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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRA NO. 121 OF 2024

M/s. M.R. Group Through Its Proprietor
Junaid Khan Javeed Khan

....Petitioner

VERSUS

Asma Parveen Mohd Hamed Ali

.....Respondent

.....
Advocate for the Petitioner : Mr. A.S. Kulkarni h/f. Mr. Jadhav Satej S
Advocate for Respondent : Mr. Sanket S. Kulkarni, Advocate a/w.
Akhilesh Tripathi

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 27TH JANUARY, 2025.

ORDER :-

1. Respondent/plaintiff instituted Summary Civil Suit No. 521 of 2020 before the Civil Judge (S.D.), Aurangabad seeking a decree of recovery of amount of Rs. 5,41,118/- from the defendant. Defendant caused appearance in the suit and filed an application under Order 7 Rule 11 of C.P.C. seeking rejection of plaint, firstly on the ground that averments in the plaint are vague and does not contain mandatory clauses in tune with Order 37 of C.P.C. Further, the summary suit in its form would not be maintainable for want of necessary stipulations contained in Rule 2 of Order 37.

2. After considering rival submissions, the trial court rejected the application of defendants vide order dated 1.11.2024. Mr. Ashutosh Kulkarni, learned advocate for the applicant invites attention of this

Court to Rule 2 of Order 37, which requires that when plaintiff desires to proceed under said clause, he shall incorporate specific averment to the effect that suit is filed under this Order and no relief which does not fall within the ambit of this rule, has been claimed. Such stipulations should be immediately below the number of suit in the title clause.

3. Mr. Ashutosh Kulkarni, invites attention of this Court to the pleadings of plaintiff, particularly, claim clause and submits that the aforesaid stipulations are absent, therefore, suit could not have been entertained.

4. Having considered submissions advanced, indisputably, defendants moved application invoking Order 7 Rule 11 of CPC seeking rejection of plaint. The Civil Court can reject the plaint only when any one or multiple clauses of Rule 11 of Order 7 is shown to have been attracted; namely,

- (a) Absence of cause of action
- (b) under valuation of the suit
- (c) Non payment of Court fees in spite of directions of this Court and
- (d) When, on the basis of statements made in the plaint itself, plaint can be said to be barred by law.

5. Non observance of the requirement of Rule 2 of Order 37 may be a good ground in the trial of the suit, however, it is difficult to hold that such objection can be entertained under Order 7 Rule 11 of CPC. Plain reading of the plaint would show that plaintiff has given necessary details required for a summary trial of the suit. As rightly

observed by the trial court, the plaintiff has mentioned details of the transaction between the parties. The negotiable instrument issued by defendant, coupled with notarized documents, depicting such transaction is made part of the plaint. Plaintiff has specifically employed a paragraph as regards to cause of action dated 27.11.2020. In that view of the matter, no case is made out for interference with the impugned order. In result, Civil Revision Application stands rejected.

[S.G. CHAPALGAONKAR, J]

grt/-