



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

CIVIL REVISION APPLICATION NO.14/2026

Shri Prashant s/o Rupchand Pakhide and others

...Versus...

Smt. Shubhangini w/o Satish Pillewar

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

Court's or Judge's orders

Mr. Masood Shareef, Advocate a/b Mr. Parth Malviya, Advocate for applicants
Mr. Shahid Raza, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.

DATE : 24/04/2026

1. The present revision application is filed by the defendants in Special Civil Suit No.733/2024, being aggrieved by the order dated 16/09/2025, passed by the learned 2nd Joint Civil Judge, Senior Division, Nagpur, rejecting the application for rejection of plaint filed by them vide Exh.12 in the said suit.

2. The respondent, who is the original plaintiff, has filed the suit, seeking following reliefs :-

“1] declare the WILL DEED dated 24-01-2012 as illegal, null and void and not binding on plaintiff.

2] declare that the registered Will Deed dated 07-11-15 was the first and last will of Late Jairam Jamgade.

3] declare that the Sale Deed dated 02-11-2023, registered at serial no. 12691/2023 executed by defendant no.1 and 2 in favour of defendant no.5 as illegal, null and void and not binding on plaintiff.

4] *declare that the mutation of name of defendant no.1 and 2 and 5 in revenue records are illegal and be removed.*

5] *declare that defendant no.5 is having no right and interest over the suit property described in the schedule of property A, and their possession is illegal and unauthorized.*

6] *declare that the suit properties are ancestral property and in future plaintiff shall have proportionate share, right and interest in the suit properties which need to be protected.*

7] *restrain the defendants their agents, representative, attorney, relatives, assigns etc., from creating further third party interest of changing the nature of suit property.*

8] *Saddle the cost of suit on the defendants.”*

3. It is not in dispute that the suit properties are owned by late Jairam Roshan Jamgade, who is the maternal grandfather of the plaintiff and defendant Nos.1 to 3, who are the children of defendant No.4. By the impugned Will, dated 24/01/2012, the testator has bequeathed some of his properties in favour of his grandchildren i.e. plaintiff and defendant Nos.1 to 3 and his daughter, defendant No.4.

4. Apart from the aforesaid Will, the plaintiff states that late Jairam had also executed a Will dated 07/11/2015. This Will dated 07/11/2015 is legal and valid Will, according to the plaintiff. It is not in dispute that the properties forming subject matter of the impugned Will dated 24/01/2012 and

admitted Will dated 07/11/2015 are different.

5. The case of the plaintiff is that after the demise of defendant No.4, who is Class-I legal heir of the testator, late Jairam, the plaintiff along with defendant Nos.1 to 3 will be entitled to inherit the property, forming subject matter of the impugned Will dated 24/01/2012 and therefore, the plaintiff has right to challenge the said Will.

6. The properties are undisputedly owned by late Jairam. It is not in dispute that the defendant No.4, who is daughter of late Jairam, is alive and as such, in the event the Will dated 24/01/2012 is held to be illegal or void or not genuine, the properties will be inherited by defendant No.4 alone to the exclusion of plaintiff and defendant Nos.1 to 3. Even if the plaintiff succeeds in dislodging the impugned Will dated 24/01/2012, she will not be entitled to receive any share in the properties of her maternal grandfather Jairam since her mother is alive. Thus, the plaint does not disclose any cause of action. Cause of action as well known is a bundle of facts, which, if undisputed, will entitle the plaintiff to a relief from the Court of law, in accordance with law. Even if, the plaint averments are accepted to be proved and it is assumed that the impugned Will dated 24/01/2012 is set aside, the plaintiff does not get right to inherit the suit properties, which are subject matter of the impugned Will dated 24/01/2012. The right to inherit a property on happening of the future event, in this case demise of defendant No.4, is not enforceable right.

7. In view of the aforesaid, the learned Trial Court has clearly erred in rejecting the application for rejection of

plaint. The plaint averments taken on their face value do not offer any cause of action to agitate to the plaintiff. In the result, the Civil Revision Application deserves to be allowed and is allowed by quashing and setting aside the order dated 16/09/2025, passed by the 2nd Joint Civil Judge, Senior Division, Nagpur on application at Exh.12 in Special Civil Suit No.733/2024 and by allowing the said application (Exh.12) and consequently, rejecting the plaint in the said civil suit.

8. Parties to bear their own costs.

(ROHIT W. JOSHI, J.)