



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRA NO. 134 OF 2025

PIRSAB S/O BASHUMIYA SHAIKH AND OTHERS

VERSUS

WAJID S/O RAHIMTULLA SHAIKH (MUJAVAR) AND OTHERS

...

Advocate for Applicants : Mr. Tungar Hrishikesh V.

...

CORAM : SHAILESH P. BRAHME, J.

DATE : 14th JULY 2025

PER COURT :

1. Heard learned Counsel for the Applicants.
2. Being aggrieved by order dated 09.04.2025, rejecting application Exhibit-22 under Order VII Rule 11 of the Code of Civil Procedure, present Revision is filed.
3. It is submitted that Respondents have filed RCS No.1061/2024 for injunction. The subject matter is described in paragraph no.2 of the plaint. The parties are Muslims. On the basis of mutation entries nos. 2283, 2285 and 2971, it has been pleaded that Plaintiffs are jointly in possession of the property. It is further contended that on the basis of the pleadings, which are prohibited by law, prayer of injunction has been made and consequentially same is also barred by law. Learned Counsel for the Applicants further

submits that concept of joint family, joint tenancy are prohibited by un-codified Muslim Law. Therefore application Exhibit-22 was required to be allowed. Impugned order is unsustainable.

4. I have gone through the pleadings in the plaint and the written statement. In paragraph no.2 its a case of the Respondents-Plaintiffs that they acquired suit land and different mutation entries were effected in the record of right. It is further contended that they are joint and jointly cultivating the suit land. I have also gone through the revenue record which is at Exhibit-D. Learned Counsel for the Applicants is unable to point out any prohibition prescribed expressly by law. The contention is that pleadings are prohibited by the concept in the uncoded Muslim Law. The Applicants has already raised defence. The contentions of the application at Exhibit-22 under Order VII Rule 11 of CPC would be in the form of defence. Applicants may succeed in the trial Court on the basis of defence. I do not find that a case is made out for exercising jurisdiction under Order VII Rule 11 of CPC for rejection of the plaint.

5. The impugned order does not suffer from any illegality. It would be open for the Applicants to raise defence which needs to be tested during the course of the trial. I find that there is no merit in the submissions of learned Counsel for the Applicants.

6. Civil Revision Application is devoid of any substance. Hence it is rejected.

7. Needless to state that observations made above are prima facie in nature.

**SHAILESH P. BRAHME
JUDGE**

NATJEEB..