



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

CIVIL REVISION APPLICATION NO.314 OF 2024

Kishor Shahu Yadav and Ors. ... Applicants

versus

Shamrao Fakira Yadav (deceased)
and Ors. ... Respondents

Mr. Nikhil N. Pawar, for Applicants.

CORAM: N.J.JAMADAR, J.

DATE : 10 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the Applicant.
2. The challenge in this application is to an order dated 3 January 2024 passed by the learned Civil Judge, Peth-Wadgaon, whereby the application preferred by the Applicants-Defendant Nos.32, 35 and 36 for rejection of the plaint, came to be rejected.
3. Respondent Nos.1 to 15 have instituted the suit with the assertion that, though the Sale Deed in respect of the suit property, which was then under the cultivation of predecessor in title of the Plaintiffs and Defendants, was executed in the name of the tenants described in paragraph No.2 of the plaint, yet the suit property was acquired for and on behalf of the predecessors in title of the Plaintiffs and Defendants, and the Plaintiffs and Defendants. The

Plaintiffs, have, thus, right, title and interest in the suit property. Hence, the suit for partition and separate possession and declaration that the sale deeds executed by Defendant Nos.31 to 36 in favour of Defendant Nos.37 to 45, over a period of time, are not binding on the share of the Plaintiffs.

4. The learned Civil Judge was of the view that no ground as contemplated by clauses (a) to (f) of Rule 11 of Order VII of the Code of Civil Procedure, 1908, was specifically pleaded, much less, made out.

5. Learned Counsel for the Applicant submitted that the pleadings in the plaint, especially prayer clause (b) is as vague as it could be. No particulars of the sale deeds are furnished. Resultantly, it cannot be said that the suit is within the statutory period of limitation.

6. From the perusal of the averments in the plaint, it becomes evident that the Plaintiffs are seeking partition and separate possession of the suit property asserting that the sale deed of the suit property by the landlords in favour of the tenants was for and on behalf of the joint family. In this view of the matter, a suit for partition and separate possession is maintainable. Whether the Plaintiffs are entitled to partition and separate possession and declaration as sought and whether the relief of declaration with regard to the instruments executed by Defendant Nos.31 to 36 in favour of Defendant Nos.37 to 45 is barred by law of limitation, are the matters for trial. It cannot be said that ex-facie the relief is barred by limitation. This Court does not find

any infirmity in the impugned order.

7. The Civil Revision Application, thus, stands dismissed.

(N.J.JAMADAR, J.)