



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

CIVIL REVISION APPLICATION NO. 94 OF 2024

APPLICANTS

- : 1. Ramhari S/o Maruti Lad,
Aged about 27 years, Occu. Hotel Business,
R/o Panchgaon, Tah. Bramhapuri,
Dist. Chandrapur.
2. Maruti S/o Nivrutti Lad,
Aged about 60 years, Occu. Agriculturist,
R/o Panchgaon, Tah. Bramhapuri,
Dist. Chandrapur.

VERSUS

NON-APPLICANT

- : Kaushalya W/o Gahininath Jadhvar,
Aged about 36 years, Occu. Agriculturist,
R/o Dadegaon, Tah. Aashti,
Dist. Beed.

Mr. S. Y. Deopujari, Advocate for the applicants.
Mr. N. R. Bhishikar, Advocate for the non-applicant.

CORAM : M. W. CHANDWANI, J.
DATE : DECEMBER 02, 2025

ORAL JUDGMENT

1. Heard. **ADMIT.** By consent of the learned counsels appearing for the parties, the matter is taken up for final disposal forthwith.

2. The application challenges the order dated 29.07.2024 passed by the learned Civil Judge, Junior Division, Bramhapuri in Regular Civil Suit No. 25/2024 whereby, the application (Exh.15) filed by the applicants under Order VII Rule 11(a) of the Code of Civil Procedure, 1908 has been rejected.

3. The non-applicant herein filed Regular Civil Suit No. 25/2024 against the applicants seeking injunction for restraining them from disturbing her peaceful possession over 2/3rd share of the suit property. Suit summons were issued to the applicants. The applicants appeared before the Court and filed their reply. They also moved an application (Exh.15) for rejection of plaint on the premise that the suit does not disclose the cause of action. The learned trial Court after hearing both the parties, rejected the application (Exh.15). Feeling aggrieved by the dismissal of the application, the applicants are before this Court.

4. I have heard Mr. S. Y. Deopujari, learned counsel appearing for the applicants and Mr. N. R. Bhishikar, learned counsel appearing for the non-applicant. Perused the record.

5. Mr. Deopujari, learned counsel appearing for the applicants vehemently submitted that the suit filed by the non-applicant does not disclose the cause of action. He further submitted that prior to filing of the present suit, the non-applicant had filed a suit i.e. Regular Civil Suit No. 26/2023 for partition and separate possession in respect of the same suit property and in wake of Order II Rule 2 of the CPC, the present suit will not be maintainable. It is contended that in RCS No. 25/2024, the non-applicant has not disclosed pendency of the earlier suit for partition in respect of the same suit property. It is also one of the submissions of the learned counsel for the applicants that since, there is a cloud raised on the title of the non-applicant, she ought to have filed a suit for declaration. A simplicitor suit for injunction is not maintainable. It is also contended that if the earlier suit for partition fetches the result of dismissal, then judicial time should not be wasted in deciding the suit for injunction.

6. To buttress his submissions, the learned counsel for the applicants placed reliance on the decision in the case of ***Anathula Sudhakar .vs. P.Buchi Reddy (Dead) by LRs and others***, reported at ***(2008) 4 SCC 594*** wherein, the Hon'ble Supreme Court has observed

that when there is a cloud raised on the title of the plaintiff, a suit simplicitor for injunction is not maintainable. Reliance is also placed on the decision in the case of *The Correspondence, RBANMS Educational Institution .vs. B. Gunashekar and others*, reported at *AIR 2025 SC 2065* wherein, while discussing a catena of judgments relating to the scope and purpose of Order VII Rule 11, the Hon'ble Supreme Court in paragraph 14.1 has observed as under :

“14.1. Thus, it is clear that the above provision viz., Order VII Rule 11 CPC serves as a crucial filter in civil litigation, enabling courts to terminate proceedings at the threshold where the plaintiff's case, even if accepted in its entirety, fails to disclose any cause of action or is barred by law, either express or by implication. The scope of Order VII Rule 11 CPC and the authority of the courts is well settled in law. There is a bounden duty on the Court to discern and identify fictitious suit, which on the face of it would be barred, but for the clever pleadings disclosing a cause of action, that is surreal. Generally, sub-clauses (a) and (d) are stand alone grounds, that can be raised by the defendant in a suit. However, it cannot be ruled out that under certain circumstances, clauses (a) and (d) can be mutually inclusive. For instances, when clever drafting veils the implied bar to disclose the cause of action; it then becomes the duty of the Court to lift the veil and expose the bar to reject the suit at the threshold. The power to reject a plaint under this provision is not merely procedural but substantive, aimed at preventing abuse of the judicial process and ensuring that court time is not wasted on fictitious claims failing to disclose any cause of action to sustain the suit or barred by law.”

