

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 37 OF 2025

Aasif A. Rahiman Shaikh And Ors.

... Applicants

Versus

Dilip Appanna Awati And Ors.

... Respondents

Mr. Nagesh Y. Chavan a/w Ms. Ankita Chindage and Mr. Abhang Suryawanshi for the Applicants.

Mr. Sarang S. Aradhye a/w Shantanu Gurav and Dnyaneshwar Utpat for Respondent Nos. 1 and 2.

CORAM : M. M. SATHAYE, J.

DATE : 17th February 2026.

P. C. :

1. Heard learned Counsel for the parties.
2. The Revision Applicants are Defendant Nos. 10 to 14 in a suit filed by Respondent Nos. 1 and 2 (original Plaintiffs). The Plaintiffs have instituted a suit against Defendant No. 1–Trust and its Trustees/Office Bearers seeking specific performance of Agreements to Sell dated 11.07.2014 and 03.07.2015, along with other consequential reliefs, including an alternate prayer directing the Trust to obtain necessary permission from the Charity Commissioner and to execute the sale deed.
3. The case of the Revision Applicants, as reflecting from the Application below Exhibit-77, is that prior permission under Section 36 of the Maharashtra Public Trusts Act, 1950 (for short, “the said Act”) was not obtained before entering into the suit agreements. It is further contended that

the suit is liable to be rejected under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 ('CPC' for short) as consent of the Charity Commissioner under Section 51 of the said Act has not been obtained.

4. By the impugned order dated 05.09.2024 passed below Exhibit-77 in Special Civil Suit No. 328 of 2019, the learned 6th Joint Civil Judge, Senior Division, Sangli rejected the said application and refused to reject the plaint.

5. Learned Counsel for the Revision Applicants submitted that the suit is squarely covered under Section 50(ii) of the said Act as a decree for recovery of possession of Trust property is sought. He contended that apart from the absence of permission under Section 36, the suit itself is barred for want of consent under Section 51. Reliance is placed on the decision in **Rajesh Chunilal Meghani vs. The Andheri Recreation Club & Ors. [2017 (4) AllMR 498]** in support of the submissions.

6. On the other hand, learned Counsel for the Respondents-Plaintiffs supported the impugned order, contending that consent under Section 51 is not required in the present case, as the Plaintiffs are not "persons having interest" in the Trust within the meaning of Section 51 of the said Act. It is submitted that the suit essentially pertains to enforcement of individual civil right arising out of the agreements in question and is primarily for specific performance. Attention is invited to the case laws referred to in paragraph 9 of the impugned order.

7. I have considered the rival submissions and perused the record.

8. Plain reading of the plaint indicates that the primary relief sought is specific performance of the suit agreements. The reference to possession in prayer clause (b) is merely consequential to the relief of specific performance. From the averments in the plaint, it is evident that the subject matter of the suit does not relate to the internal management or administration of the Trust. The Plaintiffs are third parties vis-à-vis the Trust.

9. At the stage of considering an application under Order VII Rule 11 of the CPC, only the averments in the plaint and documents produced with plaint are required to be examined. On such examination, it cannot be said that the Plaintiffs fall within the category of “persons having interest” in the Trust. Consequently, consent under Section 51 of the said Act is not required.

10. As regards reliance placed on **Rajesh Chunilal Meghani (supra)**, the said judgment was rendered in the context of a dispute between a member of a Trust (Club) and the Trust itself, where objection was raised regarding the necessity of consent under Section 51. The facts of the present case are clearly distinguishable, as the Plaintiffs herein are third parties and the dispute does not pertain to the internal affairs of the Trust. Hence, the said case-law will not help the Revision Applicants.

11. The learned Trial Judge has duly considered the provisions of Sections 50 and 51 of the said Act and examined the nature of the reliefs sought. The conclusion that the suit does not fall within the ambit of Section 50 and that it concerns enforcement of individual civil rights cannot be said to be perverse, illegal, or suffering from any jurisdictional error. The view taken is a plausible and reasonable one on the basis of the material on record. No interference is required.

12. **The Revision Application is accordingly rejected. No order as to costs.**

13. Needless to clarify that rival contentions of all parties on merits are kept open, and the Trial Court shall decide the suit in accordance with law, without being influenced by the observations in the impugned order or this order.

[M. M. SATHAYE, J.]

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