

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 125 OF 2025

Lata Ramchandra Pansare & Ors ..Applicants

Versus

Charushila Nagsen Dhende & Ors ...Respondents

Mr. Jaydeep S. Deo, with Onkar Gawade, for the Applicants.

CORAM: N. J. JAMADAR, J.

DATED : 10th MARCH 2025

P.C.:

- 1.** Heard learned Counsel for the applicants.
- 2.** The challenge in this application is to an order dated 18th January 2025 passed by the learned Civil Judge, Junior Division, Daund, whereby an application for the rejection of the Plaint filed by the petitioner-defendant under Order VII Rule 11 of the Code of Civil Procedure 1908 (“The Code”) came to be rejected. Mr. Ganpat Savala Pansare was the common ancestor. He had a son Ramchandra Pansare and a daughter, Kamal Bagade. The plaintiffs are successor interest of Kamal. The defendants are the successor interest of Ramchandra.
- 3.** The plaintiffs instituted the suit for partition and separate possession of their share in the joint family properties.

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4. The defendants filed application for rejection of the Plaint on the ground that the suit claim has not been properly valued and the suit was barred by law of limitation.

5. Mr. Deo, learned Counsel for the applicants, submitted that the mutation entry deleting the name of Kamal was effected during her life-time. Likewise, after the demise of Ramchandra in the year 2008, the names of defendants were exclusively mutated to the record of rights of the suit land. Therefore, the plaintiffs had full knowledge about their ouster.

6. The legal position as regards the proof of ouster is well-settled. It is trite that the possession of one co-sharer is construed in law to be a possession of all the co-sharers. Merely because one co-sharer is kept out of the possession and profits of the property that does not amount to ouster. All the classical requirements of prescription of title by adverse possession are required to be established with a greater degree of proof in case of ouster of a co-sharer. Resultantly the issue warrants adjudication at the trial.

7. The learned Civil Judge does not seem to have committed any error in rejecting the application for rejection of the Plaint.

8. Application stands dismissed.

[N. J. JAMADAR, J.]