

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

Civil Revision Application No.83/2022

Paradesi Constructions Pvt. Ltd V Radha Deshpande and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. A.A. Naik and Mr. H.S. Chitaley, Advocates for petitioner.
Mr. P.P. Pendke, Advocate for resp. no.1.

CORAM : AVINASH G GHAROTE, J.
DATE : 10-08-2022

Heard Mr. Naik, learned Counsel for the applicant.

2. This application challenges the order dated 11-03-2022, by which the application under Order 7 Rule 11 of the Code of Civil Procedure has been rejected (pg 108). Mr. Naik, learned Counsel for the applicant by assailing the order submits that the suit challenges the execution of the Will dated 14-05-2007 (pg 33), whereby the property in question was bequeathed to the respondent nos. 2 and 3. He, however, by inviting my attention to the registration particulars of the Will submits that the plaintiff herself was witness to the Will (pg 33) and as such the suit challenging the same which has been filed by the plaintiff herself in 2021 was clearly barred by limitation.

3. Prima facie, the plea appears to be correct for the

reason that the plaintiff herself is a signatory to the Will dated 14-05-2007 and therefore cannot claim that she was not aware of the execution of the said document. However, a perusal of the plaint and the reliefs claimed therein (pg 70), indicates that the challenge to the Will is not the only relief claimed and one of the prayer clauses also claims the declaration that the property is the ancestral property and the plaintiff has right over the same and further claimed for partition.

4. That being the position, though the claim for cancellation of Will dated 14-05-2007 may have become time barred, the plaint on this ground cannot be rejected, as there are other reliefs claimed in the plaint which require adjudication. I do not see any reason to interfere in the order impugned in this case. The Revision is accordingly dismissed. No costs.

5. The trial Court shall make an endeavour to dispose of the suit as expeditiously as possible.

JUDGE