Civil Suit No. 1080 of 2019 who had filed application (Exhibit-100) before the learned Trial Court i.e. Civil Judge Senior Division, Newasa for rejection of plaint under Order VII Rule 11 of Civil Procedure Code. The applicant claimed rejection on the ground that, the plaintiff i.e. present respondent No.1 himself had executed G.P.A. dated 10.10.2019 by giving power of executing the sale-deed and thereafter he himself has challenged the said G.P.A. as well as sale-deed dated

11.10.2019 based on it.

3. Learned Counsel for applicant submits that, the plaintiff despite executing such power of attorney has filed the suit without any locus. She relied on the judgment of Hon'ble Supreme Court in the case of **Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal** in Civil Appeal No.5368 of 2017 (arising out of S.L.P. (Civil) No.35352 of 2016 reported in *2017(3) R.C.R.(Civil) 64*, wherein it is observed that, *"if on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the Court should exercise power under Order VII Rule 11 of the Civil Procedure Code"*. However, it is to be seen here that, plaintiff i.e. present respondent No.1 has claimed that, the defendants in the said suit have got executed the G.P.A. as well as sale-deed based on it by deceiving him. As such, it is the duty cast upon the learned Trial Court to examine the contentions raised by plaintiff in the light of evidence. As such, the aforesaid observation of Hon'ble Apex Court is not helpful to the applicant in this matter.

4. In view of the same, this Court is not inclined to pass any order in favour of present applicant under Order VII Rule 11 of the Civil Procedure Code. Accordingly, the application stands rejected at admission stage.

5. Civil Revision Application is disposed of accordingly.

[SANDIPKUMAR C. MORE]
JUDGE