

SA Pathan

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

CIVIL REVISION APPLICATION NO.48 OF 2023

Shahnaz Mohsin Sharif and Anr. ... Applicants

V/s.

Soniya Mayur Patange and Anr. ... Respondents

Mr. Kishor Patil i/by Ms. Rukmini Khairnar, for the Applicants.

Mr. V. S. Talkute a/w Mr. Graham Francis for Respondent Nos.1 & 2. , for the Respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 28, 2023

P.C.:

1. The applicants have challenged the order dated 3 November 2022, rejecting application under Order 7, Rule 11(a) of the Code of Civil Procedure, 1908, on the ground that the plaint does not disclose the cause of action.
2. The original plaintiffs filed suit alleging execution of agreement by defendant Nos.1 and 2.
3. As per averments in the plaint, agreement sought to be enforced is signed by defendant Nos.1 and 2.
4. According to applicants, the agreement having been signed by the husbands of defendant Nos.1 and 2. There is no privity of contract between defendant Nos.1 and 2 and the plaintiffs. Therefore, the plaint is liable to be rejected as it does not disclose the cause of action.

5. The Trial Court while rejecting the application has held that whether the defendant Nos.1 and 2 have signed the agreement and whether there is concluded contract between the plaintiffs and defendants is a triable issue. Therefore, I do not find any perversity or error of the jurisdiction in the view adopted by the Trial Court.
6. In absence of error of jurisdiction, interference under Section 115 of the Code of Civil Procedure, 1908 is uncalled for.
7. The civil revision application is, therefore, rejected.

(AMIT BORKAR, J.)