

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 706 OF 2026

Prabhavati Ramniklal Shah & Ors. ..Petitioners

Versus

Bhavna Manoj Gayakvad & Ors. ...Respondents

Mr. S. S. Patwardhan a/w Mr. Sagar Joshi, for the petitioners.

Mr. Gaurav Joshi, Sr. Adv., a/w Mr. Rohaan Cama, Ms.

Drushti Gala i/by Yash Arora, for Respondent No. 44.

CORAM: N. J. JAMADAR, J.

DATE : 27th JANUARY 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 22nd December, 2025 passed by the learned Civil Judge, Thane whereby an application preferred by the Defendant Nos. 1 to 9 for framing additional issues, came to be rejected.
3. By the said application (Exh. 168), the defendants prayed for framing following additional issues:-

i/ Does the Plaintiffs prove that the Defendant No. 1, Deceased Shailesh & Deceased Haresh committed forgery of signature of Mr. Anant Kolya Patil on the Sale Deed dated 17/06/1974 & registered the same by causing impersonation to the concerned office of Sub-Registrar & thereby played the fraud?

ii/ Does the Plaintiffs prove that the Suit Deed/Agreement No. 2, Suit Power of Attorney, Suit Deed/Agreement No. 3, Suit Deed/Agreement No. 4, Suit Deed/Agreement No. 5, & Suit Deed/Agreement No. 6, in respect of the Suit Property are of fraudulent nature & outcome of fraud?

iii] Does the Plaintiff Nos. 1 to 43 prove that the Defendant Nos. 5 to 7 have taken forcible possession of the Suit Property from them after filing of RTS proceeding in 2019?

4. The learned Civil Judge was of the view that, the Issue Nos. (1) and (2) framed by the Court on 29th January, 2024 subsumed the proposed additional issues Nos. i) and ii) and additional issues no. iii) hinged upon the plaintiffs establishing ownership over the suit property and, therefore, the proposed additional issues were not required to be framed.

5. The Court is informed that, the parties have led the evidence and the trial is complete. The plaintiffs have advanced final arguments and the defendants are in the midst of their arguments.

6. Mr. Patwardhan, the learned Counsel for the petitioners, on instructions, submits that, in the event the additional issues, as proposed by the defendants, are framed, the defendants will not lead any further evidence and would proceed with the final arguments in the suit.

7. Mr. Joshi, the learned Senior Advocate for the plaintiffs, on instructions, submits that, in that case, the plaintiffs are not averse to framing the additional issues, though it is the stand of the plaintiffs that, the additional issues are covered by the issues already settled by the Court.

8. In view of the aforesaid submissions and, with the consent of the parties, the impugned order stands quashed and set aside. The following additional issues are framed:-

I) Do the plaintiffs prove that, the sale deed dated 17th June, 1974 was forged and its registration was effected by impersonation?

II) Do the plaintiffs prove that, the Suit Deed/Agreement no. 2, Suit Power of Attorney, Suit Deed/Agreement no. 3, Suit Deed/Agreement no. 4, Suit Deed/Agreement no. 5, & Suit Deed/Agreement no. 6, in respect of the suit property are fraudulent and/or obtained by fraud?

III) Do the plaintiffs prove that, the Defendants No. 5 to 7 had taken forcible possession of the suit property from the Plaintiff Nos. 1 to 43 after filing of RTS proceeding in the year, 2019?

9. These additional issues be determined along with the issues framed by the Trial Court.

10. None of the parties shall be entitled to lead any further evidence in the suit.

11. The parties shall proceed with the final arguments of the suit from the current stage.

12. The petition stands disposed.

13. The parties to act on an authenticated copy of this order.

[N. J. JAMADAR, J.]