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

**CIVIL REVISION APPLICATION NO.579 OF 2023**

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Dilip Sopan Kalate

... Applicant

**V/s.**

Maruti Sopan Kalate (deceased)  
through LRs Suvarna Maruti  
Kalate & Ors.

... Respondents

Mr. Abhijit P. Kulkarni with Mr. Krushna Jaybhay for the  
applicant.

Mr. Abhijeet A. Joshi i/by Mr. Raju Patil for respondent  
Nos. 1a to 1c.

**CORAM : AMIT BORKAR, J.**

**DATED : OCTOBER 18, 2023**

**P.C.:**

**1.** By this civil revision application under Section 115 of the Code of Civil Procedure, 1908, the Trial Court has rejected the application of the applicant filed under Order 7 Rule 11(a) of the Code of Civil Procedure, 1908.

**2.** The present application arises out of proceedings under the provisions of the Bombay Regulation Act VIII of 1827. The respondents applied before the designated Court on 23 September 2020 seeking declaration that they be declared as legal representatives of the deceased Maruti Sopan Kalate in relation to the properties described in paragraph 1 of the application.

3. In the said application, the applicant filed application for rejection of the application.
4. On perusal of the application, it appears that main objection as stated in paragraph 7 is that the applicant is not entitled to the heirship certificate as applicant is not concerned with the suit land.
5. It is well settled that while considering application under Order 7 Rule 11 of the Code of Civil Procedure, 1908, the averments in the plaint are required to be seen for adjudicating as to whether application under the provisions of the Bombay Regulation Act VIII of 1827 is a plaint. It appears that rights pleaded by the applicant are disputed questions of fact. The proceedings, as is evident from Rule 4 of the said Regulations, are summary in nature. Therefore, in my opinion, mere stating that the respondents have no cause of action to file the suit has no basis. The rights of the parties needs to be decided by the Court at an appropriate stage by following procedure as contemplated under the Regulations.
6. There is no merit in the civil revision application. The civil revision application accordingly stands rejected. No costs.

**(AMIT BORKAR, J.)**