



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

WRIT PETITION NO. 3291 OF 2024

Gajananprasad Omprakash Mishra And Another
VERSUS
Pornima Naraendraprasad Dube And Another

Mr. M. L. Dharashive, Advocate for Petitioners

CORAM : R. M. JOSHI, J.
DATE : 07th March, 2025

PER COURT :-

1. This petition takes exception to the order dated 16.12.2023 passed below Exhibit 20 in Regular Civil Suit No. 354/2021 by which application filed by the defendants for rejection of plaint under Order VII Rule 11(d) of the Code of Civil Procedure came to be dismissed.
2. Petitioners are Defendants in Regular Civil Suit No. 354/2021. It is a case of the defendants that previously suit filed by the plaintiff bearing Regular Civil Suit No. 288/2009 was withdrawn on 16.07.2011. It is thus contention of defendants that the suit is barred by limitation and hence the plaint deserves to be rejected in Order VII Rule 11 of the Code of Civil Procedure.
3. Learned Trial Court rejected the said application.
4. In so far as applicability of Order VII Rule 11 is concerned,

the Court can only consider the plaint for the purpose of rejection of plaint.

5. Here, in this case, perusal of the plaint does not indicate any pleading with regard to the Regular Civil Suit No. 288/2009 and withdrawn thereof. It is not open for the Court to consider any other material than the plaint itself for deciding application under Order VII Rule 11. The learned Trial Court has rightly gone through the plaint and held that this is not case of rejection of plaint.

6. This Court, therefore, finds no perversity in the order impugned. Hence Petition stands dismissed.

(R. M. JOSHI, J.)

bsj