

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

927 CRA NO. 18 OF 2024

DR. SUSHIL KUMAR IJAKRAO MANE AND OTHERS
VERSUS
GORAKH BHUJANGRAO RAUT AND ANOTHER

...
Advocate for the Petitioner : Mr. Saud N. Deshmukh And
Shabbir S. Shaikh
...

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 27th FEBRUARY, 2024.

PER COURT :

1. Heard learned counsel for the applicants. The applicants, who are original defendant nos. 2 to 4, in Special Civil Suit No. 35 of 2017, has challenged the order dated 09.10.2023, passed by the learned Civil Judge, Senior Division, Vaijapur, i.e. the learned trial Court below Exh. 36, i.e. application filed by the present applicants under Order VII Rule 11 (d) of C.P.C. for rejection of plaint.

2. On perusal of the said application below Exh. 36, it is evident that the present applicants had claimed rejection of the plaint, since the negotiations of contract of document of sale in respect of the suit land was totally against the statutory provisions, public policy and in breach of Section 16 of Indian Contract Act.

However, under order VII Rule 11 (d) of C.P.C., the plaint can be rejected only if it is barred by any law. There is no such bar mentioned in Section 16 of the Indian Contract Act, but it is in respect of undue influence. Therefore, even if the applicants are claiming that the suit of the plaintiff is liable to be dismissed on the ground that it is against statutory provisions, public policy and in breach of Section 16 of the Indian Contract Act but, it has to be decided on merit and after leading evidence by the parties to that effect.

3. Presently, there is nothing on record to show that the suit of the plaintiff is barred by any law. Therefore, the rejection of application at Exh. 36 filed by the present applicants at the hands learned trial Court appears proper, as it is beyond the scope of Order VII Rule 11 (d) of C.P.C. As such, the application for the applicants stands dismissed at admission stage and disposed of accordingly.

(SANDIPKUMAR C. MORE)
JUDGE

mahajansb/