



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

CIVIL REVISION APPLICATION NO.64 OF 2025

1. Manohar S/o. Late Shri Shivramji,
Lakhorkar,
Age : 62 Years, Occu. : Retd. Govt. Officer,
UID No. 3722 9593 5417,
R/o. Plot No.12, Nagsen Nagar,
Post Office Jaripatka, Nagpur.
2. Rekha W/o. Moreshwar Chiwade,
Age : 57 Years, Occu. : Housewife,
UID No.6653 8674 9681,
R/o. Plot No.12, Nagsen Nagar,
Post Office Jaripatka, Nagpur.

.... Applicants

VERSUS

1. Anish Maheshkumar Misal,
Age : 48 Years, Occu. : Business,
R/o. 745, Nelson Square,
Misal Complex, Nagpur.
2. Shailakumari W/o. Sardarsingh Thakur,
Age : 80 Years, Occu. : Housewife,
R/o. Punjabi Line, Nagpur.
3. Satish S/o. Ramnarayan Jaiswal,
Age : 27 Years, Occu. : Private Job,
R/o. Chamar Nala, Nagpur.
4. Krishnakumar S/o. Ramnarayan Jaiswal,
Age : 60 Years, Occu. : Business,
R/o. Kadbi Chowk, Kamptee Road,
Nagpur.

.... Respondents

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. R.S. Lakh, Advocate for Applicants.

Mr. V.V. Bhangde, Advocate for Respondent No.1.

CORAM : ROHIT W. JOSHI, J.

DATED : 03rd SEPTEMBER 2025

PER COURT :-

1. The applicants have preferred the present revision application challenging the order of rejection of plaint dated 23.06.2025, passed below Exhibit 98 in Special Civil Suit No.341 of 2023, which came to be rejected by learned 5th Joint Civil Judge Senior Division, Nagpur.

2. It is not in dispute that the application for rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, "CPC") was filed at the stage when the evidence of the plaintiff was over and the present applicants i.e. defendant Nos.4 and 5 had examined two witnesses. Apart from this, perusal of the application would demonstrate that the applicants/original defendant Nos.4 and 5 are not restricting their case to the plaint averments and reference is also made to certain exhibited documents in the application. It is well settled that an application for rejection of plaint is required to be decided on the basis of plaint averments and no material other than the plaint averments can be looked into. At this

stage, at best the documents of which the plaintiff relies can be seen. Perusal of the application indicates that the disputed issues are sought to be raised. The application does not fall in the parameters of Order VII Rule 11 of CPC.

3. Apart from this, learned Advocate for respondent No.1 has placed reliance on the judgment dated 11th September 2024, passed by the Hon'ble Supreme Court in ***Civil Appeal No.4570 of 2023 (M/s Bhagya Estate Ventures Pvt. Ltd. Vs. Narne Estates Pvt. Ltd. And Anr.)***, wherein it is held that an application under Order VII Rule 11 of CPC should not be entertained at a belated stage in a suit, such as at the stage of final arguments or at the stage when a suit is reaching the final conclusion of trial. Undisputedly, the evidence in the present matter is part heard and therefore, the application is also not filed at a proper stage.

4. In that view of the matter, no case is made out for interference. Therefore, the present revision application stands **rejected.**

5. No order as to costs.

(ROHIT W. JOSHI, J.)