

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

CIVIL REVISION APPLICATION NO. 23 OF 2022

(Suresh s/o Jaikrishna Patil ..vs.. Mrs. Sunita wd/o Ishwar Jarile 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. Shriram Deoras, Counsel for the applicant.

CORAM : ROHIT B. DEO, J.

DATED : 08-03-2022

The applicant is the original defendant in Regular Civil Suit 36/2020 which is instituted by the legal heirs of Mr. Ishwar Jarile, who expired on 07-11-2016, seeking cancellation of sale-deed and permanent injunction.

3. The substratum of the suit plaint is that Mr. Ishwar Jarile was in dire need of money and he borrowed Rs.1,50,000/- (Rupees One Lac Fifty Thousand) from the defendant-Mr. Suresh Patil and as security, a document purporting to be sale-deed of the agricultural field was executed on 23-6-2011. The entire plaint is predicated on the assertion that the document was a sham and nominal document and it was agreed that upon repayment of the entire loan, with interest at the rate of 13% per annum, there shall be a re-conveyance. The legal heirs of Mr. Ishwar Jarile contend that the interest was periodically paid to Mr. Suresh Patil by Mr. Ishwar Jarile and even after his death, the plaintiffs continued to pay the interest to Mr. Suresh Patil. It is the case of the

plaintiffs that the entire loan along with interest was paid on 25-4-2019. The plaintiffs claim to be in cultivating possession to have sold the crops.

4. In essence, the case is that the plaintiffs are entitled to re-conveyance.

5. In this view of the matter, it cannot be said that on the face of the averments of the plaint the suit is barred by limitation as is urged by the learned Counsel Mr. Shriram Deoras.

6. The trial Court did not commit any error in rejecting the application under Order VII Rule 11 of the Civil Procedure Code preferred by Mr. Suresh Patil.

7. The application is sans merit and is dismissed.

JUDGE

adgokar