



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 148 OF 2024

Shri. Mohan Sajan Sadafal and another .. Applicants

Versus

Smt. Lata Bhausahab Sadafal and others.. Respondents

Shri Mukul S. Kulkarni, Advocate i/by Shri Manoj D. Shinde,
Advocate for the Applicants.

Shri Prathamesh R. M. Borde, Advocate h/f Shri S. S. Auti,
Advocate for the Respondent Nos. 1 to 3.

CORAM : SHAILESH P. BRAHME, J.

DATE : 24TH FEBRUARY, 2026.

FINAL ORDER :

. Heard both sides.

2. Being aggrieved by order dated 18.07.2024 passed below Exhibit 14 in R. C. S. No. 479 of 2023, refusing to reject the plaint, the defendant Nos. 5 and 6 have preferred this revision.

3. Having considered the submissions of the parties, it reveals that plaint was sought to be rejected on solitary ground of Sec. 11 of the Code of Civil Procedure. Previously R.C.S. No. 332 of 1999 was instituted by Hausiram Sajan Sadafal and Bhausahab Sajan Sadafal for partition and that was withdrawn. Probably in the said backdrop ground of *res-judicata* was pressed in to service for rejection of plaint.

4. Learned counsel for the applicants has adverted my

attention to Spl.C.S. No. 68 of 2007 instituted for injunction, which was decreed on 05.08.2011. The judgment passed by the trial Court in that matter and Appellate Court in R.C.A. No. 70 of 2011 would disclose inconsistent pleas being raised by the respondent Nos. 1 and 2. It is further submitted by the learned counsel Mr. Kulkarni that having withdrawn R.C.S. No. 332 of 1999 unconditionally and without seeking any liberty to file fresh suit, the present suit is not maintainable.

5. The plea which is raised for the first time was not incorporated in the application Exhibit 14. Learned counsel for the applicants wants to raise the plea available in law for rejection of the plaint independently without there being any prejudice to their rights.

6. Learned counsel appearing for the respondent Nos. 1 to 3 does not have any objection for granting leave to the applicants to file application raising plea other than *res-judicata* for rejection of plaint.

7. The civil revision application is disposed of without causing interference in the impugned order, but granting liberty to the applicants to seek rejection of the plaint on any other plea as is available in law besides *res-judicata*. If such application is presented that shall be decided on its own merits.

[SHAILESH P. BRAHME J.]