



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

CIVIL REVISION APPLICATION NO.141 OF 2022

APPLICANT
(On R.A.) on (Plaintiffs)

- :-** 1) Vikas Harinarayan Sahu,
Aged about 44 years, Occu: Business,
2) Praveen Ganpatrao Ghurade,
Aged about 41 years, Occu: Business,
3) Sheikh Rahim Sheikh Lalan,
Aged about 51 years, Occu: Business,
Applicant No.1 to 3 R/o Sant Tukdoji
Ward, Hinganghat, Tal. Hinganghat, Dist.
Wardha.
4) Smt. Shilabai Sudhakar Deotale
Aged about 72 years, Occu: Agriculturist,
R/o Gumgaon Tal Hingana, Distt. Nagpur.
5) Madhukar Chintaman Deotale
Aged about 77 years, Occu: Agriculturist
R/o Gumgaon Tal Hingana, Distt. Nagpur.

..VERSUS..

RESPONDENTS **:-**
(On R.A.) on (Defendants)

Sau. Sunita Keshav Hivarkar
Aged about 51 years, Occu: Agriculturist
R/o Adiwasi Colony, Ward No.2 Wardha,
Tal. Distt. – Wardha.

WITH
WRIT PETITION NO.192 OF 2023

PETITIONERS

- :-** 1) Vikas Harinarayan Sahu,
Aged about 44 years, Occu: Business,
2) Praveen Ganpatrao Ghurade,
Aged about 41 years, Occu: Business,

- 3) Sheikh Rahim Sheikh Lalan,
Aged about 51 years, Occu: Business,

Petitioner No.1 to 3 R/o Sant Tukdoji
Ward, Hinganghat, Tal. Hinganghat, Dist.
Wardha.
- 4) Smt. Shilabai Sudhakar Deotale
Aged about 72 years, Occu: Agriculturist,
R/o Gumgaon Tal Hingana, Distt. Nagpur.
- 5) Madhukar Chintaman Deotale
Aged about 77 years, Occu: Agriculturist
R/o Gumgaon Tal Hingana, Distt. Nagpur.

..VERSUS..

RESPONDENT :- Sau. Sunita Keshav Hivarkar
Aged about 51 years, Occu: Agriculturist
R/o Adiwasi Colony, Ward No.2 Wardha,
Tal. Distt. – Wardha.

Mr. A.S. Deshpande, Advocate for Applicants/Petitioners.
Mr. R.G. Kavimandan, Advocate for Non-applicant/Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **20/11/2025**

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1. Heard.

2. The application for rejection of the plaint filed vide
Exh.30 in Regular Civil Suit No.43 of 2022, pending on the file of
learned 3rd Jt. Civil Judge Jr. Dn., Hinganghat, is the subject matter

of challenge in the present Civil Revision Application.

3. The applicant had sought rejection of the plaint on the ground that the suit was not maintainable in view of Section 11 of the Code of Civil Procedure, 1908. It is well settled that plaint cannot be rejected on the question of *res judicata*. Perusal of the order indicates that the learned trial Court has rightly considered the legal position and has rejected the application for rejection of plaint. The order passed by the learned trial Court, does not warrant any interference. The Civil Revision Application is therefore rejected.

WRIT PETITION NO.192 OF 2023

1. The present petition takes exception to the order dated 16.06.2022, passed by the learned 3rd Jt. Civil Judge (J.D.), Hinganghat, on the application at Exh.33 in Regular Civil Suit No.43 of 2022. The petitioners/defendants are moved the said application with a prayer to frame a preliminary issue with respect to maintainability of the suit in view of adjudication in the earlier suit being Regular Civil Suit No.129 of 1985, between the same parties and parties claiming under them. The learned trial Court has rejected the said application.

2. Perusal of the order indicates that the learned trial Court has dealt with the merits of the issue, whereas the application is only for framing a preliminary issue.

3. In view of the aforesaid, the order dated 16.06.2022, is quashed and set aside. The learned trial Court is directed to frame a preliminary issue on the point of maintainability of the suit in view of the judgment and decree passed in Regular Civil Suit No.129 of 1985.

Writ Petition is **disposed of** accordingly. No order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate