

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 538 OF 2024**

Shri. Amol Muralidhar Ghule

}Applicant

: Versus :

Wings Sports Club, Partnership Firm

Thr.Partner Avinash Sahadu Dhanve

and Ors.

}....Respondents

None for the Applicant and Respondents.

CORAM : SANDEEP V. MARNE, J.

Dated : 21 October 2024.

P.C. :

- 1) Not on board. Taken on board.
- 2) Registry has moved the matter for speaking to the minutes of the order dated 10 October 2024. It is pointed out that inadvertently in para-3 it is mentioned as 'Writ Petition' instead of 'Civil Revision Application'. The said word 'Writ Petition' be replaced with 'Civil Revision Application' and the order be read accordingly.

[SANDEEP V. MARNE, J.]

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Wings Sports Club, Partnership Firm

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and Ors.

}....Respondents

Mr. Makarand Kale i/by. Mr. Kishor Ajetroa, for the Applicant.

CORAM : SANDEEP V. MARNE, J.

Dated : 10 October 2024.

P.C. :

1) The Revision Application challenges the order dated 26 September 2024 rejecting the application preferred by the Revision Applicant/Defendant No.1 at Exhibit-28 for rejection of plaint under Order 7 Rule 11 of the Civil Procedure Code (**Code**).

2) I have heard Mr.Kale, the learned counsel appearing for the Revision Applicant and considered the submissions canvassed by him.

3) It is settled position of law that while deciding the application for rejection of plaint under Order 7 Rule 11 only contents of plaint are required to be taken into consideration. Perusal of the averments in the plaint would indicate that Plaintiffs have come up

with a case that there was intention on the part of the parties to secure license in respect of the suit premises for use by partnership firm. Para-5 of the plaint contains specific averments about the circumstances in which License Agreement came to be executed in the name of Defendant No.2 though the intention of the parties was to secure license for use by the Partnership Firm. Therefore the contention of Applicant/Defendant No.1 that there is no privity of contract between the Plaintiffs and Defendant No.1 would form subject matter of trial and cannot be a ground for rejection of plaint. The averments made in the plaint do indicate disclosure of cause of action for filing suit against Defendant No.1. In that view of the matter, no case is made out for rejection of plaint under Order 7 Rule 11 of the Code. Civil Revision Application is accordingly **rejected**.

4) It is however clarified that nothing observed in the present order shall prejudice the Trial Court while deciding the suit finally.

[SANDEEP V. MARNE, J.]

Note : Corrections are carried out in para-3 of the order only pursuant to speaking to minutes order dated 21 October 2024.

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