

M/L- 88
11/03/2025
Ct. No.-6
Aritra

C.O. 484 of 2025

**Shashi Kant Tapuriah
Versus
Rajesh Kumar Tapuriah & Ors.**

Mr. R.N. Chakraborty
Mr. Supratick Shyamal
...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being No.141 dated September 23, 2024 passed by the learned Civil Judge (Jr. Div.), 2nd Court, Alipore, South 24-Parganas in Title Suit No.96 of 2012.

By the order impugned the application under Order 7 Rule 11 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the opposite parties herein have challenged a lease deed but has not valued the suit property at the market value of the immovable property which is the subject matter of a lease deed. He further submits that the plaintiff/opposite parties herein being an executant to the lease deed ought to have valued the suit at the market price of the property which is the subject matter of the lease deed.

After going through the plaint this Court finds that the petitioner has prayed for a declaration that the purported lease deed executed and registered by the

original defendant No.1 in favour of the defendant No.2 is a voidable document and not binding upon the plaintiff and other coparceners and for a decree of mandatory injunction calling upon the original defendant No.1 and the defendant No.2 to jointly and/or severally return and cancel the lease deed dated February 3, 2012 and for a direction that the deed be thus delivered up and cancelled.

It appears that the suit has been valued at Rs.50000/-. The learned advocate appearing for the petitioner draws the attention of this Court to paragraph 20 of the plaint and submits that it has been admitted by the plaintiff/opposite party that the market value of the property is not less than Rs.50 crores.

A plaint can be rejected under Order 7 Rule 11(b) of the Code of Civil Procedure if where the reliefs claimed has been undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court fails to do so.

On a query of the Court, the learned advocate appearing for the petitioner, in his usual fairness, submits that no order was passed by the learned Trial Judge directing the plaintiff/opposite party to correct the valuation.

In view thereof this Court is of the considered view that the stage has not yet reached for invoking the provisions under Order 7 Rule 11(b) of the Code of Civil

Procedure. Since an objection as to the valuation of the suit has been raised, this Court is of the considered view that an opportunity should be granted to the petitioner to file an appropriate application raising an objection as to the valuation of the relief claimed in the suit.

CO 484 of 2025 is disposed of without interfering with the order impugned but by giving liberty to the petitioner to file an appropriate application raising an objection with regard to the valuation of the relief claimed in the plaint. If such an application is filed, the learned Trial Judge shall consider the same after giving an opportunity to the plaintiff/opposite parties to file a written objection and dispose of the same by passing a reasoned order after giving an opportunity of hearing to the respective parties.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)