



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

CIVIL REVISION APPLICATION NO.72/2025

Dilip s/o Dhansa Pranjale
...Versus...
Ashok s/o Dhansa Pranjale and others

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

Court's or Judge's orders

Mr. Nitin Vyawahare, Advocate for applicant
Mr. Shraddhanand Bhutada & Yash Maheshwari, Advocates for respondent Nos.1 and 2

CORAM : ROHIT W. JOSHI, J.
DATE : 11/02/2026

1. The present Civil Revision Application is filed in order to challenge the order dated 28/01/2025, passed by the learned 2nd Joint Civil Judge, Junior Division, Daryapur, rejecting application for rejection of plaint filed by the defendant No.1 in Regular Civil Suit No.40/2024 vide Exh.20.
2. The contention of the defendant No.1 in the application is that the suit property, which is land bearing Survey No.43/1 was initially owned by one Dhansa, father of plaintiff and defendant No.1, who expired in the year 1967. The defendant No.1 contended that the erstwhile owner Dhansa has executed the registered Will dated 21/08/1965 with respect to the suit property in favour of defendant No.1, creating life interest only in favour of his wife Anusayabai under the said Will and after the demise of Anusayabai in the year 1999, the defendant No.1 became true, lawful and absolute owner of the suit property. It is contended that the

plaint itself refers to the said registered Will dated 21/08/1965. It is stated that mutation on the basis of said Will is taken on 10/07/1999 and therefore, the plaintiffs had knowledge with respect to said Will from the said date, as such the suit is barred by limitation.

3. Learned Advocate for the defendant No.1-applicant contends that all these facts are apparent from reading of the plaint and documents filed along with the plaint.

4. Perusal of the plaint will demonstrate that according to the plaintiffs, the suit property amongst other properties, was subject matter of a registered partition-deed dated 28/02/1977, under which the suit property was allotted to the share of mother Anusayabai and after the demise of Anusayabai, the property devolved on the plaintiffs and defendants being her children. It is true that the plaint also makes a reference to the Will dated 21/08/1965. However, taking the plaint averments on their face value and accepting the registered deed of partition dated 28/02/1997 to be a genuine document, as is required to be done while dealing with an application under Order VII Rule 11 of the Code of Civil Procedure, it must be stated that the Will loses its significance, in view of the said registered partition. Anusayabai became absolute owner of the suit property by virtue of the said registered partition deed as per the plaint averments. Therefore, on her demise, the plaintiffs and other children of Anusayabai will have a right to inherit the suit property. The case of exclusion, on the basis of Will dated 21/08/1965, therefore cannot be accepted, while dealing with

application under Order VII Rule 11 of the Code of Civil Procedure. Civil Revision Application is, therefore, rejected. No order as to costs.

(ROHIT W. JOSHI, J.)

Wadkar