



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

CIVIL REVISION APPLICATION NO. 108 OF 2025

Late Laxmi @ Ramabai Chindhuji Puram thru. Her Ku. Chaya and ors.

Vs.

Shri Shalik Rambhau Sarate and anr

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

Court's or Judge's Order

Mr. M. D. Samel, Advocate for applicants.

CORAM : ROHIT W. JOSHI, J.

DATE : 24.09.2025.

1. The present revision application takes exception to the order dated 04.07.2025 passed by the learned 11th Joint Civil Judge, Senior Division, Nagpur on the application at Exh. 14 in Special Civil Suit No.161 of 2024.

2. The applicants are the original defendants. A suit for specific performance of contract is filed by the plaintiffs/non-applicants against the present applicants.

3. Perusal of paragraph 6 and 9 of the plaint will demonstrate that the present applicants, who are the original defendants are tribals is not in dispute. Likewise, the plaintiffs/non-applicants also claim to be tribals. As such, permission under Section 36(2) of the Maharashtra Land Revenue Code, 1966 is necessary for completing sale the transaction.

4. Mr. Samel, learned Advocate for the applicants/defendants, draws attention to the order dated 08.05.2024 passed by the Additional Collector,

Nagpur, refusing to grant permission for the sale of the suit property. He, therefore, contends that the suit is not maintainable and plaint is accordingly liable to be rejected.

5. Perusal of the plaint and the application for amendment demonstrates that, although there is a reference to the application filed for seeking permission under Section 36(2) of the Maharashtra Land Revenue Code, 1966, the plaintiffs have not disclosed the fact that the permission was refused by the Additional Collector, Nagpur vide the aforesaid order dated 08.05.2024.

6. The learned Trial Court has rejected the application on the ground that, apart from the prayer for specific performance of contract, there is a prayer for monetary compensation as well. The learned Trial Court has taken note of the settled legal position that the plaint cannot be rejected in part.

7. In view of the aforesaid, no jurisdictional error is found in the impugned order dated 04.07.2025 passed by the learned Trial Court. Therefore, the Civil Revision Application deserves to be rejected.

8. The learned Advocate for the applicants/defendants states that the copy of the order dated 08.05.2024 is filed on record by the defendants along with a notice to admit the said document. He further contends that the document is not denied within the stipulated period and, as such, it is deemed to be admitted. He therefore, contends that this admitted

document should have been considered by the learned Trial Court.

9. In the opinion of this Court, the defence of the defendants, as also the documents placed on record by the them, cannot be taken into consideration while dealing with an application for rejection of plaint.

10. However, it will be open for the applicants/defendants to take recourse to other remedies, such as Order 12, Rule 6 and Order 14 Rule 2 (2) of the Code of Civil Procedure, to get the suit dismiss with reference to the prayer for specific performance of contract.

11. Therefore, the Civil Revision Application is dismissed, with liberty as aforesaid.

(ROHIT W. JOSHI, J.)

Tanmay