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

CIVIL REVISION APPLICATION NO.114/2024

1. Shri. Madhav Dadaji Gedam
Aged about 32 years, Occu. Agriculture,
R/o. Chincholi, Post-Batali,
Tq. & Distt. Chandrapur.

2. Shri Pramod Dadaji Gedam,
Aged about 34 Yrs., Occu. Agriculture,
R/o. Chincholi, Post-Batali,
Tq. & Distt. Chandrapur. ... Applicants

- Versus -

1. Shri. Ramesh Shiva Gedam,
Age about 40 years, Occu. Agriculture,
R/o. Kitali, Tq. and Distt. Chandrapur.

2. Smt. Sunita Shama Gedam
Age about 42 years, Occu. Agriculture,
R/o. Agarzari, Tq. and Distt. Chandrapur.

3. Smt. Kalpana Devrao Gedam
Age about 45 years, Occu. Agriculture,
R/o. Kitali, Tq. and Distt. Chandrapur.

4. Smt. Shantabai Devrao Kumre
Age about 60 years, Occu. Agriculture,
R/o. Mohurli, Tq. and Distt. Chandrapur.

5. Smt. Lilabai Nanda Madavi
Age about 61 years, Occu. Agriculture,
R/o. Kitali, Tq. and Distt. Chandrapur.

6. General Manager,
Western Coal Field Ltd.,
R/o Rayatwari Coloney Area,
Chandrapur, Tq. and Distt. Chandrapur.

7. Sub Area Manager,
Western Coal Field Ltd.,
R/o Bhatali, Tq. & Distt. Chandrapur. ... Non-applicants

Mr. A.M. Chandekar, Advocate for the applicants.
Mr. R.L. Alone, Advocate for non-applicant Nos.1 to 5.
Mr. A.D. Babhane, Advocate h/f Mr. Pushkar Ghare, Advocate for non-applicant Nos.6 and 7.

CORAM: MRS.VRUSHALI V. JOSHI, J.
DATE OF RESERVING THE JUDGMENT: 10.07.2025.
DATE OF PRONOUNCING THE JUDGMENT: 30.07.2025.

JUDGMENT

Heard. **Rule**. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.

2. The applicants preferred the instant revision application being aggrieved by the impugned order dated 04.04.2024 passed below Exh.12 and impugned order dated 08.10.2024 passed below Exh.26 by the Learned Civil Judge Junior Division, Chandrapur whereby the learned trial Court rejected both the applications craving for rejection of plaint in

Regular Civil Suit No.191/2023 under Order VII Rule 11 of the Code of Civil Procedure, 1908.

3. Briefly stated facts of the case are as under:-

The plaintiffs are the legal heirs of deceased Shiva Gedam and defendant Nos.1 and 2 are the legal heirs of deceased Dadaji Gedam. Both were real brothers. The suit property was purchased on 05.11.1974 by Dadaji Gedam from Shiva Gedam having mutation entry in the revenue records dated 13.02.1976. The regular civil suit was filed in the year 2022 for seeking declaration, perpetual and mandatory injunction against the defendants.

4. Ground on which the suit has been dismissed is as under:-

The cause of action arose in the year 1974, however, since the plaintiffs came to know about the alleged transaction, therefore, they are seeking relief of declaration and partition in the year 2022.

5. Learned Advocate for the applicants Mr. Chandekar, submitted that the alleged suit property is acquired by Western Coalfields Limited i.e. Ministry of Coal India, therefore, all rights over such land are vested with the Central Government under Section 9(1) of the Coal Bearing Areas (Acquisition and Development) Act, 1957 vide Gazette Notification dated 17.03.2023. He further submitted that as per Section 26 of the said Act, civil Court has no jurisdiction in respect of any matter which the Central Government or the competent authority or any other person is empowered to by or under this Act to determine.

6. Learned Advocate averred that the suit filed by the plaintiff Nos.1 to 5 is barred by law of limitation. The plaintiffs cannot seek permanent injunction without seeking declaration of ownership. Mr. Chandekar further contended that the civil Court has no jurisdiction to entertain the suit challenging the alleged mutation entry as per Section 4(2) of the Maharashtra Revenue Code. He has prayed to allow the instant application.

7. In support of argument that the suit is barred by limitation the applicants have relied on the following judgments:-

i) Shanti Devi and others V/s. Md. Abdul and others decided by Jharkhand High Court on 28.11.2022 in Second Appeal No.201/2005.

ii) Shri Mukund Bhavan Trust and others V/s Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and another reported in 2024 DGLS (SC) 1322.

8. Learned Advocate for the non-applicants argued that Shiva Kuda Gedam died on 17.10.2021 and Dadaji Kuda Gedam died on 13.01.1998. It is totally false and denied that during his lifetime Dadaji Kuda Gedam purchased suit property from Shiva Kuda Gedam on 05.11.1974. The learned Advocate further claimed that the cause of action arose when plaintiffs became aware of the transaction that deceased Dadaji Kuda Gedam illegally mutated his name in the property of Shiwa Kuda Gedam. The suit is within limitation. It is also submitted that the plaintiffs

are claiming relief against defendant Nos.3 and 4, therefore, this Hon'ble Court has every jurisdiction to decide the said matter as per the pleadings of the plaintiffs. He has prayed to reject the present application.

9. Heard both Advocates and perused the record.

10. The plaintiffs are claiming that the mutation entry in revenue record on the basis of sale deed dated 05.11.1974 which is taken on record on 13.2.1976, is not correct and, therefore, declaration is sought to declare that the said mutation entry is illegal, it is ancestral property and the plaintiffs have 1/5th share in said property. The prayer No.3 is for not to hand over any compensation to the defendants.

11. On perusal of the plaint it appears that the plaintiffs are claiming right on the basis of mutation entry and for correction of the same they have prayed for declaration that said mutation entry is not correct. The mutation entry is taken on the basis of sale deed which is executed in the year 1974. The plaintiffs have not taken any action since then and moreover for

correction of mutation entry as per Section 155 of the Maharashtra Land Revenue Code the Revenue Officer is the authority. As per Section 247 appeal is provided under the Code and civil Court has no jurisdiction to correct the entry in revenue record. The correction of entry is on the basis of the sale deed which is dated 05.11.1974. Therefore, it is also barred by limitation. Though the land is acquired by Western Coalfields Limited the role of W.C.L. is limited about the apportionment of the compensation amount. Therefore, there is no question of considering the ground that the civil Court has no jurisdiction as the property is in possession of W.C.L.

12. The entry in revenue record is challenged there is specific provision under Section 247 of the M.L.R. Code, it would not be corrected before the civil Court. Hence the civil Court has no jurisdiction.

13. It is also barred by limitation as it is not sought within three years from the date of execution of the sale deed. It is settled law that when an application to reject the plaint is filed, the

averments in the plaint and the documents annexed therewith alone are germane. The averments in the application can be taken into account only to consider whether the case falls within any of the sub-rules of Order VII Rule 11 by considering the averments in the plaint. The Court cannot look into the written statement or the documents filed by the defendants. The Civil Courts including this Court cannot go into the rival contentions at that stage. The plaintiffs have claimed title, right and interest over the properties as ancestral property. They have denied the sale deed executed by Shiva and revenue entry on record on the basis of said sale deed. The cause of action cannot be considered from the date of knowledge of the said entry. It is barred by limitation. The trial Court has not considered said ground while deciding the applications. Hence it requires interference at the hands of this Court in the orders passed by the trial Court. The impugned orders passed by the trial Court are set aside. Accordingly, the application is allowed. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

Tambaskar.