IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 92 OF 2025

SMT. CHHAYA ASHOK FIRODIA AND ANOTHER
VERSUS
JIJABAI DARMA SALVE (DECEASED) THRU. RESPONDENT NO.2 TO 5 AND OTHERS

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Advocate for Applicants : Mr. Bhandari Anand P.
Advocate for respective Respondents : Mr. Roshan K. Bhagat & Mr. Patil Bhaktraj Laxmanrao – Absent.
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CORAM : SHAILESH P. BRAHME, J.
DATE : 20.02.2026

FINAL ORDER :

1. Heard both sides.

2. Being aggrieved by distinct orders dated 11.02.2025 passed below Exh.60 and 79 in Regular Civil Suit No.139 of 2011 thereby refusing to reject the plaint, revision has been filed. Applicants are original defendant Nos.36 and 37 who are subsequent purchasers of part of subject matter.

3. Respondent Nos.1 to 4 are the original plaintiffs who approached Trial Court by filing Regular Civil Suit No.139 of 2011 for partition, possession, declaration in respect of sale

deeds dated 12.01.1970 and 03.11.1970 being void injunction and mesne profit. Applicants filed application Exh.60 for rejection of plaint for not valuing the suit properly and application Exh.79 for rejection of plaint on the ground of limitation and want of cause of action. Application Exh.60 was disposed of by directing the plaintiffs to pay the deficit court fees. It is informed that the compliance has been made and the rejection of the plaint on that count does not survive any more. By another impugned order application Exh.79 was rejected by the Trial Court.

4. Learned counsel Mr. Bhandari appearing for the applicants submits that the predecessor of the applicants had purchased Survey No.33/1 and 33/2 from Mr. Pujara on 22.08.1990 who inter alia had purchased it on 12.01.1970 from Waman Salve. Thus, the suit is hopelessly barred by time. It is further submitted that as per Article 109 the suit for setting aside alienation made by predecessor of the plaintiffs is also barred by time. It is submitted that plaint is liable to be rejected on the ground of misjoinder of causes and claiming inconsistent multiple reliefs. It is further submitted that no cause of action has been stated for challenging the sale deeds

executed on 12.01.1970 and 03.11.1970. It is submitted that a vexatious suit has been filed and there can be no cause of action against the subsequent purchasers. It is submitted that adjudication of the suit would be restricted to the question of partition only against the family members.

5. Controversy pertains to rejection of plaint on the ground of limitation and want of right to sue. Regular Civil Suit No.139 of 2011 has been filed for multiple reliefs. The alienations made by family members on 03.11.1977 in favour of Sahadu Hanmanta and others, the alienations made by Waman on 12.01.1970 in favour of Bacchubhai Pujara in respect of Survey No.423/1 and 423/2 and alienation of another survey number made on 03.11.1970 in favour of Sahadu Hanmanta and others are challenged. The subsequent alienation made by Mr. Pujara in favour of of Motilal Kundanlal Firodiya on 22.08.1990 is also challenged in the suit. Applicants are descendants of Motilal Firodiya who are in possession of the alienated part of the land.

6. It has been contended in paragraph No.12 of the plaint that plaintiffs requested for partition and separation of their

share which was denied on 10.01.2011. It is a cause of action for claiming partition and possession. It further reveals from paragraph No.16 that on 10.01.2011 again defendant was requested to partition the share, but it was not accepted. The relief of partition and possession cannot be said to be barred by time. The relief of injunction and mesne profit are consequential in nature.

7. The relief of declaration to the extent of alienations to the different parts of the suit land occurred in the year 1970 and thereafter in 1990. It has not been disclosed in the plaint as to the time when the alienations are made known to the plaintiffs. The relief of declaration can be said to be barred by limitation. But it is impermissible to reject the claim to the extent of that relief and to the extent of the purchasers. It is trite law that partial rejection of the plaint is impermissible as reiterated in ***Central Bank of India Vs. Prabha Jain ; (2025) 4 SCC 38***.

8. The reading of the plaint discloses that injunction is also an independent relief for which cause of action is stated in paragraph No.16 of the plaint. The plaint cannot be rejected to

that extent also. I find that Trial Court has taken reasonable and plausible view. I do not find any illegality and perversity in the impugned order. The cause of action is made out from the plaint. No case is made out that it is illusory. Its not case of clever drafting so as to overcome any legal impediment.

