

HARSHADA H. SAWANT  
(P.A.)

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

**CIVIL REVISION APPLICATION NO.69 OF 2024**

Rajendra Jayram Patil Thakre

Applicant

.. (Orig. Defendant No.2)

**Versus**

Mandakini Tushriam Bacchav and Ors.

Respondents

(Nos.1 to 4 are Orig.

.. Plaintiffs and Org. Defts)

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- Mr. Anilkumar K. Patil, Advocate for Applicant.
- Mr. Suresh M. Sabrad, Advocate for Respondent Nos.1 to 4.
- Mr. Vikram N. Walawalkar, Advocate for Respondent Nos.5 to 7.

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**CORAM : MILIND N. JADHAV, J.**

**DATE : FEBRUARY 12, 2024**

**P.C.:**

**1.** Heard Mr. Patil, learned Advocate for Applicant, Mr. Sabrad, learned Advocate for Respondent Nos.1 to 4 and Mr. Walawalkar, learned Advocate for Respondent Nos.5 to 7.

**2.** Perused the impugned order passed below Exhibit-51 dated 10.11.2023. Application under Order VII Rule 11 of Code of Civil Procedure, 1908 (for short '**CPC**') stands dismissed.

**3.** Contentions of the Respondents are to the effect that they are Plaintiffs and legal heirs of deceased Jairam Manaji Patil, family tree being given at Exhibit-B, page No.18 of the Writ Petition.

**4.** There is no dispute about the fact that Yamunabai Jairam Patil and Saraswatibai Jairam Patil are the two wives / widows of the

deceased Jairam Manaji Patil and their legal heirs are in dispute with respect to the partition of the property belonging to Jairam Manaji Patil.

**5.** There is a reference to compromise *pursis* decreed pursuant to which the entire property enured to the benefit of Yamunabai Jairam Patil and other legal heirs of her branch and in that view of the matter, the present Plaintiffs who are successor-in-title through Saraswatibai Jairam Patil have filed the present Suit proceedings.

**6.** The Application below Exhibit-51 stands rejected on the ground that the Application does not stand the test to satisfy the provisions of Order VII Rule 11 of the CPC which are enumerated in paragraph No.5 of the order dated 10.11.2023. The facts governing rights of parties are narrated in paragraph No.6.

**7.** I have perused the impugned order passed under Application below Exhibit-51. Defendant No.2 seeks dismissal of the Suit on the ground that partition of the Suit properties have already taken place amongst the Defendants and therefore Plaintiffs have no concern or right over the Suit properties. Though it is argued that an earlier Suit bearing No.74 of 2006 was pending for partition amongst the same parties, the compromise *pursis* filed therein would now govern the rights of the parties disentitling the Plaintiffs from maintaining the present Suit. The learned Trial Court has gone

through the Suit plaint of Regular Civil Suit No.76 of 2006 and has clearly returned a finding that the Plaintiffs were not made a party to that Suit. Once this position is established, the entire Application filed by Defendant No.2 has to fail. Application filed below Exhibit-51 is therefore not maintainable at all. The order dated 10.11.2023 stands upheld.

**8.** It is seen that enormous delay in the hearing of present Suit and more so because of the conduct of the parties like Defendant No.2 who had filed Application below Exhibit-51. Application is therefore dismissed with a direction to the learned Trial Court to expedite and dispose of the Suit proceedings as expeditiously as possible and within a period of six months from today. Parties to the Suit proceedings are directed by this Court not to seek unnecessary adjournments and the learned Trial Court shall not give any unnecessary adjournments to the parties unless absolutely necessary.

**9.** Learned Advocates appearing for the respective parties have assured the Court that considering the nature of Suit proceedings, parties shall co-operate with the learned Trial Court.

**10.** With the above directions, Civil Revision Application is disposed.