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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 14906 OF 2023
IN
CIVIL REVISION APPLICATION (ST) NO. 21564 OF 2023
WITH
CIVIL REVISION APPLICATION (ST) NO. 21564 OF 2023

Satish R. Lambore … Applicant

Vs.

Ravindra Ramchandra Devne … Respondents
and Others

Mr. Ruturaj Pawar for the Applicant.
Mr. Mandar Limaye for Respondent No.1.

CORAM : GAURI GODSE, J.
DATE : 18th JUNE 2025

ORDER :

Interim Application No. 14906 of 2023

1. This application is for condonation of delay in filing the civil revision application. The civil revision application is filed to challenge the order passed by the trial court on an application filed by defendant no. 3 under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 (“CPC”), rejecting the plaint.

2. Respondent no. 1 – original plaintiff is served and is represented through an Advocate. Considering the order

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Date: 2025.06.21 07:32:06 +0200

impugned in the civil revision application, notice to respondent nos. 2 to 4 who are original defendants is not necessary.

3. In view of the facts and circumstances of the case, delay is condoned and the application is allowed in terms of the prayer clause (a).

Civil Revision Application (St) No. 21564 of 2023

4. I have heard the learned counsel for the applicant and respondent no. 1 (original plaintiff). By consent, the civil revision application is taken up for final disposal. Since the impugned order is passed on an application by defendant no.3. for rejection of the plaint, notice of this application to the other defendants is not necessary for deciding the civil revision application.

5. Learned counsel for the applicant makes a grievance that the learned Judge recorded a prima facie finding that there is an express bar of Section 91 of the Maharashtra Co-operative Societies Act, 1961 (“MCS Act”) and the jurisdiction to decide the dispute is with the co-operative court. However, in the operative order, though the application is allowed, the

learned Judge has framed an issue on the bar under Section 91 of the MCS Act and directed the parties to argue the issue of the suit being barred by law. He submits that after recording findings that there would be a bar to the civil court's jurisdiction, the learned Judge, after allowing the application, ought to have rejected the plaint. He therefore submits that the impugned order is illegal and perverse and thus would require interference by this court.

6. Learned counsel appearing for the plaintiff submits that findings recorded on the bar of the civil court's jurisdiction are the prima facie findings, and the learned Judge has not recorded substantial findings for rejection of the plaint after examining the pleadings and prayers. He therefore submits that the application be remanded to the trial court to be decided upon afresh.

7. In view of the reasons and the findings recorded in the impugned order and the operative order being inconsistent, I find substance in the arguments made on behalf of the plaintiff.

8. Learned counsel for the applicant has no objection to the application being remanded to the trial court for a fresh

decision.

9. In view of the aforesaid reasons, the civil revision application deserves to be partly allowed as the application for rejection of the plaint needs to be examined based on the pleadings in the plaint and the supporting documents to the plaint. There is no question of framing issues and deciding the same while deciding an application to reject the plaint at the threshold under Order VII Rule 11 of the CPC.

10. Learned Judge is therefore required to decide the application at Exhibit-51 as contemplated under Order VII Rule 11 of the CPC after examining the pleadings of the plaintiff and the supporting documents to the plaint.

11. Civil Revision application is therefore partly allowed by passing the following order :

(i) Order dated 11th July 2022 passed by the learned 8th Joint Civil Judge Junior Division, Kolhapur, below Exhibit-51 in Regular Civil Suit No. 1063 of 2015 is quashed and set aside.

(ii) The application at Exhibit-51 is restored to the file to decide it afresh in accordance with law.

(iii) The parties shall co-operate for early disposal of the application at Exhibit-51 and shall not seek unnecessary adjournments.

(iv) Learned Judge shall endeavour to decide the application expeditiously.

(v) The rival contentions of the parties on merits are kept open. The application at Exhibit-51 shall be decided on its own merits in accordance with law and uninfluenced by the observations in the impugned order.

(vi) Civil Revision Application is partly allowed in the aforesaid terms.

[GAURI GODSE, J.]