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

CIVIL REVISION APPLICATION NO.436 OF 2025

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Sunil Dinkar Patil & Ors. ... Applicants

V/s.

Tukaram Devaba Jadhav & Ors. ... Respondents

Mr. Ishaan Kapse with Mr. Tejas Patil for the applicants.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : DECEMBER 3, 2025

P.C.:

1. The applicants–original defendants seek to challenge order dated 24th July 2025 passed by Civil Judge, Junior Division, Kale-Kheriwade, below Exhibit 40 in Regular Civil Suit No. 5 of 2020, by which applicants’ application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908, has been rejected.

2. Respondents–plaintiffs instituted a suit seeking a decree of perpetual injunction against defendants. It is the plaintiffs’ contention that suit property was originally owned by Jadhav family. There is no partition by metes and bounds. The property is mutated in the name of Akkaram Devaba Jadhav, who was Karta of family. Plaintiffs assert their joint ownership and possession.

However, since defendants began obstructing their possession, plaintiffs required to file suit.

3. The applicants/defendants filed an application below Exhibit 40 under Order VII Rule 11 of Civil Procedure Code, 1908 seeking rejection of plaint mainly on the ground that suit sans better particulars as to plaintiffs' claim. Further, plaintiffs have failed to seek relief of partition and separate possession or relief against sale deed of defendants.

4. The Trial Court, after considering rival submissions, rejected defendants' application.

5. Mr. Kapse, learned advocate appearing for applicants, vehemently submits that in light of the observations made by Hon'ble Supreme Court in case of *State of Punjab & Ors. vs. Bhagwantpal Singh alias Bhagwant Singh (Deceased) through Legal Representatives*, reported in (2024) 15 SCC 139, suit is liable to be dismissed, as plaintiffs have cunningly failed to make necessary disclosures and seek necessary reliefs.

6. Perusal of plaint shows that plaintiffs are seeking relief of a simpliciter perpetual injunction. Defendants contend that such a suit would not be maintainable without seeking prayer of

declaration or partition. All such objections can be considered and decided during the course of suit. It is trite that powers under Order VII Rule 11 of Civil Procedure Code, 1908, can be invoked only when one of the contingencies prescribed under Rule 11 of Order VII is made out.

7. Considering the observations raised in application filed by applicants–defendants, none of such grounds are made out. Insofar as the observations of Hon’ble Supreme Court in case of *State of Punjab & Ors.* (supra) are concerned, there cannot be a second opinion regarding principles of law laid down therein. In that case, the Court found that by clever drafting, plaintiff was trying to bring a suit that was hopelessly barred by limitation. In the present case, no such issue has been raised. In that view of the matter, no fault can be found with the impugned order.

8. In result, civil revision application stands rejected and disposed of.

9. Needless to state here that rejection of present civil revision application would not curtail the right of the applicants to raise all contentions during the course of suit.

(S. G. CHAPALGAONKAR, J.)