



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

921 WRIT PETITION NO. 9732 OF 2024

Madhukar Jaywanta Sonawane

....Petitioner

VERSUS

Akash Shivram Anarse & others

.....Respondents

.....

Mr. Swapnil Patnurkar, Advocate for the Petitioner.

Mr. V. A. Babras, Advocate for Respondent Nos. 4 and 5.

**CORAM : R. M. JOSHI, J.**

DATE : 14<sup>th</sup> JANUARY, 2025.

PER COURT :

1. This Petition takes exception to the order dated 25.07.2024 passed by Trial Court in Regular Civil Suit No. 137/2023 below Exhibit 40 whereby the application filed by the Defendant/Petitioner herein for return of plaint under Order 7 Rule 10 of Code of Civil Procedure came to be rejected.

2. Learned counsel for Petitioner has drawn attention of the Court to the plaint wherein in paragraph No. 5 it is specifically claimed that the valuation of the suit is Rs. 11,42,000/- and the Court fees is paid accordingly on the said valuation. It is his submission that once Plaintiff himself contends that the valuation of

the suit is more than Rs. 5,00,000/-, learned Civil Judge Junior Division does not have jurisdiction to entertain the same. In such circumstances, there was no other option for the Court but to return the plaint to the Plaintiff for its presentation before the competent Court.

3. None appears for the contesting Respondent. This indicates that the contesting Respondent/Plaintiff is not interested in opposing the present Petition.

4. Record indicates that the suit is filed by the Plaintiff with a specific averment that valuation of the suit is Rs. 11,42,000/-. In view of Section 28B of the Maharashtra Civil Courts Act, the suit in which amount or value of the subject matter exceeds Rs. 5,00,000/- the Civil Judge Senior Division would be competent to entertain and decide the said suit. Once the Plaintiff comes with such a specific plea before the Trial Court that the valuation of the suit is more than Rs. 5,00,000/-, the suit ought not to have been entertained by the Trial Court. As rightly contended by learned counsel for the Petitioner that there was no other option for the Trial Court but to invoke provisions of Order 7 Rule 10 of Code of Civil Procedure and

return the plaint to the Plaintiff for its presentation before competent Court.

5. In view of the above, petition is allowed. Impugned order does not survive hence stands set aside. Application Exhibit 40 is allowed. Trial Court is directed to return the plaint by following due process for its presentation before the competent Court.

**( R. M. JOSHI )**  
**Judge**

dyb