

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 581 OF 2024

Sadanand Appa Dhumal ..Applicant

Versus

Bhavana Sadanand Dhumal & Ors ...Respondents

Mr. Avinash Avhad, for the Applicant.

Mr. Aniket Nangare, i/b Hemchandra Mone, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATE : 4th NOVEMBER 2025

ORAL ORDER:

1. Heard the learned Counsel for the Applicant.
2. The challenge in this Application is to an order dated 1st October 2024, passed by the learned Civil Judge, Senior Division, Pune, whereby an Application preferred by the Applicant-Defendant No.1 for rejection of the Plaint came to be rejected.
3. The Plaintiffs-Respondent Nos. 1 and 2, are the wife and daughter of the Applicant-Defendant No.1. The Respondent Nos. 1 and 2 have instituted the Suit for partition and separate possession of the suit properties and the consequential reliefs.
4. The father of the Applicant is impleaded as the Defendant No.2 to the suit with the assertion that, few of the suit properties have been

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nominally purchased in the name of Defendant Nos. 1 and 2, though Plaintiff No.1 and Defendant No.1 have acquired those properties out of their joint professional income.

5. The Defendant No.1 preferred the Application for rejection of the Plaint on the ground that the Plaintiffs have not paid the requisite Court fee and the Plaintiff No.1 would not be entitled to seek partition during the lifetime of the Plaintiff's husband-Defendant No.1.

6. The learned Civil Judge was persuaded to reject the Application opining *inter alia* that the suit has its genesis in the matrimonial dispute between the Plaintiff No.1 and Defendant No.1 and, therefore, the Plaintiff No.1 was entitled to the benefit of the Notification issued by the State Government exempting the Women from payment of Court fees under Section 46 of the Maharashtra Court Fees Act. The learned Judge was also of the view that, the Suit was filed by the Plaintiff No.1 in the capacity of one of the co-owners of the suit properties.

7. Mr. Avhad, the learned Counsel for the Applicant, submitted that the causes of action of Plaintiff Nos. 1 and 2 are distinct. If it is the case of the Plaintiff No.1 that the suit properties were jointly acquired by the Plaintiff No.1 and the Defendant No.1, then those properties partake the character of self-acquired properties of the Defendant No.1 and a suit for partition of the self-acquired properties of Defendant No.1, at the instance of Plaintiff No.2 would not be maintainable.

8. Even if the case of the Defendants is taken at par, at best, it would be a prayer for rejection of the Plaint qua a particular cause of action or Plaintiff. It is trite, a Plaint cannot be rejected in part. Even if it is assumed that it is a case of a misjoinder of cause of action, it would be necessary to settle and try those issues at the trial. A Plaint cannot be rejected on that count.

9. In the aforesaid view of the matter, keeping open all the contentions of the Defendants and directing the trial Court to frame appropriate issues with regard to the payment of requisite Court fee and misjoinder of causes of action, the Application stands disposed.

10. It is hereby made clear that, while deciding those issues, the trial Court shall not be influenced by the order impugned in this Application and those issues be decided on their own merits and in accordance with law.

11. Application disposed.

[N. J. JAMADAR, J.]