



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION NO. 106 OF 2024

PRAKASH MAHADEORAO GAHUKAR

Vs.

KAMLABAI DAMODHAR BHOYAR AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Mohammad Ateeque Abdul Mushtaque, Advocate for the Applicant.
Mr. C. A. Babrekar h/f D. M. Totey, Advocate for the Respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 17th JANUARY, 2026.

1. The present revision takes an exception to order dated 21st October 2023 passed by the learned Civil Judge, Junior Division, Morshi rejecting the application for rejection of plaint filed by the present applicant who is defendant in Regular Civil Suit No.79 of 2017.

2. Respondents/original plaintiffs have filed a suit for partition and separate possession with respect to an agricultural land admeasuring 6 Acres and 6R which was purchased by predecessors of plaintiffs and defendants, namely Tulsibai and Mahadeo, respectively, by registered sale deed dated 18th March 1964. The defendants have filed an application for rejection of plaint *inter alia* contending that a portion of land admeasuring 4 Acres and 8R from the suit property was sold vide sale deed dated 7th March 1967 by the then co-owners,

Tulsibai and Mahadeo, to one Shankar Gomaji Mendhe vide sale deed, dated 6th March 1967 and that the defendant No.1 has purchased the said 4 Acres and 8R land from the purchaser Shankar Gomaji Mendhe vide sale deed dated 31st January 1979. On this basis it is stated that the suit for partition filed in the year 2017 is barred by limitation.

3. At the outset, it must be stated that reference to the subsequent sale deed dated 7th March 1967 and 31st January 1979 is not found in the plaint. Therefore plaint cannot be rejected, in view of the defence of the defendants based on the said sale deeds. Apart from this, the total extent of suit property is 6 Acres and 6R and the aforesaid sale deeds are pertaining 4 Acres and 8R land only. In that view of the matter, in the considered opinion of this Court, the impugned order does not warrant any interference.

4. Civil Revision Application is, therefore, rejected.

5. It is obvious that since the observations in the present order are made with respect to Order VII Rule 11 of Civil Procedure Code, the observations cannot come in the way of the parties while prosecuting the suit on merits.

(ROHIT W. JOSHI, J.)