

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 60 OF 2026**

Vita Municipal Council

Through its Administrator
Mr. Vikramsingh Sampatrao Patil
Deputy Collector, Khanapur-Vita,
Tal. Khanapur, Dist. Sangli

.... Applicant

V/s

1. Shahaji Shankar Jadhav

Age- 79 years, Occ: Agriculturist

2. Arun Shankar Jadhav

Age- 76 years, Occ: Agriculturist

3. Bhaskar Shankar Jadhav

Age-62 years, Occ: Agriculturist

4. Sharad Pandurang Jadhav

Age- 46 years, Occ: Agriculturist

5. Sudhir Baburao Jadhav

Age-57 years, Occ: Agriculturist

6. Swapnil Subharao Jadhav

Age- 34 years, Occ: Agriculturist

7. Lalaso Arjun Jadhav

Age- 85 years, Occ: Agriculturist

All Respondent nos. 1 to 7 R/at:

At Post: Vazar, Tal: Khanapur,
District- Sangli, Pin code- 416 310

8. Mohan Bhagwan Jadhav

Age: 69 years, Occ: Agriculturist

9. Sarjerao Bhagwan Jadhav

Age: 66 years, Occ: Agriculturist

10. Raoso Bhagwan Jadhav

Age: 63 years, Occ: Agriculturist

.... Respondents

Mr. Prithviraj Gole through VC, advocate for the applicant

Mr. Satish Patel a/w Ms. Sonali Patil a/w Mr. Tushar Patel a/w Mr. Rahul Rote, advocate for respondent nos. 1 to 7

CORAM : NANDESH S. DESHPANDE, J.

DATE : 12th JUNE, 2026.

ORAL JUDGMENT:

1. Heard. Admit.
2. Heard finally with consent of the parties.
3. Even though, as per office note dated 22/05/2026, the notice was served to Respondent Nos. 1 to 10, nobody appears for respondent nos. 8 to 10. I have heard learned counsel for Respondent Nos. 1 to 7. Present Civil Revision Application which is filed under Section 115 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'CPC') takes exception to the order passed below Exhibit 20 in R.C.S. 256/2025. By the said order, the application filed by the present applicant under Order VII Rule 11(d) of the C.P.C. came to be rejected as a result of which, suit/claim filed by Respondent Nos. 1 to 7 herein i.e. original

plaintiffs is to proceed further.

4. As can be seen from the record of the matter, Respondent Nos. 1 to 7 herein filed a suit bearing R.C.S. No. 256/2025 praying for a declaration that the gift deed executed in favour of Defendant No. 1 by Defendant Nos. 2 to 4 on 02/07/2025 is illegal as it being hit by provisions of Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Hereinafter referred to as 'Fragmentation Act'). Further relief of permanent injunction was claimed in the said suit.

5. In response to the suit summons, present petitioner filed an application under Order VII Rule 11 (d) of CPC on various grounds as mentioned supra.

6. Learned counsel for the applicant primarily raises three grounds which according to him would entail rejection of the Plaint. The first ground is regarding absence of statutory notice as contemplated under Section 304 of The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Hereinafter referred to as 'the said Act'). According to him, the suit was not preceded by a notice as contemplated under Section 304 of the said Act. The second ground raised by him is regarding Section

41(h) and 20A of the Specific Relief Act, 1963 (Hereinafter referred to as 'SRA') which according to him would also entail rejection of the Plaint. The third ground is regarding Section 36A and Section 36D of the Fragmentation Act.

7. I have heard learned counsels for the respective parties.

8. The first ground as raised by the applicant is regarding Section 304 of the said Act. Bare perusal of the said Section would reveal that the suit would not lie against the Council, any committee constituted under the Act, or any officer or servant of a Council in respect of any act done in pursuance or execution (or intended execution) of this Act. As can be seen from the Plaint and more particularly the relief claimed therein, the same is regarding a declaration regarding a gift deed executed by Defendant Nos. 2 to 4 in favour of the present applicant i.e. original Defendant No. 1. Execution of the gift deed would certainly not be within the domain of the any act purported to be done under the provisions of the Act mentioned supra. Furthermore, as has been rightly held by the Trial Court, Sub-Section (4) of Section 304 carves out an exception stating that the requirement of pre-suit notice would not apply to any suit under Section 38 of the SRA. In that regard, the Trial Court

has rightly recorded a finding that no pre-suit notice would be required since the prayers in the Plaint are with respect to the civil rights of the parties and not with respect to any act to be done in pursuance of the said Act. The said ground of the applicant, therefore, does not have any substance.

9. The next ground raised by the applicant is regarding provisions of Section 41(h) and 20(A) of the SRA. Perusal of the said provisions would reveal that Section 41(h) creates an embargo to refuse an injunction when equally efficacious remedy can certainly be obtained by any other usual mode of proceeding except in the case of breach of trust. However, this is not in the present case, more particularly when the Court is deciding an application for rejection of Plaint otherwise and not concerned with the grant or refusal of injunction. Same is the case with Section 20(A) of the SRA which specifically makes a provision that no injunction shall be granted by a Court in a suit involving a contract relating to an infrastructure project.

10. The next ground as raised by the learned counsel for the applicant is in regards to there being bar under the provisions of Fragmentation Act. I have perused the said Section. Section 8 of the

Fragmentation Act prohibits fragmentation and states that no land in any local area shall be transferred or partitioned so as to create a fragment. Section 36A of the Fragmentation Act bars the jurisdiction of the Court for entertaining any dispute or any question which is by or under the Act required to be settled or decided or dealt with by the State Government or any officer or authority.

11. The ground raised in the present revision vis-a-vis the provisions of the Fragmentation Act is misconceived inasmuch as, Section 36B itself states that the suits involving the issues, if filed in a Civil Court are to be referred to competent authority. Therefore, in my considered opinion, there is no absolute bar which would entail in rejection of Plaint under the provisions of Fragmentation Act. Furthermore, as far as the objection regarding omission to claim partition is concerned, the said objection is also without any substance since, the Plaintiff has to suffer, if he has not claimed partition and that cannot be a ground which can entail into rejection of Plaint.

12. I have gone through the order of the Trial Court. The Trial Court has elaborately considered each and every ground raised by the present applicant. It has rightly stated that as far as the

fragmentation is concerned, there is nothing on record to show that in fact a fragment was created by Defendant Nos. 2 to 4 by executing a gift deed in favour of Defendant No. 1. It is therefore correct that only when conclusive finding would be recorded by the Court that the suit property involved in a gift deed would amount to create a fragment, the partial bar of Section 8 read with Section 36A and 36B would come into picture; if it can. In my view the order of the Trial Court is just and proper. There is no error or failure or illegal exercise of jurisdiction which would warrant interference in Revision. Civil Revision Application is devoid of merit and liable to be dismissed.

13. Civil Revision Application stands dismissed.

[NANDESH S. DESHPANDE, J.]

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