

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

CIVIL APPLICATION (C) NO. 38 OF 2022

in

CIVIL REVISION APPLICATION STAMP NO. 11228 OF 2022

Lalitabai Chandrashekhar Patil thr L.Rs and ors __ Vs. __ Kalpana Motiramji Joge

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

Court's or Judge's orders

Mr. O.W.Gupta, Advocate for applicants
None for the non-applicant.

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/10/2022

1] Civil Application (C) No. 38/2022 seeks condonation of delay of 1 day in filing Civil Revision Application.

2] Considering the extent of the delay, the application is allowed. Delay stands condoned.

C.R.A.ST.NO. 11228 OF 2022

3] Heard Mr. Gupta, learned counsel for the applicants.

4] This revision challenges the order dated 24.3.2022 whereby the application under Order VII Rule 11d of the CPC filed by the applicant/defendant has been rejected. The ground raised is that the agreement of sale, specific performance of which is sought is an unregistered document and therefore, since it claims the delivery of possession, the suit is not maintainable and

therefore, the plaint was liable to be rejected under Order VII Rule 11d of the CPC.

5] I am afraid, I am not able to concur with this submission for the reason that the law does not prevent the enforcement of an unregistered agreement of sale, though the possession may have been delivered thereunder. At the most the delivery of possession and non-registration of document would have effect upon the plea under Section 53-A of the Transfer of Property Act. I therefore do not see any reason to interfere with the impugned order. The Civil Revision Application is rejected. No costs.

JUDGE

Rvjalit