



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

CIVIL REVISION APPLICATION NO. 155 OF 2024

Munaf S/o Rajak Shaikh and another .. Applicants

Versus

Shaikh Shaukat Rajak and another .. Respondents

Shri Ravindra V. Gore, Advocate for the Applicant.

CORAM : SHAILESH P. BRAHME, J.

DATE : 30TH JUNE, 2025.

FINAL ORDER :

. Heard learned counsel Mr. Gore for the applicants.

2. This application is directed against the order dated 03.07.2024 passed by the learned 03rd Joint Civil Judge Junior Division, Paithan rejecting application Exhibit 27 filed under Order VII Rule 11 of the Code of Civil Procedure (for the sake of brevity and convenience hereinafter referred as to the 'C.P.C.').

3. Applicants and the respondent No. 1 are siblings. The respondent No. 1 has filed R.C.S. No. 328 of 2023 for partition of the estates, possession of his share and declaration that will executed by father in favour of applicant No. 1 is bad in law and for injunction.

4. Applicants filed application Exhibit 27 U/O VII Rule 11 of

the C. P. C. contending that father of the applicant had every right to dispose of the property during his life time and Muslim Law contemplates such a property as exclusive property. It is further contended that challenge to the will executed by father is unsustainable in view of Muslim Law. Application is rejected by order dated 03.07.2024.

5. Learned counsel submits that learned Trial Court committed error of jurisdiction. Such a suit is not maintainable. He would further submit that purport of order VII Rule 11 of the C. P. C. is to curtail the time and avoid the further rigmarole.

6. I have gone through the impugned order. It is trite law that in the inquiry under Order VII Rule 11 of the C. P. C. only plaint and the documents annexed along with it are to be taken into account. It is the defence of the applicants that father was entitled to bequeath the property. The validity of the will can be examined during the course of trial. No specific provision has been pointed out to make out a case U/O VII Rule 11(d) of the C. P. C. I do not find any illegality in the impugned order. The civil revision application is dismissed.

[SHAILESH P. BRAHME J.]

bsb/June 25