

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.601 OF 2023

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Suhas Dattatray Kolarkar & Ors.

... Applicants

V/s.

Madhuri Sanjay Mhaske & Ors.

... Respondents

Mr. Ashok B. Tajane for the applicants.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 18, 2023

P.C.:

1. By the impugned order, the Trial Court rejected the application filed by the defendant No.1 for rejection of plaint under clause (a) of Order 7 Rule 11 of the Civil Procedure Code, 1908.
2. The respondent Nos.1 and 2 filed Regular Civil Suit No.340 of 2021. The agricultural properties bearing Block Nos.424/1, 424/2 and 109 situated at Mouje Sohale, Taluka-Mohol, District-Solapur are to the subject matter of suit. Relief of partition and perpetual injunction is sought.
3. According the applicants, the plaintiffs had executed sale deed in relation to properties bearing Block Nos.424/1 and 424/2 in favour of the defendants, with the result plaintiffs have no enforceable rights in relation to the said property.

4. It needs to be noted that the plaint consist of relief in relation to three properties. Assuming that the submission of the applicants is correct, still the plaintiffs are entitled to seek relief in relation to property bearing Gat No.109.
5. In view of judgment in the case of **Sopan Sukhdeo Sable and Ors. vs. Assistant Charity Commissioner and Ors.** reported in (2004) 3 SCC 137, part plaint cannot be rejected. Therefore, in my opinion, there is no error of jurisdiction committed by the Trial Court while rejecting the application.
6. The revision application is, therefore, rejected.
7. The observations made in this order shall not influence the Trial Court while deciding the suit on merits.

(AMIT BORKAR, J.)