



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 CRA NO. 43 OF 2025

Ramlal Yadavrao Chavhan And Another

VERSUS

Rohini Avinash Chavhan And Others

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Advocate for applicants : Ms. P. C. Kale

CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 20, 2025

PER COURT :-

1. Heard learned advocate appearing for the applicants.
2. The applicants impugn the order dated 3.12.2024 passed by the Civil Judge S.D. Ahmednagar in Special Civil Suit No.144 of 2024 below Exhibit-27.
3. The applicants are defendants no.1 to 3 in Special Civil Suit No.144 of 2024. The suit has been instituted by respondent nos.1 and 2 seeking relief of partition and separate possession in respect of the suit property.
4. Defendant nos.1 to 3 caused their appearance and filed application below exhibit-27 seeking rejection of the plaint on the ground that plaintiff has failed to pay the appropriate court fees as per valuation of the property.
5. Trial Court, after considering the submissions advanced rejected application vide impugned order dated 3.12.2024.

6. Learned counsel appearing for the applicants submits that admittedly, suit property is valued for more than 80 Lakhs. However, plaintiffs have not paid Court Fees as per valuation of the suit. Perusal of the impugned order shows that Trial Court observed that the suit is properly valued. However, referring to the law laid down by this Court in case of Manoramabai Keshav Joshi Vs. Arun Keshav Joshi and others reported in (2008) 1 BCR 667 and Ramila Rajnikant Kilachand Vs. Harsh Rajnikant Kilachand observed that dispute between husband and wife as to the right in the property falls within the matrimonial dispute and the same is exempted from payment of Court Fees as required under section 43 of the Maharashtra Court Fees Act.

7. It is, therefore, clear that Trial Court was of the view that plaintiff was not required to pay the Court Fees. Apparently, there is no dispute as to valuation of the suit. In that view of the matter, if provisions of Order 7 Rule 11 clause (C) is seen, it mandates plaintiff to deposit the Court Fees, if so required by the Court within the time fixed by the Court. Failure to deposit the stamp as per directions of the Court would entail cause of action to seek rejection of the plaint.

8. In this case, trial court has opined that plaintiff is not required to pay court fees considering that dispute is a matrimonial dispute. As such, Court has not issued any direction to plaintiff to pay the court fees. In that view of the matter, no case is made out for rejection of the plaint under order 7 Rule 11 of the Civil Procedure Code. Trial Court has

rightly passed the order below Exhibit-27 declining prayer of the applicants seeking rejection of the plaint. Hence, no jurisdictional error is brought to the notice of this Court. Civil Revision Application sans merit. Hence, dismissed.

(S. G. CHAPALGAONKAR, J.)

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