

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 530 OF 2025

M/s. G & S Associates, A partnership firm  
and ors.

...Applicants  
(Ori. Deft.  
Nos.1to4)

**Versus**

Bhausahab Jayaram Pagade and ors.

...Respondents/  
Ori. Plaintiffs

SANTOSH  
SUBHASH  
KULKARNI

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SANTOSH SUBHASH  
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Mr. Dushyant Purekar, a/w Rajat Dedhia, for the Applicants.

**CORAM: N. J. JAMADAR, J.**  
**DATED: 18<sup>th</sup> NOVEMBER, 2025**

**Order:-**

1. Heard Mr. Purekar, the learned Counsel for the applicants.
2. This revision application is directed against an order dated 25<sup>th</sup> August, 2025, passed by the learned Civil Judge, Khed, Rajgurunagar, whereby an application preferred by the applicants – defendant Nos.1 to 4, for rejection of the plaint under the provisions of Order VII Rule 11(a) and 11(d) of the Code of Civil Procedure, 1908 (“the Code”), came to be rejected.
3. Respondent Nos.1 to 6 instituted the suit with the assertion that defendant Nos.1 to 4 – applicants herein entered into a Memorandum of Understanding dated 18<sup>th</sup> August, 2014 for development of the suit property. Defendant Nos.1 to 4

prepared the plans for development and, eventually, registered Development Agreement on 7<sup>th</sup> August, 2015. Defendant Nos.1 to 4, however, failed and neglected to perform their obligations under the development agreement. Therefore, vide notice dated 19<sup>th</sup> April, 2022, the plaintiffs terminated the development agreement and the Power of Attorney executed in favour of defendant Nos.1 to 4.

4. Thus, alleging that defendant Nos.1 to 4, had played a fraud on the plaintiffs and the proforma defendants, the plaintiffs prayed for a declaration that, defendant Nos.1 to 4 have breached the terms and conditions of the Development Agreement, that the Development Agreement and Power of Attorney in favour of defendant Nos.1 to 4 were legally and validly terminated and those instruments did not bind the plaintiffs, and that the defendant Nos.1 to 4 be directed to execute a formal cancellation deed in favour of the plaintiffs and demolish the structures standing on the suit property, and also to restrain defendant Nos.1 to 4 from carrying out any activities including construction/development over the suit properties, and a host of consequential reliefs.

5. Defendant Nos.1 to 4 took out an application for rejection of the plaint on multifarious grounds, including that the suit

was barred by limitation, the cause of action was illusory, and the suit was bad for non-joinder of the necessary parties. The defendants further contended that, the original land over which the plaintiffs claimed the proprietary title was non-existent as it was amalgamated in the larger property and, therefore, the plaintiffs cannot seek reliefs in respect of non-existent property.

6. By the impugned order, the learned Civil Judge rejected the application observing, *inter alia*, that the question of limitation was a mixed question of facts and law, and the grounds of mis-description of the suit property, alleged non-existence thereof and the non-impleadment of the necessary parties, would not sustain an order of rejection of plaint.

7. Mr. Purekar, the learned Counsel for the applicants, would submit that the plaintiffs have created an illusion of a cause of action as the suit property has already been developed, occupation certificates have been granted and, in effect, the suit property has lost its identity. At this stage, the prayers for declaration that the Development Agreement has been terminated, and for cancellation of the instruments and demolition of the structures and recovery of possession of the suit property, cannot be countenanced. It was urged that, the learned Civil Judge did not adequately delve into the grounds for

the rejection of the plaint pressed into service on behalf of the defendants.

8. At the stage of the consideration of the prayer for rejection of the plaint, only the averments in the plaint and the documents annexed with it are required to be taken into account and the defence of the defendants is not at all germane. It is trite, the plaint has to be read in a meaningful and not formalistic manner. If the Court finds that, there is no cause of action and by resorting to clever drafting an illusion of a cause of action has been created or bar to the tenability of the suit is sought to be circumvented, the Court should not hesitate in nipping the fruitless litigation in the bud.

9. In the case at hand, from the perusal of the averments in the plaint, it becomes explicitly clear that the plaintiffs alleged that, defendant Nos.1 to 4 committed breach of their obligation under the Development Agreement. Consequently, the plaintiffs were constrained to terminate the Development Agreement. The core issues that warrant adjudication are, whether there was breach of obligation under the Development Agreement on the part of defendant Nos.1 to 4 and the Development Agreement has been lawfully terminated. Whether the plaintiffs would be

entitled to all or any of the reliefs would be a matter for adjudication at the trial.

10. At this stage, from the tenor of the averments of the plaint and the documents annexed with it, it would be audacious to draw an inference that, there was no cause of action. The learned Judge has rightly held that in the facts of the case, the aspect of limitation appeared to be a mixed question of facts and law and the other grounds urged on behalf of defendant Nos.1 to 4 did not merit consideration, while determining the prayer for rejection of the plaint.

11. As the impugned order does not suffer from any jurisdictional error or material irregularity, exercise of revisional jurisdiction is not warranted.

12. The revision application, thus, stands dismissed.

**[N. J. JAMADAR, J.]**