



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL REVISION APPLICATION NO.18/2025

Purushottam s/o Gulabrao Dongre and another
...Versus...
Mrs. Bharti wd/o Jitendra Dongre and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M. Sudame Advocate a/w Mr. I.A. Fidvi, Advocate for applicants
Mr. Pankaj Tidke, Advocate for respondents

CORAM : ROHIT W. JOSHI, J.
DATE : 22/09/2025

1. The applicants are defendant Nos.1 and 2 in Regular Civil Suit No.1505/2022, which is pending on the file of learned 4th Joint Civil Judge Junior Division, Nagpur. The present applicants have filed application for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure vide Exh.10 which came to be rejected by the learned trial Court vide order dated 12/11/2024. The said order is under challenge in the present civil revision application. The parties will hereinafter referred to as plaintiffs and defendants.

2. The plaintiff No.1 is mother of plaintiff No.2. The defendant No.2 is daughter of defendant No.1. The suit property as per the plaint averments was inherited by the defendant No.1 along with his two sisters from his mother, late Kausalya. The plaint averments disclose that two sisters have relinquished their right over the suit property in favour of defendant No.1 by registered relinquishment deed dated 20/12/2008 and accordingly the defendant No.1 has become

owner of the suit property. It is the case of the plaintiffs that the property is an ancestral property of defendant No.1. It is further alleged that the defendant No.2 who is daughter of defendant No.1 has obtained gift deed dated 17/09/2021 from the defendant No.1. The said gift is subject matter of challenge in the said suit. The gift is challenged on two grounds, namely, that defendant No.1 did not have authority to execute the same since the property is ancestral property in which the plaintiffs ought to have established and secondly on the ground that the defendant No.2 got the said document executed fraudulently taking unfair advantage of the fact that the defendant No.1, due to his old age and ailments was not in a fit condition of mind to understand the nature of document that was executed by him and was also not in a position to recollect the facts.

3. As regards the first contention, since the property is inherited by the defendant No.1 from his mother and by relinquishment from his sisters, the suit property is certainly separate property of the defendant No.1. As regards the second contention, the defendant No.1 is alive. Since the property is separate property of defendant No.1 as on date the plaintiffs do not have any right or any claim over his property. At best after demise of defendant No.1 the plaintiffs can claim right of inheritance over the suit property if the gift is proved to be invalid. However, as on today, since the plaintiffs do not have any right over the suit property they are not entitled to challenge the gift deed executed by defendant No.1 in favour of defendant No.2.

4. The civil revision application therefore deserves to be allowed on the ground that the plaintiffs' averments do not disclose any cause of action, inasmuch as even if the plaintiff averments are taken to be true on their face value, the plaintiffs will not be entitled to claim any right over the suit property. The right to challenge the gift will be vested only on the defendant No.1 assuming that the gift is not executed fraudulently. The civil revision application is accordingly allowed in the following terms.

(i) The order dated 12/11/2024 passed by the learned 4th Joint Civil Judge Junior Division, Nagpur on application at Exh.10 in Regular Civil Suit No.1505/2022 is quashed and set aside.

(ii) The application at Exh.10 in Regular Civil Suit No.1505/2022 pending on the file of learned Civil Judge Junior Division, Nagpur is allowed and the plaint in the said civil suit is rejected.

(ROHIT W. JOSHI, J.)