

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

CIVIL REVISION APPLICATION NO. 184 OF 2025

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2025.04.02
18:26:44 +0530

Shailesh Dayaram Sarak and anr. ...Applicants

Versus

Gauri Ranjit Sarak and ors. ...Respondents

Mr. Vaibhav Gargade, for the Applicants.

CORAM: N. J. JAMADAR, J.

DATED: 1st APRIL, 2025

Order:-

1. Heard the learned Counsel for the applicants.
2. The challenge in this application is to an order dated 3rd January, 2024, whereby an application preferred by the applicants – defendant No.1 and 2 for the rejection of the plaint came to be rejected.
3. Respondent No.1 has instituted a suit for partition and separate possession of her 1/4th share in the suit property. Respondent No.1 claimed to be the wife of Ranjit, the deceased brother of defendant Nos.1 to 3, and son of defendant No.4.
4. The applicants – defendant Nos.1 and 2 preferred an application for rejection of the plaint on the ground that

the plaintiff is not the legally wedded wife of late Ranjit and, therefore, she is not entitled to seek partition of the suit properties. It was further contended that the suit was barred by limitation and the suit claim has not been properly valued.

5. The learned Civil Judge was persuaded to reject the application opining, *inter alia*, that whether the plaintiff has no *locus standi* to institute the suit and seek partition is required to be determined at the trial. On the aspect of the valuation of the suit claim and the payment of the court-fee, the learned Civil Judge was of the view that the defendants had not specifically pleaded as to how the relief claimed in the suit was undervalued. Nor anything was clarified as to how the suit was barred by law of limitation.

6. The learned Counsel for the applicants invited the attention of the Court to the averments in the paragraphs 7 and 9 of the plaint. It was submitted that though the plaintiff has claimed that the joint family property consisted of more than 50 acres land and there is reference to some property at Baramati, the plaintiff has valued the suit claim at Rs.6,00,000/- only. As the suit claim was grossly undervalued, the learned Civil Judge, committed an error in rejecting the application for rejection of the plaint.

7. I have perused the averments in the plaint and the documents annexed to the application, including the impugned order. The question as to whether the plaintiff is the wife of Ranjit and is, thus, entitled to seek and enforce partition is essentially a matter which touches upon the merits of the claim. In the plaint there are clear and categorical averments to show that the plaintiff claimed to be the legally wedded wife of Ranjit. The learned Civil Judge was, thus, within his rights in returning a finding that the question as to whether the plaintiff is the wife of late Ranjit is a matter for adjudication at the trial and cannot be decided at the threshold.

8. On the aspect of the valuation of the suit, from the perusal of the averments in paragraph 9 of the plaint, it becomes evident that the plaintiff has asserted that she is unaware of the various joint family properties and the particulars thereof and has, therefore, tentatively valued the suit claim at Rs.6,00,000/-.

9. The question as to whether the suit claim is properly valued can be determined at the trial, and, in any event, the defendants are at liberty to file an application under Section 8 of the Maharashtra Court-Fees Act, 1958 for the

determination of correct valuation of the reliefs claimed in the suit.

10. In the event the defendants either raise the ground of incorrect valuation in the written statement or file an application under Section 8 of the Maharashtra Court-Fees Act, the trial court shall decide the same on its merits and in accordance with law.

11. Subject to the aforesaid clarification, the application stands dismissed.

[N. J. JAMADAR, J.]