



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.56 OF 2025**

Anil Vasant Nikam	...	Applicant
versus		
Balan Jayram More and Anr.	...	Respondents

Mr. Anurag Mishra i/by Mr. Omkar Phadtare, for Applicant.

CORAM: N.J.JAMADAR, J.

DATE : 10 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this application is to an order dated 16 November 2024 passed by the learned Civil Judge, Satara, on an application for rejection of the plaint purportedly under Order 7 Rule 11(a) of the Code of Civil Procedure, 1908.
3. The Respondent No.1 has instituted a suit seeking a declaration that the Sale Deed dated 20 July 2021 in respect of the suit property executed by the deceased father of the Respondent No.1/Plaintiff and Defendant No.2, is illegal and void as it has been obtained by practicing fraud on the deceased father of the Plaintiff and Defendant No.2.
4. Learned Counsel for the Applicant submitted that a bare perusal of the averments in the plaint would indicate that the pleadings are inconsistent and an inference that the suit is vexatious is inexorable. Learned Counsel further

submitted that, from the documents placed on record, it becomes evident that the Sale Deed was executed on the own volition by the father of the Plaintiff, a year and half prior to his death and there is not a shred of material to substantiate the allegations of fraud and coercion.

5. I have perused the averments in the plaint. Emphasis laid by the learned Counsel for the Applicant on paragraph Nos.6 and 7 of the plaint does not advance the cause of the submission to the effect that there is no cause of action for the institution of the suit. Indeed, there is an averment in paragraph No.6 of the plaint that the Plaintiff had learnt that Defendant No.1 was intending to obtain the Sale Deed of the property from the deceased during the life time of the deceased. The said assertion, as is rightly held by the learned Civil Judge, cannot read out of context. There are clear averments in the plaint regarding the circumstances which give to an inference regarding the absence of consideration and practicing of fraud. The learned Civil Judge, thus, committed no error in declining to reject the plaint.

6. Thus, the application, which is devoid of substance, stands rejected.

(N.J.JAMADAR, J.)