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

CIVIL REVISION APPLICATION NO.363 OF 2023

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Mangala Ramdas Ghayal ... Applicant

V/s.

Ramkrushna Punjaram Surase & Ors. ... Respondents

Mr. Abhijeet Khade with Mr. Sachin Pawar for the applicant.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 5, 2023

PC.:

1. By this civil revision application under Section 115 of the Code of Civil Procedure, 1908 ("CPC" for short), the defendant is challenging rejection of an application under Order 7 Rule 11(a) of the CPC.
2. The respondents filed a suit for declaration that sale deed executed in favour of the defendant be declared as null and void and further declaration that the plaintiffs are entitled to purchase suit property by preemption. Injunction not to disturb the plaintiffs' possession over the suit property is also sought.
3. In paragraph 2 of the plaint, the plaintiffs pleaded that father of the plaintiffs along with two others were co-owners of the property as the suit property is their ancestral property.

4. The applicant filed application before the Trial Court raising a plea that the plaintiffs are not Class-I legal heirs of the original owners and, therefore, they have no cause of action to file suit for reliefs claimed. The Trial Court rejected the application holding that the plaintiffs must be given opportunity to prove that they are Class-I legal heirs.

5. On perusal of the plaint, it appears that the plaintiffs have specifically pleaded in paragraph 2 that the suit property bearing Gat No.10 was ancestral property of Jayram, Punja and Fakira Surase. Accordingly, names of their legal representatives is entered in revenue record. It appears that the plaintiffs are sons of Punja. Therefore, from the averments in the plaint, it cannot be said that the claim is based on no cause of action.

6. There is no legal infirmity in the order passed by the Trial Court. The civil revision application stands rejected. No costs.

(AMIT BORKAR, J.)