9. Learned counsel Mr. Bhandari has placed reliance on the judgments which are dealt with in following manner :

(i) ***Rajendra Bajoria Vs. Hemant Kumar ; AIR 2021 SC 4594*** :- Scope of power under Order VII Rule 11 is laid down which cannot be disputed but applicant has not made out any case to invoke the powers.

(ii) ***Raghwendra Sharan Singh Vs. Ram Prasanna Singh (D) by L.Rs. ; AIR 2019 SC 1430*** :- In this case also various judgments are relied upon to examine as to whether the suit was barred by time which questions the gift deed executed 22 years back. The facts are distinguishable from the case at hand. This judgment will not help the applicants.

(iii) ***Tukaram Hanumantrao Chavan (D) through L.Rs. and others Vs. Shankar Rameshwar Chavan and others in***

CRA.18 of 2023 :- For rejection of the plaint on the ground of limitation the judgment is cited. The facts are distinguishable and those cannot be made applicable to the present case.

(iv) ***Tarvindrarsingh Mahendrasingh Dhillan Vs. Ambadas Asaram Mhaske in CRA No.169 of 2023*** :- Rejection of the plaint was solicited on the ground of limitation. It was observed that plaintiffs in that suit were aware of transfers and re-transfers. They were selective and malafides were attributed to them. The facts of the case at hand are distinct. Partial rejection of the plaint is not the issue in that case. The judgment will not help the applicants.

(v) ***Dahiben Vs. Arvindbhai Kalyanji Bhanusali (Gajra)(D) through L.Rs. ; AIR 2020 SC 3310*** :- The scope of order VII Rule 11 is discussed in the wake of ground of limitation as per Article 59 of the Limitation Act. The judgment is distinguishable on facts and cannot be made applicable.

(vi) ***Padhiyar Prahladji Chenaji (D) by L.Rs. Vs. Maniben Jagmalbhai (D) by L.Rs. ; AIR OnLine 2022 SC 232*** :- It

was not a case of rejection of plaint under Order VII Rule 11 of CPC. Hence, reliance on the judgment is misplaced.

(vii) ***C. S. Ramaswamy Vs. V. K. Senthil and others ; 2022 STPL 11580 SC*** :- Plaint sought to be rejected on the ground of limitation because registered sale deeds were executed prior to 10 years of filing of the suit. The facts are distinguishable and will not assist the applicants.

(viii) ***Uma Devi and others Vs. Anand Kumar and others*** :- In that case, the sale deeds were challenged by the plaintiffs who were aware of their executions and for 45 years no action was taken by them. Such is not the case in the present matter. This judgment also will not help the applicants.

(ix) ***Sopan Sukhdeo Sable and others Vs. Assistant Charity Commissioner and others ; AIR 2004 SC 1801*** :- By citing this judgment, it is tried to be persuaded that partial rejection of the plaint is permissible and the plaint can be sustained to the extent of relief of partition and separate possession. I have considered paragraph Nos.15 to 22. This judgment will not help the applicants.

10. It is laid down in case of ***Bhimrao Bishwanath K. Madanmohanrao ; 2023 (18) SCC 231*** as well as ***Central Bank of India Vs. Prabha Jain*** that partition rejection of plaint is not permissible under Order VII Rule 11. This Court is bound by the ratio. The judgments cited will not help the applicants.

11. The submissions of the learned counsel Mr. Bhandari that plaint is liable to be rejected for misjoinder of the causes cannot be approved. For that purpose a useful reference can be made to the case law laid down by Supreme Court in ***Prem Lala Nahata and another Vs. Chandi Prasad Sikaria ; AIR 2007 Supreme Court 1247***. It is clearly held in paragraph No.14 of the judgment that by no stretch of imagination, can a suit bad for misjoinder of parties or misjoinder of causes of action under Order 7 Rule 11(d) of the Code.

12. For the reasons stated above, I hold that Civil revision application sans merit and it is rejected.

(SHAILESH P. BRAHME, J.)

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vmk/-