



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

69 CRA NO. 199 OF 2025

SHAYAM S/O MALLINATH BUKKA AND ANOTHER
VERSUS
SHANTKUMAR S/O NAGAPPA KADGANICHE AND OTHERS

...

Advocate for the Petitioner : Mr. Yenegure Apparao Prakash
Advocate for Respondent nos. 1 to 4 : Mr. Prashant Kishanrao Deshmukh

...

CORAM : SHAILESH P. BRAHME, J.

DATE : 23.02.2026

PER COURT :

Heard both sides.

2. Revision is directed against order dated 08.05.2025 below Exh. 22 passed in Regular Civil Suit No. 61/2024. The applicants are original defendants and the respondents are plaintiffs in the suit for injunction simplisitor.

3. Learned counsel for the applicant submits that suit is barred by principle of *res judicata*, under Section 11 of the Code of Civil Procedure. For the self-same subject matter and relief, matter is pending in High Court in Second Appeal No. 17/2006. It is submitted that impugned order is perverse and unsustainable due to undisputed fact of pendency of the second appeal.

4. Per contra, learned counsel Mr. Deshmukh appearing for the respondents submits that in the present suit applicants have preferred counter claim also. It is disclosed in paragraph no. 4 of the plaint that there is a cause of action to file present suit after suffering the judgments in the

earlier round of litigation.

5. I have considered the rival submissions of the parties. I am guided by the law laid down by the Supreme Court in the matter of **Pandurangan vs. T. Jayarama Chettiar and Ors.; 2025(10) SCC 279** that Section 11 cannot be a ground to reject the plaint under Order VII Rule 11 of the Code of Civil Procedure. An objective scrutiny is required to examine as to whether the present suit is barred by principles of *res judicata*. It would be open for the parties to agitate before the Trial Court as to whether the subject matter, cause of action, parties and the relief are self-same or not. I do not find any perversity or illegality in the impugned order.

6. The Civil Revision Application is dismissed.

(SHAILESH P. BRAHME, J.)

mkd/-