



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

919 CRA NO. 48 OF 2024

Sachin Harichandra Lagad

Petitioner

Versus

Radhakisan Ramchandra Lagar
(Died) Through LRs Bharat
Radhakisan Lagad and others

Respondents

...
Mr. M.B. Sandanshi, Advocate for the petitioner.
...

**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 5 MARCH 2024**

ORDER:-

1. Heard learned Counsel for the petitioner at admission stage.
2. The petitioner, who is the original defendant No.8, has challenged order dated 01.07.2023 below Exh. 53 passed by the learned Civil Judge (Junior Division), Dharur, District Beed in R.C.S. No. 247 of 2021, whereby the application filed by the present petitioner for rejection of plaint, has been rejected.
3. On perusal of the impugned order and the copy of application under Order VII Rule 11 of C.P.C. at page 38, it is evident that the petitioner/defendant No. 8 had sought rejection of the plaint on the ground that there was no cause

of action and no proper court-fee was paid. It appears that plaintiffs have claimed that present petitioner is in possession of the alleged encroached portion and therefore if the decree is passed, there will be difficulty in execution of the same, if the defendant No.8 i.e. the present petition is deleted from the suit.

4. The learned Counsel for the petitioner submits that defendant No. 8 is owner and possessor of the area under valid sale deed. However, that would be a good ground for him to defend the suit. Merely because he is made party to the suit, does not allow the court to reject the plaint under Order VII Rule 11 of C.P.C. So far as ground of under valuation of the suit is concerned, the plaint itself indicates that the plaintiff has properly valued the suit and also affixed the necessary court-fee. Even otherwise also, if the said court-fee was found insufficient, then court has to give notice to the plaintiff to make it good. Therefore, there are no grounds for rejection of plaint as mentioned in the Order VII Rule 11 of C.P.C. in the present case. As such, the impugned order appears to be proper and accordingly the Civil Revision Application stands dismissed at admission stage.

(SANDIPKUMAR C. MORE, J.)