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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL REVISION APPLICATION NO. 300 OF 2024**

Albert Granite Pvt. Ltd. ... Applicant  
through its Director  
Nita Shekhar Patil  
Vs.  
Prabhakar Machindra Bhosale ... Respondents  
and Another

Mr. Manoj A. Patil for the Applicant.

**CORAM : GAURI GODSE, J.**

**DATE : 16<sup>th</sup> JUNE 2025**

**ORDER :**

1. Heard learned counsel for the applicant. This application is filed by the respondent in the Miscellaneous Application No. 77 of 2021 under Section 151 of the Code of Civil Procedure, 1908 ("CPC") for setting aside a compromise decree. The applicant in the Miscellaneous Application is not a party to the compromise decree. The original defendant in the suit filed application under Order VII Rule 11 of the CPC to reject the Miscellaneous Application.

2. By the impugned order the learned Judge has rejected the application under Order VII Rule 11 on the ground that

the court would have jurisdiction to decide the miscellaneous application. By the impugned order the application filed by the present applicant and the separate application filed by respondent no. 2 are rejected by passing a common order.

3. The grounds raised on maintainability of the miscellaneous application can be raised by the present applicant at the time of hearing the miscellaneous application. Miscellaneous Application cannot be rejected at the threshold by applying provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) which applies for rejection of the plaint.

4. In the impugned order the learned Judge has rejected the application under Order VII Rule 11 on the ground that it is not tenable. The ground raised in the application for rejection can always be argued by the present applicant at the time of hearing the miscellaneous application. The application for rejection of miscellaneous application is rightly rejected by the trial court.

5. Hence, this is not a fit case to exercise powers under Section 115 of the CPC, as there is no illegality or perversity in the reasons recorded in the impugned order.

6. The revision application is therefore dismissed. However, it is clarified that it will be open for the applicant to raise ground of maintainability of the Miscellaneous Application No. 77 of 2021 at the time of hearing of the Miscellaneous Application.

**[GAURI GODSE, J.]**