



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

909 CRA NO. 184 OF 2024

Shaikh Ahamad Shaikh Abbas

VERSUS

Vijay Gagadharrao Choudhari And Others

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Advocate for applicant : Mr. R. M. Sayyed

CORAM : S. G. CHAPALGAONKAR, J.

Dated : December 10, 2024

PER COURT :-

1. Heard learned advocate appearing for the applicant.
2. He submits that applicant has been impleaded twice in R.C.S. No.171 of 2022 as defendant no.5 as well as defendant no.8. Trial Court rejected plaint as against defendant nos.2, 5, 6, 10 and 11 for want of cause of action. He therefore submits that proceeding in suit will unnecessarily continue as against him as defendant no.8. There is no clarification in impugned order as to whether plaint is rejected as against defendant no.8 or not. Therefore, he seeks indulgence of this Court in the impugned order.
3. Prima facie, from reading of impugned order, it can be observed that Trial Court formed opinion that cause of action to file suit is available only against defendant nos.1,3 and 4 and there is no cause of action against rest of the defendants.

Therefore, Trial Court specifically rejected plaint against defendant nos.2, 5, 6, 10 and 11. There is no clarification as regards to existence of cause of action as against defendant no.8.

4. In present revision application applicant described himself as original defendant no.5. Plaint is already rejected against defendant no.5. Therefore, applicant cannot be treated as aggrieved by impugned order in his capacity as defendant no.5. In that view of the matter, learned advocate appearing for applicant seeks permission to withdraw this Civil Revision Application, with liberty to make appropriate application before the Trial Court either for correction of the order or for rejection of the plaint as against defendant no.8.

5. In that view of the matter, Civil Revision Application is **dismissed** as withdrawn, however, if applicant is the same person as shown as defendant no.8 in the suit, he would be at liberty to file independent application for rejection of the plaint or appropriate correction in the impugned order.

(S. G. CHAPALGAONKAR, J.)

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