

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

CIVIL REVISION APPLICATION NO.64 OF 2022

Smt. Radha Wd/o Laxmiprasad Shukla and others
Vs.

Sau. Kamlabhai W/o Shambihari Mishra (Dead) through LRs. Sau. Sharda W/o
Harish Tiwari 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. S. P. Deshpande, Advocate for petitioners.

CORAM : AVINASH G. GHAROTE, J.

DATE : 23/08/2022

1. Heard Mr. Deshpande, learned counsel for the petitioners.

2. The application seeks rejection of the plaint under Order VII Rule 11(d) on the ground that the grant of the relief therein would result in affecting the compromise decree passed in RCS No.21 of 2011 on 24.9.2013. Reliance is placed upon *Triloki Nath Singh Vs. Anirudh Singh (D) Thr. Lrs. and Ors. Civil Appeal No(s).3961 of 2010* and *M/s Sree Surya Developers and Promoters Vs. N Sailesh Prasad and Ors 2022 (5) SCC 736*. In *Triloki Nath Singh (supra)*, the challenge to the compromise decree was on behalf of the appellant, who was not a party thereto, but was claiming under a sale deed dated 6.1.1984 in his favour by one of the judgment debtors and party to the compromise decree,

and therefore, considering the doctrine of relating back, it was held that he would be bound by the action of the decree, as he was claiming through a party to a compromise decree. In *M/s Sree Surya Developers (supra)* the compromise effected on behalf of the minor by his guardian with the permission of the Court was challenged by the minor upon attaining majority. That however, is not the position in the instant case, as the plaintiff in RCS No.29 of 2014 is claiming an independent right in the property in question on account of right accrued to her under the Hindu Succession Act 1956, being daughter of Shiv Dulera Shukla and thus having independent right in the property.

3. That being the position, the matter would not be covered by the dictum of the Hon'ble Apex Court in *Triloki Nath Singh (supra)*, *M/s Sree Surya Developers (supra)* and will have to be decided by the learned trial Court. The impugned order therefore does not call for any interference. The revision application is accordingly dismissed. No cost.

JUDGE