

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 55 OF 2026

Anandrao Lahu Patil And Anr.
VERSUS
Shivsagar Ramayya Swami

Mr. Rajesh More, Advocate for Applicant
Mr. Dhananjay Ananda Utture, Mr. Shantanu C. Gurav a/w Mr.
Darshan R. Swami Advocate for Respondents

CORAM : SACHIN S. DESHMUKH, J.
DATE : 18th APRIL, 2026.

P. C. :

1. This Revision Application raises an exception to the order dated 18/03/2025 below Exhibit 13 rendered by 2nd Civil Judge Senior Division, Kolhapur in Special Civil Suit No. 386/2023.
2. The Applicants are the original Defendants while the Respondent is the original Plaintiff. (Hereinafter the parties shall be referred to by their original status in the Suit).
3. The Plaintiff instituted the Suit seeking declaration and cancellation of the the sale deed dated 21/10/2021 in relation to the suit property alongwith further relief of permanent injunction.
4. In the interregnum, the Defendants presented an Application

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under Order VII Rule 11(d) of Code of Civil Procedure, 1908. Considering the the consideration amount, Defendants raised the issue of non payment of sufficient Court fee and prayed to reject the Plaintiff.

5. The Trial Court after considering the submissions of litigating sides, rendered the order under challenge rejecting the Application of the Defendants. Aggrieved by the same, the Defendants are before this Court.

6. Learned counsel for the Applicants-original Defendants submits that the order under challenge is unsustainable in law. The Court fee paid by the Plaintiff is paid on the basis of the consideration amount of the sale deed and not on the valuation of the entire property. As such, the Plaintiff has paid deficit Court fee as per the Section 6(4)(ha) of The Maharashtra Court Fees Act. Thus, the Trial Court has erred while passing the order under challenge.

7. Learned counsel for the Respondent-original Plaintiff has supported the order under challenge and prayed to reject the Application.

8. Having heard the submissions from the litigating sides and upon perusal of record, particularly the Complaint indicates that the Plaintiff has sought the relief of declaration in relation to the sale deed in question and not against the property referred to in the sale deed. Thus, the Complaint is primarily in relation to the sale deed and reliefs thereupon.

9. The principles governing the exercise of power under Order VII Rule 11 of the Code can be culled out as follows:

- (i) The object underlying Order VII Rule 11 is to ensure that a litigation which is frivolous or is bound to fail does not occupy the judicial time.
- (ii) The test for exercise of power under Order VII Rule 11 is whether the averments made in the plaint are taken in entirety, in conjunction with documents relied upon, would result in a decree being passed. The Court must examine the averments in the plaint in conjunction with the documents relied upon, and the pleas taken in the written statement would be wholly irrelevant. If any of the grounds specified in clauses (a) to (e) are made out, the court is bound to reject

the plaint.

- (iii) Whether a plaint discloses a cause of action is essentially a question of fact, to be determined on a holistic reading of the plaint itself. It is impermissible to isolate a sentence or a passage and to read it out of context.
- (iv) If the averments made in the plaint prima facie show the cause of action, the court cannot embark upon an enquiry whether averments are correct.
- (v) The exercise of power under Order VII Rule 11 of the Code is mandatory in nature and the court must ascertain whether the plaint discloses a real cause of action or something merely illusory.
- (vi) The power under Order VII Rule 11 of the Code may be exercised at any stage of the suit.

10. Insofar as the rejection of the plaint on the ground of improper valuation and non-payment of appropriate court fee is concerned, a plain and conjoint reading of clauses (b) and (c) of Order VII Rule 11 of the Code makes it abundantly clear that the

power to reject a plaint on the grounds enumerated therein, is not to be exercised in the first instance, without affording an opportunity to the plaintiff. The statutory scheme contemplates a two-step process. Firstly, the Court must form an opinion that the relief claimed is undervalued or that the court fee paid is insufficient. Secondly, upon such determination, the Court is obligated to require the plaintiff to correct the valuation and/or supply the requisite court fee within a time to be fixed by it. It is only upon failure of the plaintiff to comply with such direction within the stipulated time, that the consequences of rejection of the plaint can ensue. Thus, the rejection of a plaint under Order VII Rule 11(b) or (c) is not automatic upon a finding of undervaluation or deficit court fee; rather, it is conditional upon non-compliance with the opportunity so granted by the Court.

11. Considering the sale deed and the consideration amount as such, the Court fee is valued and paid accordingly by the Plaintiff. Furthermore, the sale deed, its legality and propriety is the subject matter of the Suit and the reliefs are sought accordingly.

12. Thus, the above aspects are considered by the learned trial

Court in its proper perspective. As such, in view of the aforesaid findings, no error is noted in the order under challenge.

13. Resultantly, the Revision Application stands dismissed. No order as to costs.

[SACHIN S. DESHMUKH, J.]