

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL REVISION APPLICATION NO.68 OF 2023**

Ravindra Mansingrao Sawant,
Aged 60 years, Occu: Business,
R/o. 2741, B Ward, Mandlik Galli,
Mangalwar Peth, Kolhapur.

..Applicant
(Orig. Deft. No. 1)

Versus

1. 1. Malati Mansingrao Sawant,
Since deceased through her heir &
Legal representative Plaintiff No. 2
Who is already on record
2. Anjali Mansingrao Sawant,
Aged 52 years, Occu: Household,
R/o. 2741, B Ward, Mandalik Galli,
Mangalwar Peth, Kolhapur.
3. Geeta Baburao Patil,
Aged 58 years, Occu: Household,
R/o. Matsyagandha Apartment,
Canada Corner, Sharanpur Road, Nashik.
As per Reg. (J-II) Counts conditional order dated
27/11/24 CRA stand dismissed against On. Resp.No. 3.
4. Pradip Chandrakant Gandhi,
Aged 59 years, Occu: Business,
R/o. Gomtesh, 1182/150, Mali Colony
Takala, Kolhapur.
5. Prashant Chandrakant Gandhi,
Aged 50 years, Occu: Business,
R/o. Gomtesh, 1182/150, Mali Colony,
Takala, Kohapur.

..Respondents
(Nos.1 & 2 are Orig. Plaintiffs
and Nos.3 to 5 are Orig.
Defendant Nos.2 to 4.)

...
Mr. R. S. Kulkarni, Advocate for Applicant.
Mr. Bhooshan R. Mandlik, Advocate for Respondents.
...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 21st NOVEMBER, 2025.**

FINAL ORDER:-

1. The applicant impugns orders dated 25.03.2019 and 29.06.2022 passed below Exhibits 50 and 56 respectively by Civil Judge Senior Division, Kolhapur in Special Civil Suit No.101/2012.
2. The applicant is original defendant no.1 in Special Civil Suit No.101/2012. The respondent nos.1 and 2 filed suit seeking decree of partition, separate possession and declaration in respect of suit properties, which consists of a house No. 2741, ward 'B' at Kolhapur, and agriculture land. It is contention of plaintiff that she has one and half share in suit property, which was originally owned by her husband namely Mansingrao, who expired on 22.05.2011.
3. The defendants appeared in suit and filed written statement raising objection to valuation of suit. They filed separate application under Order VII Rule 11 of Code of Civil Procedure seeking rejection of plaint on ground that suit is not properly valued. According to them, house property is two-storied building constructed on 221 sq. mtrs. area. The valuation of suit property is more than Rs.1,00,00,000/-. However, plaintiffs have valued suit only for Rs.3,00,000/- and paid Court Fees for half share. In support of contentions, defendants relied upon city survey record of property and ready reckoner rates for contemporary period indicating market value.

4. The Trial Court rejected application on two grounds, firstly that ready reckoner rate cannot be basis for deciding valuation of suit property. Secondly, issue as to valuation is already framed in suit which can be decided on recording of evidence.

5. Mr. Kulkarni, learned Advocate appearing for applicant would submit that Court is empowered to reject plaint once, any of the contingency in terms of Rule 11 of Order VII of Code of Civil Procedure has been brought on record. In present suit, defendants had raised specific objection as to valuation to suit. Clause (b) of Rule 11 contemplates that where relief claimed is under-valued, and plaintiff, on being required by Court to so correct valuation within a time to be fixed by Court, fails to do so, plaint can be rejected. In that view of matter, it was incumbent upon plaintiffs to correct valuation of suit. However, Trial Court protracted issue of correct valuation of suit, so also refused to consider prayer to reject plaint.

6. Per contra, Mr. Bhooshan Mandlik, learned Advocate appearing for respondents would submit that Trial Court has already framed issue in this regard and there is no material to accept case of applicant that valuation of suit is incorrect. The issue can be decided after leading of evidence. Therefore, no prejudice is caused to applicant.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that plaintiffs are

under obligation to properly value suit and pay Court Fees thereon. Rule 11 of Order VII of Code of Civil Procedure prescribes that plaint can be rejected at any stage of proceeding, if relief claimed is under valued and plaintiff being required by Court, failed to correct valuation within time so fixed. In present case, suit has been instituted in year 2012. The applicant raised objection as to valuation of suit in written statement itself. Admittedly, suit property 1A is house situated within Corporation limit of Kolhapur City. It consists 221 sq. mtrs. plot area alongwith 165 sq. mtrs construction thereon. Section 6(v) of Maharashtra Court Fees Act provides for valuation of suit for possession of land, houses and gardens, as per market value. In present case, plaintiffs have valued house property tentatively @ Rs.3,00,000/- without any basis. On other hand, applicant has placed on record material indicating that even valuation of bare land/plot of property 1A was much more, compare to valuation made by plaintiffs.

8. It is true that, Trial Court has already framed issue in this regard. However, when objection was raised in written statement and application for rejection of plaint was filed, it was incumbent upon Court to decide same before proceeding further in suit. It was possible for Court to direct plaintiffs to bring valuation from Registrar of Stamp or authorized valuer to assert actual market value as on date of institution of suit. However, decision on application under Order VII Rule 11 of Code of Civil Procedure could not have been postponed only

on the ground that issue can be decided at the time of trial. Hence, following order:

ORDER

- a. Civil Revision Application is partly allowed.
- b. The impugned orders dated 25.03.2019 and 29.06.2022 passed below Exhibits 50 and 56 respectively by Civil Judge Senior Division, Kolhapur in Special Civil Suit No.101/2012, are hereby quashed and set aside.
- c. The Trial Court shall first decide issue as to valuation of suit, preferably within period of three months from date of this order and then proceed to pass appropriate order on application Exhibit-50.

(S. G. CHAPALGAONKAR)
JUDGE