

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

CIVIL APPLICATION (CAC) 11 OF 2019

IN

CIVIL REVISION APPLICATION OF 2018

(Sikandaralikhan Yusufkhan..vs.. Smt. Rabiabi wd/o. Miya-Khan & ors)

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

Court's or Judge's orders.

Shri N.R. Saboo, counsel for applicant.

CORAM: ROHIT B. DEO, J.

DATE: 26th MARCH, 2019.

CIVIL APPLICATION (CAC) 11 OF 2019

For reasons stated in the application, the application is allowed.

CIVIL REVISION APPLICATION OF 2018

The original defendants in suit for cancellation of gift deed and possession preferred an application under Order 7 Rule 11 of the Civil Procedure Code for rejection of the suit plaint.

2 The short submission of Shri N.R. Saboo, the learned counsel for the defendants – whose application under order 7 Rule 11 is rejected by the trial Court – is that the plaintiffs are not the legal heirs of Chhamma Bi wd/o. Ahmad Khan and therefore, the suit is liable to be dismissed.

3 The submission is noted only for rejection. The averments in the suit plaint holistically read do make out a cause

of action. The plaintiffs have elaborately stated in paragraphs 1, 1A and 2, the details of the inter se relationship between Chhamma Bi and have traced the source of their right. Ultimately, the trial Court would have to reach an appropriate conclusion on several contentious factual issues to determine the validity or otherwise of the gift deed. It can not be said that even if averments in the suit plaint are accepted, no cause of action is made out as is the thrust of the submission.

4 The order impugned is unexceptionable. Civil Revision Application is dismissed with no orders as to cost.

JUDGE