



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

101 CIVIL APPLICATION NO. 9218 OF 2025
IN CRAFT/15425/2025

MAHESH BHASKAR CHAUDHARI
VERSUS
SUDHAKAR NARAYAN PATIL AND OTHERS

...

Mr. Milind Madhukar Patil, Advocate for Applicant
Mr. Vijay B. Patil, Advocate for Respondent No.1

...

CORAM : SHAILESH P. BRAHME, J.
DATE : 28.01.2026

PER COURT :-

CIVIL APPLICATION

. Applicant seeks to condone the delay of 976 days in preferring revision application.

2. Learned counsel for the applicant submits that for the reasons stated in the application, it is desirable to condone the delay. There are no malafides on the part of the applicant. The respondents have filed vexatious suit, which needs to be dealt with at the threshold. It is further submitted that no prejudice will be caused to the respondents if the delay is condoned.

3. Mr. Vijay Patil, learned counsel for respondent no.1 repels the submissions. He would submit that the delay is huge and inordinate and no proper justification is given in the application.

4. The contents of the application have not been controverted. I do not find any malafides on the part of the applicant to approach this Court belatedly. Most of the averments of the application are in respect of the merits of the matter which cannot be ground for condonation of delay. I propose to adopt the pragmatic approach.

5. The delay stands condoned.

CIVIL REVISION APPLICATION STAMP NO.

6. Revision is directed against order dated 06.06.2022 passed below Exhibit-48 preferred under Order VII Rule 11 of C.P.C. in RCS No.120 of 2015.

7. Respondent nos.1 to 7 have filed RCS No.120 of 2015 for declaration that sale deed dated 11.02.2014 is not binding upon them, along with reliefs of partition, separate possession and injunction. The suit is contested by filing written statement. Applicants and other defendants preferred application Exhibit-48 under Order VII Rule 11 C.P.C. objecting that there is no right to sue under the provisions of the Hindu Succession Act,

1956 because propositus Tukadu Totaram Patil died before 1954 and the married daughters would not be entitled to any share in the joint family property. By the impugned order, the said application came to be rejected.

8. Learned counsel for the applicant submits that neither there is any cause of action nor any right to sue for the plaintiff to claim partition. It is submitted that propositus Tukadu Patil died prior to 1954 before commencement of the Hindu Succession Act, 1956. The daughters cannot claim any share in the property. It is submitted that it is abuse of process of law to proceed with the suit.

9. Per contra, Mr. Vijay Patil, learned counsel for respondent no.1 would submits that the plea raised by the applicant would not fall within the purview of Order VII Rule 11 of C.P.C. He would submit that it is a plea of defence which can be gone into during course of trial. It is further submitted that partial rejection of the plaint is impermissible in law.

10. I have gone through rival submissions of the parties. The solitary ground pressed into service for rejection of the plaint is that the propositus Tukadu Patil died prior to 1954, before commencement of Hindu Succession Act, 1956. The right of the daughters is crystallized by amendment of 2005

will not come to help of the plaintiff. I am of the considered view that a trial is necessary to come to any definite conclusion and the plaint cannot be rejected at the threshold. It would be open for the parties to agitate the ground which can be examined during the course of trial. The ground pressed into service does not fall within the realm of Order VII Rule 11 of C.P.C.

11. Another facet of the matter is that multiple reliefs are claimed by the plaintiffs. Relief of declaration in respect of sale deed and injunction can be said to be independent relief. The plaint cannot be rejected partially in view of the law laid down by the Supreme Court in the matter of Central Bank of India vs. Prabha Jain reported in 2025 INSC 95.

12. I do not find any illegality or perversity in the impugned order. Revision application sans merits. Civil Revision Application is dismissed.

13. It would be open for the parties to agitate the ground during the course of trial.

(SHAILESH P. BRAHME, J.)