



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

WRIT PETITION NO.4389/2024

**Dilip S/o Bapurao Lanjewar (Dead) through L.Rs. Sandhya wd/o Dilip
Lanjewar and others**
...Versus...
Shobha Wd/o Ramdas Lanjewar 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. Aniket Sawal, Advocate h/f Mr. H.R. Gadhia, Advocate for petitioners
Mrs. N.S. Deshpande, Advocate for respondent Nos.1 to 3
Mr. A.M. Kukaday, Advocate for respondent No.4

**CORAM : SACHIN S. DESHMUKH, J.
DATED : 22/07/2025**

1. The petitioner, who is original plaintiff had filed a suit for declaration and permanent injunction, wherein an application under Order 7 Rule 11 of the Code of Civil Procedure was presented for rejection of plaint on account of improper valuation of the suit. The trial Court, in order to achieve the ends of justice, while considering the subject matter of the suit property, passed an order in accordance with the provisions of Section 6 (iv) (d) r/w Section 6 (v) of the Maharashtra Court Fees Act, 1959 (for short hereinafter "Court Fees Act") to ensure the valuation of suit is in accordance with the aforestated statutory provisions.

2. Having accepted the said order, the petitioner presented an application under Order 33 of the Code of Civil Procedure to sue in the capacity of indigent person r/w Para 293 of the Civil Manual. The trial Court taking into

account the provisions of Order 33 of the Code, which essentially obligate the party to ensure that necessary particulars are incorporated in the application and details of movable and immovable properties along with its estimated value are to be provided. In absence of complying with the requisites of Order 33 Rule 2 of the Code and particularly in the wake of the fact that suit is presented and considering the fact that the same is not properly valued, as per Section Section 6 (iv) (d) r/w Section 6 (v) of the Court Fees Act and further the trial has proceeded in the wake of completion of pleadings between the litigating sides, resulting into framing of issues and has reached to the stage of evidence of the plaintiff and at that juncture the application was presented. Considering the same the trial Court has rejected the application so presented by the plaintiff.

3. Having accepted the order dated 10/12/2018, the application for recalling the said order was presented by the plaintiff with an assertion that the provisions of Section Section 6 (v) of the Court Fees Act are not applicable, as the plaintiff is seeking relief of possession. Equally, the order ensuring the proper valuation of the suit as per the statutory provisions, which was passed and accepted by the plaintiff, as such, the order seeking review and recall of the same is turned down by the trial Court.

4. After hearing learned Counsel for the respective sides, it is evident that the petitioner has accepted the order dated 10/12/2018 and thereafter an attempt, as is evident, is made to present an application under Order 33 of the Code

r/w Para 293 of the Civil Manual, however, same is not in conformity with Rule 2 of Order 33 of the Code. As such, suffered an order of rejection and further attempt to seek review of the order which has attained finality, the trial Court has considered the aspects of non-compliance with the provisions of Order 33 of the Code to claim the petitioner as an indigent, which essentially should have been at the threshold, however, having presented a civil suit, suffered an order in relation to valuation of the suit.

5. Apart from the aforesaid aspect, the fact that in the wake of pleadings being completed, the issues were framed and the suit has reached to the stage of evidence of the plaintiff, as such, no error could be noted in the order rendered by the Court below. No case is made out to cause interference by this Court. Resultantly, the writ petition is dismissed. No order as to costs.

(SACHIN S. DESHMUKH, J.)