



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

WRIT PETITION NO.1287/2024

Kishor s/o Natthuji Gharat and others
Vs.
Girjabai Sadashiv Gayakwad

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

Court's or Judge's orders

Shri S.N. Nandeshwar, Advocate for petitioners
Shri Pravin Dahat, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 29/01/2025

Heard learned Counsel for the petitioners.

2. The present petition is filed challenging the order below Exhibit-15 rejecting the application of defendant under Order 7 Rule 11 of the Civil Procedure Code. It is contended that the plaintiff has not placed on record any documents to show that she is legal representative of Sakharam Gharat and cause of action is also not disclosed.

3. It is contended that the suit is time barred, however, all these aspects are duly considered by the learned Trial Court. It is the matter of record that after considering the pleadings in the plaint, the plaintiff alleged that in the month of June, 2022, she demanded the partition of the suit property from defendant and cause of action arose on that day and secondly, when she issued a legal notice to the defendant. Thus, the Trial Court rightly held that

there is disclosure of cause of action for the suit against the defendant. So far as limitation is concerned, it is mixed question of law and fact. This issue can be adjudicated after parties lead their respective evidence.

4. The learned Trial Court also discussed and considered the judgment cited by the petitioner/defendant. As such, I do not see any perversity or illegality in the order passed below Exhibit-15. There is no substance in the petition. As such, the Writ Petition is dismissed.

JUDGE

R.S. Sahare