

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.179 OF 2025**

Mohammad Yusuf Chaudhary ... Applicant
versus
Manzoor Siddiqui and Anr. ... Respondents

Mr. Rahul D. Motkari with Mr. Anand Dhongade, for Applicant.

CORAM: N.J.JAMADAR, J.

DATE : 27 MARCH 2025

P.C.

1. Heard the learned Counsel for the Applicant.
2. The challenge in this application is to an order dated 15 February 2025 passed by the learned District Judge, Belapur, whereby the application preferred by the Applicant – Respondent No.1 for rejection of the Appeal purportedly under Order 7 Rule 11 read with Section 107 of the Code of Civil Procedure, 1908, came to be rejected.
3. The applicant had instituted a Special Civil Suit No.71 of 2024 seeking compensation of Rs.1,01,00,000/- for publishing defamatory material and causing mental harassment to the Plaintiff by the Defendants and to restrain the Defendants from putting further material / information on any media so as to defame the Plaintiff.
4. In the said suit, an application for temporary injunction was filed. By an order dated 4 May 2024, the learned Civil Judge, Belapur, was persuaded to

SWAROOP
SHARAD
PHADKE

Digitally signed
by SWAROOP
SHARAD PHADKE
Date: 2025.04.03
12:38:07 +0530

partly allow the said application and restrain the Defendant No.1 from displaying any information/statement of the Plaintiff on his web domain till the disposal of the suit.

5. Being aggrieved, the Defendant No.1 preferred an appeal before the District Court at Belapur. In the said Appeal, the Respondent-Applicant herein, preferred an application seeking rejection of the plaint on the ground that the appeal was not maintainable before the District Court as the value of the suit claim exceeded Rs.1 Crore. Though the learned District Judge, recorded a prima facie view that the appeal would lie before the High Court, yet, by the impugned order, rejected the application preferred by the applicant on the ground that the provisions contained in Order VII Rule 11 of CPC were not attracted. The learned District Judge has kept the issue of jurisdiction open for final adjudication.

6. Since the learned District Judge has recorded a prima facie view that the appeal is beyond the pecuniary limits of the jurisdiction of the District Court, the learned District Judge ought to have passed an order regarding the tenability of the appeal and the said question could not have been deferred for determination to the stage of final decision of the appeal. It is trite that the nomenclature of the application or reference to an incorrect provision is not of decisive significance. The question before the learned District Judge was whether the appeal was beyond the pecuniary jurisdiction of the District Court.

That question has not been decided.

7. In this view of the matter, it is not necessary to issue notice to the Respondents. The application preferred by the Respondent – Applicant herein, raising the issue of tenability of the appeal before the District Court is, thus, required to be remitted back to the learned District Judge for a fresh decision.

8. Hence, the following order :

ORDER

(i) The Civil Revision Application stands allowed.

(ii) The impugned order dated 15 February 2025 stands quashed and set aside.

(iii) The application (Exhibit 9) in MCA No.15 of 2024 is remitted back to the learned District Judge, Belapur, for afresh decision on merits and in accordance with law, after providing an opportunity of hearing to the parties to the appeal.

(iv) The Civil Revision Application stands disposed.

(N.J.JAMADAR, J.)