



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.73 OF 2026**

Rajni Tukaram Phuge	...	Applicant
versus		
Sangita Pandurang Gawli and Ors.	...	Respondents

Mr. Sagar Kursija, for Applicant.

CORAM: N.J.JAMADAR, J.

DATE : 17 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the Applicant.
2. This Revision Application is directed against an order dated 10 November 2025 passed by the learned Civil Judge, Sr. Division, Pune, in SCS No.979 of 2025, whereby the application preferred by the Applicant – Defendant No.2 for rejection of the plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908, came to be rejected.
3. Respondent Nos.1 to 3 – Plaintiffs, have instituted a suit against the Applicant – Defendant No.2 and their father – Ramchandra Shankar Kokane (D1) for declaration, partition and possession of their 1/5th share each in the suit properties and for declaration that the gift deeds purportedly executed by Defendant No.1 in favour of Defendant No.2, on 22 May 2024, thereby gifting the suit properties in favour of Defendant No.2, are null and void and do not bind the shares of the Plaintiffs in the suit properties, and the consequential

reliefs.

4. Defendant No.2 filed an application for rejection of the plaint contending, inter alia, that, there was no cause of action and the plaint appeared to be manifestly vexatious and meritless. By resorting to clever drafting, the Plaintiffs had created an illusion of a cause of action. The Plaintiffs resisted the application.

5. By the impugned order, the learned Civil Judge rejected the application opining that the case for rejection of the plaint was not made out either under clause (a) or clause (d) of Rule 11 of Order VII of the Code.

6. Mr. Sagar Kursija, learned Counsel for the Applicant, made an endeavour to persuade the Court to hold that the consideration by the learned Civil Judge is inadequate and infirm. The Plaintiffs have, according to Mr. Kursija, no clear right to sue. As the Defendant No.1 has executed registered gift deeds in favour of Defendant No.2 in exercise of the incident of ownership, the Plaintiffs cannot assail those gifts. An attempt was made by Mr. Kursija to drive home the point that the suit is essentially not for partition.

7. I am afraid to accede to any of the submissions of Mr. Kursija. First and foremost, and, as rightly held by the learned Civil Judge, at the stage of an application for rejection of the plaint, only the averments in the plaint and the documents annexed thereto, are required to be considered. From a meaningful reading of the plaint as a whole, it would not be possible to draw

an inference that there is no cause of action. The facts are few and simple. The relations inter se the Plaintiffs and Defendant Nos.1 and 2, are not in dispute. The character of the properties, as asserted by the Plaintiffs in the plaint, is ancestral. Defendant No.1 allegedly got the suit properties in the partition effected in the year 1982. In view of the development in law, the Plaintiffs are the coparceners. The right of the Plaintiffs to seek their share in the suit properties, thus, can hardly be questioned.

8. Moreover, the Plaintiffs have approached the Court under an year of the execution of the gift deed by the Defendant No.1 in favour of Defendant No.2. That indeed furnishes a cause of action for the suit. Thus, there is neither any jurisdictional error nor material irregularity in the exercise of jurisdiction by the trial Court, so as to warrant interference in the exercise of revisional jurisdiction.

9. The Civil Revision Application, thus, stands dismissed.

(N.J.JAMADAR, J.)