



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

15 CIVIL REVISION APPLICATION NO. 141 OF 2023

1. Krishna Bansilal Ahuja
2. Balram Bansilal Ahuja ... PETITIONERS

VERSUS

1. Anil Darshanlal Ahuja ... RESPONDENT

...
Mr. S.N. Menchirel – Advocate for Petitioners

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 2nd February, 2024

PER COURT :

1. Heard learned Counsel for the petitioners i.e. original respondents in Regular Civil Suit No.222 of 2021. The present Civil Revision Application is filed for challenging the order dated 04.02.2023 whereby the learned Trial Court i.e. 2nd Joint Civil Judge Junior Division, Jamkhed, Dist. Ahemadnagar has refused the application of the present petitioners filed under Order VII Rule 11 of Civil Procedure Code. On going through the said application, it appears that, the petitioners had claimed the rejection of plaint on two

grounds namely, the suit was under valued and there was no cause of action mentioned.

2. It is settled position that, for deciding application for rejection of plaint only the pleadings in the plaint are to be considered. On going through the said plaint it appears that, the respondent/plaintiff has filed the suit for declaration of his ownership over the suit property. According to him, the cause of action for filing the suit firstly arose when he took out City Survey record in the month of September, 2021 and had the knowledge about Mutation Entry No.21928 in respect of legal representatives of Darshanlal Ahuja.

3. Learned Counsel for the petitioners submits that, the said entry was certified long back and in the year 1999 and therefore, the respondent/plaintiff was well aware of the same at the relevant time. However, when the respondent is claiming that he got the knowledge of that entry for the first time in the month of September, 2021 then it has to be tested on the reliable evidence. The present petitioners are always at liberty to establish the fact that the respondent/plaintiff was having

knowledge of that entry at the relevant time when it was certified.

4. So far as under valuation of the suit is concerned, it appears that the respondent/plaintiff has filed suit for declaration of his ownership and therefore it is not susceptible of monetary valuation. Even if it is found that, the suit requires certain additional Court Fees then as per Order VII Rule 11 of Civil Procedure Code the learned Trial Court has to give sufficient opportunity to the respondent/plaintiff for paying the same. Thus, considering all these aspects, the learned Trial Court had properly passed impugned order and, therefore, the present Civil Revision Application stands dismissed at admission stage and disposed of accordingly.

[SANDIPKUMAR C. MORE]
JUDGE