



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO.16 OF 2024

Pushkar Prakash Nehete

.... APPLICANT
(Org. Defendant No.3)

VERSUS

1. Dr. Amit Anand Bnhangale (Org. Plaintiff)

2. Pradip Zavaru Chaudhary

3. Jeevan Pradip Chaudhary RESPONDENTS
(Resp. No.2 & 3 are
Def. No.1 & 2)

....
Advocate for the Applicant : Mr. Parag V. Barde
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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 13/03/2024.

P. C. :

1. The applicant, who is the original defendant No.3 in Special Civil Suit No. 19 of 2023 pending before the learned 2nd Joint Civil Judge Senior Division, Jalgaon (hereinafter referred as to 'the learned trial court'), has challenged the order below Exhibit-29 dated 16/06/2023 passed by the learned trial court in the aforesaid civil suit. Under the impugned order, the learned trial court has rejected the application filed by the present applicant for rejection of plaint under Order VII Rule 11 of CPC.

2. The learned counsel for the applicant submits that there is a bar under Section 6 of the Transfer of Property Act, 1882 for filing such suit by the present respondent No.1 i.e. original plaintiff. According to him, the agreement to sell involved in the dispute is not a registered document as required under Section 17 of the Registration Act, 1908 and therefore on that count also the plaint is liable to be rejected. Further, he submitted that the plaint is liable to be rejected as there is no cause of action for filing such suit. Further, the plaint can also be rejected on the count of non-joinder of necessary parties.

3. It is significant to note that the present applicant has raised four ground for rejection of the plaint namely; i) barred by Section 6 of the Transfer of Property Act; ii) barred by Section 17 of the Indian Registration Act, iii) on the ground of non-joinder of necessary parties and iv) there is no cause of action. However, on going through the plaint itself the cause of action is already stated in the plaint in para 9. Moreover, under Order VII Rule 11 of CPC there is no ground for rejection of the plaint on the basis of non-joinder of necessary parties. Further, on perusal of Section 6 of the Transfer of Property Act, it is clearly evident that there is no express bar is mentioned. On the contrary, Section 6 of the

Transfer of Property Act relates to the property which may be transferred. So it is in respect of nature of property which can be transferred under the Transfer of Property Act or by any other law for time being in force. So, it cannot be said that any bar is created under such section for civil court. Same is the case with Section 17 of Indian Registration Act, 1908. It only says that any property having value over Rs.100/- is to be transferred by a registered document. No specific bar is mentioned in the said section to the jurisdiction of Civil Court. Thus, considering all these aspects, the grounds raised by the applicant / defendant No.3 for rejection of the plaint, cannot be considered and at least three of them do not come under the scope of Order VII Rule 11 of CPC. As such, no perversity is seen in the impugned order and accordingly the present civil revision application stands dismissed.

(SANDIPKUMAR C. MORE, J.)