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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 102 OF 2025

M/s. Sneha Industries
Through Prop. Vishal Madan Chavan, KolhapurApplicant
V/s
M/s Meena Spraypainting Works
through Prop. Sagar Chandrakant Satam & OrsRespondents

Mr. Vishal Hegde (through V/C) a/w. R.P. Shirole a/w. Rakshita Shinde a/w. Anuja Apte i/b. Samudra Legal LLP for Applicant.
Mr. Shrikrishna Ganbavale a/w Mr. Shantanu Patil i/by Sangramsinh Yadav for Respondents.

CORAM : M.M. SATHAYE, J.

DATE : 27th FEBRUARY, 2026

P.C. :

1. Heard learned counsel for the Revision Applicant. Perused the record.
2. By this Civil Revision Application under Section 115 of Civil Procedure Code, 1908 ('CPC', for short), the Revision Applicant is challenging order dated 10.12.2024 passed by 7th Joint Civil Judge Senior Division, Kolhapur below Exh. 60 in Special Civil Suit No. 278 of 2016. By the impugned order, the learned Trial judge has rejected the application that was filed under Order VII Rule 11(d) of CPC.
3. The Revision Applicant is Defendant No. 1 in the said suit who filed application in Exh. 60 only contending that the suit is barred by provisions of Maharashtra Government Premises (Eviction), Act 1955

(‘the said Act’, for short). By the impugned order, the learned Trial Judge has considered the said objection and has refused to reject the plaint.

4. Learned counsel for the Revision Applicant though fairly accepted that the only objection that was pressed into service before the Trial Court was a bar under the said Act, he contends that this Court in revision under 115 of CPC, can also consider other objections that he wishes to raise for rejection of the plaint. He insisted for such consideration outside the scope of application Exh. 60.

5. Learned counsel for the Revision Applicant submitted that overall reading of the plaint indicates that the cause of action mentioned by the Plaintiff is ‘pseudo cause of action’ which is illusory and a product of clever drafting. He submitted that the suit is barred by proviso to Section 34 of Specific Relief Act, 1963, in as much as, it provides that no Court shall make any declaration where the Plaintiff being able to seek further relief than mere declaration of title, omits to do so. He submitted that the Plaintiff has not prayed for re-conveyance of the suit property and has also not sought possession. He submitted that this clever drafting is adopted to get around the requirement of payment of proper Court fees on the basis of the market value stated in the plaint itself. He submitted that the suit is not properly valued and as such the bars under Order VII Rule 11(a), (b) & (d) of CPC must be applied and plaint must be rejected. He submitted that the suit is a frivolous lawsuit and it should be nipped in the bud. He relied upon the judgment of **N.V. Shrinivasa Murthy &**

Ors. V. Mariyamma (Dead) by proposed LRS & Ors. [(2005) 5 SCC 548] in support of his submissions.

6. I have perused the impugned order.

7. None of the arguments advanced by the learned counsel for the Revision Applicant (as noted above) have been advanced before the Trial Court. The only argument that was advanced before the Trial Court was on the basis of bar under said Act. Learned counsel for the Revision Applicant has not submitted anything about the bar considered by the Trial Court under the said Act.

8. Here, provisions of Order VII Rule 11 of CPC are under consideration by which the Plaintiff can be non-suited without trial. Therefore, in my view, the arguments and provisions which are not argued and considered by the Trial Court, should not be considered for the first time by this Court under revisional jurisdiction under Section 115 of the CPC, for two reasons.

8.1. Firstly, if the arguments advanced before this Court for the first time are considered and decided / opined upon, the Respondent-Plaintiff would suffer prejudice of losing one round/stage of consideration in the procedural hierarchy, which will be unfair.

8.2. Secondly, cause of action is a bundle of facts pleaded. When re-appreciation of evidence is not permitted under revisional jurisdiction under Section 115 of CPC, first time appreciation of legal bar, many times involving factual aspects (such as cause of action) is best avoided to be dealt with in revision.

9. Also, I am not dealing with the arguments of the Revision Applicant on merits, because this Court does not wish to prejudice either parties, in case the Revision Applicant-Defendant chooses to file separate application under Order VII Rule 11 of CPC raising aforesaid contentions. For the same reason, there is no need to deal with the case-law relied upon.

10. However, by insisting with this Court that such arguments, which were not advanced before the Trial Court, must be heard and considered by this Court for the first time in the limited revisional jurisdiction, in my view, the matter has taken precious judicial time of this Court required for passing of this order. Therefore the Revision Applicant needs to be saddled with the costs.

11. **The revision application is accordingly dismissed** without expressing any opinion on the arguments advanced by the learned counsel for the Revision Applicant. However, the Revision Applicant is directed to pay costs of Rs. 25,000/- to the High Court Legal Services Authority, Circuit Bench at Kolhapur within a period of 4 weeks from today. If the costs are not paid and its proof is not produced before the Trial Court, the same shall be considered as non-compliance with the order of the Court and its effect on the defense of the Revision Applicant under Order 39, Rule 11 of CPC (Bombay Amendment) shall be considered by the Trial Court at appropriate stage.

12. At this stage, on request of learned counsel for the Revision Applicant, the amount of costs is reduced to Rs. 20,000/- with same condition as above.

13. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)