



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

CIVIL REVISION APPLICATION NO.15 OF 2024

APPLICANTS

(Ori. Deft No.1 & 4)

- :-** 1) Gajanan S/o Sahebrao Gawande
Aged about 63 years, Occupation –
Retired,
- 2) Durga D/o Sahebrao Gawande
Aged about 32 years, Occupation –
Household.
- Both the applicants are resident of Sankalp
Colony Akot, Dist Akola.

..VERSUS..

RESPONDENTS :-

(Ori. Plaintiff)

(Ori. Deft No.2)

(Ori. Deft No.3)

- 1) Dinkar Sahebrao Gawande, aged about 53
years, Occupation : Agriculturist,
R/o Ward No.1, Dahihanda, Tq and Dist.
Akola.
- 2) Pushpa W/o Gajanan Pote, Aged about 51
years, Occupation: Household, R/o Ward
No.1, Dahihanda, Tq and Dist. Akola.
- 3) Rajkumar S/o Sahibrao Gawande, Aged
about 47 years, Occupation: Household,
R/o Ward No.1, Dahihanda, Tq and Dist.
Akola. Guardian through R. No.2 Pushpa
Gajanan Pote.

Mr.A.B. Mirza, Advocate for Applicants.
Mr. P.R. Jalit, Advocate for Respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 25/11/2025

ORAL JUDGMENT :

1. Heard.

2. The present revision is filed challenging the order dated 06.07.2023, passed by the learned Jt. Civil Judge, Jr. Dn. Akola, rejecting the application for rejection of plaint filed by the defendant Nos.1 and 4 (present applicants) in Regular Civil Suit No.224 of 2023.

3. Mr. Mirza, learned Advocate for the applicants contends that the plaint averments indicate that the defendant Nos.3 and 4 are persons of unsound mind. The learned Advocate further contends that the inquiry contemplated under Order 32 of the Code of Civil Procedure, 1908 (CPC), is not conducted and that the plaintiff has treated defendant No.2 as the guardian of the defendant Nos.3 and 4 and therefore, the suit as framed and filed is not maintainable.

4. In the considered opinion of this Court, this cannot be a ground for rejection of the plaint. On the contrary, an inquiry as contemplated under Order 32 of the CPC can be conducted to appoint a guardian for defendants who are stated to be persons of unsound mind.

5. Perusal of the order passed by the learned trial Court will demonstrate that a contention with respect to applicability of the

Guardians and Wards Act, 1890, was also raised.. The learned trial Court has rightly rejected the contention with respect to applicability of the said Act. The learned trial Court has rightly found that proper application can be made for conducting an inquiry for appointment of guardian under Order 32 of the CPC and that the plaint cannot be rejected in view of objection raised by the defendant Nos.1 and 4 vide application filed at Exh.15 for rejection of plaint. The impugned order does not demonstrate any jurisdictional error. Civil Revision Application is therefore **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate