



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3405 OF 2023

(Sanjay Eknath Suradkar & Anr. Vs. Smt. Sharda Gajanan Suradkar)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P.A. Kadu, Counsel for the petitioners.
Ms D.V. Sapkal, Counsel for the respondent.

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CORAM : ANIL L. PANSARE, J.
JANUARY 21, 2025

Heard.

2] The petitioners – defendants had filed application under Order 7 Rule 11 of the Code Civil Procedure, 1908 (for short “the Code”), stating therein that the respondent – plaintiff had not valued the suit properly and, thus, court fee stamp not paid.

3] Thus, the basic grievance of the defendants is that the suit is not valued properly and court fee stamp not paid.

4] On this count, however, the plaint cannot be rejected under Order 7 Rule 11 of the Code for following reasons. The relevant part of Order 7 Rule 11 is Clause (b), which provides that a plaint shall be rejected, where the relief claimed is under-valued, and the plaintiff, on being required by the Court to so correct the valuation within a time fixed by the Court, fails to do so.

5] This provision requires that suit should be under-valued and then the Court should call upon the

plaintiff to correct the valuation within stipulated time, and upon failing to correct the valuation within the stipulated time, the plaint could be rejected.

6] So far as payment of court fee stamp is concerned, Clause (c) of Rule 11 of Order 7 will be relevant, which provides that if the relief claimed is properly valued, but insufficiently stamped, and on being required by the Court to supply the requisite stamp paper within the stipulated time, the plaintiff fails to do so, the plaint shall be rejected.

7] In the present case, this stage has not come. The defendants hurriedly approached the Court with a plea that the suit is not properly stamped and court fee stamp not paid. It is not the case of the defendants that the plaintiff failed to value the suit, as directed by the Court and/or to pay the stamp duty, as ordered. That being so, the trial Court has rightly rejected the application, so filed, may be for different reasons.

8] There is, thus, no substance in the petition. The same is dismissed. No costs.

(ANIL L. PANSARE, J.)

Sumit