



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

WRIT PETITION NO.6972 OF 2024

(Arun s/o Santoshram Umre Vs. Ramdas s/o Santoshrao Umre and others)

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

Court's or Judge's orders.

Mr. C. V. Jagdale, Advocate for Petitioner.
Mr. U. A. Gosavi, Advocate for Respondent Nos.1 & 2.

CORAM: R. M. JOSHI, J.
DATE: 13th JUNE, 2025.

Per Court:

1. By consent of both the sides, heard finally at the stage of admission.
2. This petition takes exception to the order dated 26.03.2024 passed by the learned trial Court vide Exh.1 under Order 7 Rule 11 of the Code of Civil Procedure, rejecting the plaint.
3. The learned counsel for the petitioner – original plaintiff submits that the learned trial Court had passed order dated 29.09.2023 whereby the plaintiff was directed to pay proper Court Fee which has been paid immediately. It is his submission that in spite of the said fact that, the order impugned came to be passed which is wholly unjustified.
4. Learned counsel for the respondent at the outset, raises objection to the maintainability of the petition on the

ground that the order of rejection of plaint under Order 7 Rule 11 of the CPC, efficacious alternative remedy is available and hence petition is not maintainable. On merit he drew attention of this Court to the order dated 29.09.2023, which according to him indicates that, the plaintiff was called upon to correct the valuation in the plaint. Further it is his contention that thereafter the defendant filed an application Exh.28 pointing out non-compliance of the said order, plaintiff made no attempt to comply with the same. Thus, it is the contention that the learned trial Court rejected the plaint.

5. Order 7 Rule 11 of the CPC enables the Court to reject the plaint, if the relief is under valued and he fails to correct the valuation within the time fixed by the Court. Thus, technically there is substance in the contention of the counsel for the respondent with regard to the tenability of the petition. However, in the facts of case when the Court Fee is paid immediately after the order dated 29.09.2023, the plaintiff was formally required to amend the plaint. The whole purpose of the provisions is to ensure that the proper Court Fee is paid. The said purpose was duly achieved in view of the payment of Court Fee. In such circumstances, the trial court ought to have extended the time for amending the plaint.

6. Since the same was not done by the learned trial Court, it would be appropriate to set aside the order impugned with a direction to the plaintiff to amend the plaint within a period of one week from today. It is directed

accordingly.

7. However, the record indicates that in spite of pointing out the non-compliance of the order dated 29.09.2023 by the defendant, plaintiff did not bother to do the necessary compliance. The lethargy shown by the plaintiff is deprecated. As a result of which, the petition is allowed along with costs of Rs.2000/- payable by the plaintiff to the defendant.

8. Impugned order therefore, stands set aside. Suit is restored to the file learned trial Court. Petition stands allowed in above terms.

(R. M. JOSHI, J.)