7. Lastly, the learned counsel for the applicants placed

reliance on the decision in the case of *S.P.Chengalvaraya Naidu .vs. Jagannath* reported at *1994 AIR (SC) 853* wherein, it has been observed that withholding of material documents with regard to the ongoing litigation, amounts to playing fraud on the Court.

8. Conversely, Mr. Bhishikar, the learned counsel appearing for the non-applicant submitted that all these grounds were not available/raised before the trial Court. The application for rejection of the plaint was made solely on the ground of non-disclosure of cause of action. The learned counsel further submitted that there is no doubt on the title of the non-applicant. Therefore, the judgment in the case of *Anthula Sudhakar (supra)* will not be applicable in this case.

9. Let me state at the outset that revisional jurisdiction of this Court is very limited. However, the High Court may pass any such order to correct any material irregularity which occurs when a subordinate Court exercises jurisdiction which is not vested in it. Perusal of the application filed by the petitioner for rejection of the plaint under Order VII Rule 11(a) of the CPC reveals that the only ground raised by the applicants is that the plaint does not disclose the

cause of action. The ground of filing of the earlier suit, suppression of material facts and cloud on the title were never raised before the trial Court and the trial Court was not able to give its opinion on those aspects. Therefore, these grounds cannot be considered in revisional jurisdiction while considering the order passed by the trial Court. What remains to be addressed is whether the plaint discloses the cause of action.

10. With the able assistance of the learned counsels appearing for both the parties, I have gone through the plaint. The cause of action is mentioned in paragraph 8 of the plaint, which is reproduced as under :

"प्रतिवादी क्र. १ व २ हे गुन्हेगारी मानसिकतेचे असल्याने वादीवर जिवघेणा हल्ला करून मारहाण केली. त्यामुळे वादीला प्रतिवादी क्र. १ व २ हयांचेशी यापूढे कोणत्याही स्वरूपाचे संबंध ठेवायचे नाही प्रतिवादी वादीला मानसिक व शारीरीक त्रास दिलेला आहे. एवढेच नव्हेतर वादी ही बाहेरगांवी वास्तव्याने राहत असल्याने तिचे बाहेरगावचे वास्तव्याचा गैरफायदा घेवून वादीचे मालकीची शेतजमीनीवर बेकायदेशिर बांधकाम करून तसेच वादीची वाद मिळकत बेकायदेशिररित्या हडप करता यावी म्हणून प्रतिवादी क्र. १ ने वादीचे शेतीचे सिमेवर बेकायदेशिररित्या सिमांकन भिंत बांधण्याचे प्रयत्नांखातर खड्डे खोदण्यास सुरवात केली तेव्हा अथवा त्या सुमारास दाव्याचे कारण विद्यमान न्यायालयाचे अधिकार क्षेत्रात घडले असून मुदतील आहे व विद्यमान न्यायालयास सदरचा दावा चालवून घेण्याचा पुरेपूर अधिकार आहे."

11. On bare perusal of paragraph 8 of the plaint, it appears

that the non-applicant alleges that the applicants, who are the joint owners of the suit property have started construction by digging pits in the month of March, 2024 and there was a quarrel between them in this regard. Feeling apprehension of illegal construction and encroachment, the suit came to be filed. Cause of action is a bundle of facts which taken with the law applicable to them gives the plaintiff the right to relief against the defendant. The plaint very well depicts the facts which constitute cause of action.

12. In view of the pleading mentioned above, I do not find force in the argument of the learned counsel appearing for the applicants that the plaint does not disclose the cause of action. Having found material in the plaint showing the cause of action, no interference is required in the impugned order passed by the trial Court. The application is accordingly rejected.

13. Needless to mention that, the other contentions raised in the application are kept open for being raised at an appropriate stage and the trial Court may deal with the same in accordance with the provisions of law.

(M.W.Chandwani, J.)