

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12371 OF 2024

Dattu Devram Nathe	... Petitioner
V/s.	
Latika @ Shanta Dattu Nathe & Ors.	... Respondents

Mr. Pramod N. Joshi for petitioner.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 11, 2024

P.C.:

1. This petition challenges the order passed by the Trial Court, rejecting the petitioner's application under Order 7, Rule 11(c) of the Code of Civil Procedure, 1908 (CPC). The proceedings arise from a suit for partition of house and agricultural properties. In such a case, the appropriate remedy for a party alleging undervaluation of the suit is to file an application under Section 8 of the Maharashtra Court Fees Act, 1959. Upon adjudication by the Court, if it is found that the suit is undervalued, the Court may direct the plaintiff to rectify the valuation defect. If the plaintiff fails to do so, the cause of action for filing an application under Order 7, Rule 11 of the CPC arises.

2. At the stage of adjudicating an application under Order 7, Rule 11 of the CPC, the Court could not have considered the valuation of the suit. Therefore, leaving the remedy open for the

petitioner to file an appropriate application under Section 8 of the Maharashtra Court Fees Act, 1959, the writ petition is dismissed. No order as to costs.

(AMIT BORKAR, J.)