



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

CIVIL REVISION APPLICATION NO.138 OF 2025

PETITIONER

Ori. Defendant

PETITIONER :- Mr. Ajay Soni, Aged about 57 years,
Occupation : Doctor R/o Plot No.195,
Friends Colony Katol Road, Nagpur
also at: R/o Indora, Nagpur MOB.
No.9822577987

..VERSUS..

RESPONDENT

Ori. Plaintiff

RESPONDENT :- Sheikh Nafiz S/o Sheikh Noor
Mohammad Aged about 41 years,
Occupation : Private, R/o. Taj Nagar,
Line No.9, Ring Road, Mankapur,
Nagpur-440030.

WITH

CIVIL REVISION APPLICATION NO.139 OF 2025

PETITIONER

Ori. Defendant

PETITIONER :- Mr. Ajay Soni, Aged about 57 years,
Occupation : Doctor R/o Plot No.195,
Friends Colony Katol Road, Nagpur
also at: R/o Indora, Nagpur MOB.
No.9822577987

..VERSUS..

RESPONDENT

Ori. Plaintiff

RESPONDENT :- Shri. Sushilkumar S/o Vamanprasad
Upadyay, Aged about 63 years, Occu.
Private, R/o Plot No.21, Agam Singh
Layout Post Office Vaigaon, Tah.
Umred, Dis. Nagpur-440030.

WITH

CIVIL REVISION APPLICATION NO.140 OF 2025

PETITIONER :- Mr. Ajay Soni, Aged about Adult,
Ori. Defendant Occupation : Doctor R/o Plot No.195,
Friends Colony Katol Road, Nagpur
also at: R/o Indora, Nagpur MOB.
No.9822577987

..VERSUS..

RESPONDENT :- Shri. Mahesh S/o Vamanprasad
Ori. Plaintiff Upadyay, Aged about 67 years, Occu.
Private, R/o Plot No.95, Patre Layout,
Shree Nagar, Godhni Road, Nagpur-
441111.

WITH

CIVIL REVISION APPLICATION NO.141 OF 2025

PETITIONER :- Mr. Ajay Soni, Aged about Adult,
Ori. Defendant Occupation : Doctor R/o Plot No.195,
Friends Colony Katol Road, Nagpur
also at: R/o Indora, Nagpur
MOB. No.9822577987

..VERSUS..

RESPONDENT :- Mrs. Kiran W/o Motichand Dhok, Aged
Ori. Plaintiff about 58 years, Occu. Household, R/o
Plot No.22, Welcome Society, Katol
Road, Chaoni, Nagpur-440013.

WITH

CIVIL REVISION APPLICATION NO.142 OF 2025

PETITIONER :- Mr. Ajay Soni, Aged about 57 years,
Ori. Defendant Occupation : Doctor R/o Plot No.195,
Friends Colony Katol Road, Nagpur

also at: R/o Indora, Nagpur
MOB. No.9822577987

..VERSUS..

RESPONDENT
Ori. Plaintiff

:- Mrs. Rekha W/o Ramesh Bevhariya,
Aged about 57 years, Occu. Household,
R/o Plot No.38, Narmada Society,
Bhupesh Nagar, Nagpur-440013.

WITH

CIVIL REVISION APPLICATION NO.143 OF 2025

PETITIONER
Ori. Defendant

:- Mr. Ajay Soni, Aged about adult,
Occupation : Doctor R/o Plot No.195,
Friends Colony Katol Road, Nagpur
also at: R/o Indora, Nagpur MOB.
No.9822577987

..VERSUS..

RESPONDENT
Ori. Plaintiff

:- Mrs. Nalini W/o Manohar Barne, Aged
about 71 years, Occupation:-
Housewife, R/o, New Jagruti Society,
Katol Road, Nagpur 440013.

Mr. T. D. Mandlekar, Advocate for Petitioner.
Mr. Nikhil Kitarne, Advocate for the Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **23.02.2026**

J U D G M E N T :

- 1) Heard finally with consent of learned advocates for the respective parties.

2) All the Civil Revision Applications arise out of identical facts and give rise to same issues. Accordingly are being decided by a common judgment at the request of learned advocates for the respective parties. For the purpose of convenience, the facts of Civil Revision Application No.138 of 2025 will be taken into consideration.

3) Application for rejection of plaint filed by revision petitioner, who is the original defendant in Regular Civil Suit No.600 of 2024 filed vide Exhibit 11, came to be rejected vide order dated 19.11.2024, which is subject matter of challenge in the present revision application.

4) The contention of Mr. Mandlekar, learned Advocate for the applicant is that:

i. Claim in the suit is not properly valued and appropriate court fees is not paid.

ii. Suit filed simpliciter for injunction is not maintainable.

iii. Filing of suit clearly amounts to fraud and, as such, the plaint ought to have been rejected, and the plaint does not disclose cause of action.

5) As regards valuation of the suit, it is seen that the plaintiff claims ownership over the suit property on the basis of a registered sale deed. He claims to be in settled possession of the suit property. He is seeking injunction against forcible dispossession, which is a common law right. Such a suit is not susceptible to monetary evaluation. The contention with respect to valuation of suit is, therefore, liable to be rejected.

6) The contention of Mr. Mandlekar that a suit simpliciter for injunction is not maintainable, cannot be entertained at this stage. Whether there is a cloud on title or not cannot be decided under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, "the CPC"), since while dealing with application under the said provision, the plaint and, at best, the documents on which the plaintiff relies can alone be seen. The defence of the defendant regarding its claim of ownership cannot be looked into while deciding an application under Order VII Rule 11 of the CPC. Keeping the said contention open, the same is rejected, having regard to

the fact that the order impugned is passed under Order VII Rule 11 of the CPC. In the event, upon trial of the suit, the learned Trial Court is of the opinion that the prayer for declaration was necessary, it will be open for the learned Trial Court to pass appropriate order in relation to maintainability of the suit for want of prayer of declaration of title.

7) The foundation of the argument that the suit is based on fraud is based on a comparison of the sale deed dated 24.03.1986, by virtue of which a portion of land admeasuring 2 acres out of Field No.2 situated at village Hajaripahad, Tahsil Nagpur Urban and District Nagpur is purchased by Samaj Bhushan Co-operative Housing Society, the vendor of the plaintiff.

8) The contention of the learned advocate for the revision petitioner is that four boundaries of the said two acres land, as mentioned in the sale deed dated 24.03.1986, are missing in the copy of sale deed filed on record by the plaintiff, whereas the said boundaries are reflected in the certified copy of the same sale deed filed on record by the defendant. He also points out that page Nos.5 and 6 of the

said sale deed are also not filed by the plaintiff. On this basis, it is contended that the foundation of the suit is fraud in as much as suit is based on a fabricated document.

9) As regards the missing pages, at best, it can be said that the plaintiff has not filed the complete sale deed of his vendor on record. As regards the portion relating to boundaries which according to the defendant is deliberately deleted in the copy of sale deed filed on record by the plaintiff, which of the two sale deeds is correct is a matter of trial and cannot be decided at this stage. Apart from this, the benefit that the plaintiff allegedly draws by tampering with the document in order to remove the description of boundaries from the sale deed is difficult to gather. Despite repeated queries no satisfactory explanation is received from the revision petitioner in this regard. The effect that this may have on adjudication of the lis is difficult to gather at this stage. It is difficult to infer fraud only because boundaries of property purchased by the plaintiff's vendor are allegedly deleted by the plaintiff from the copy of sale deed filed on record by him. It needs to be stated that the suit property is

only a piece of land admeasuring around 1200 square feet, and not the entire two acres of land purchased by his vendor.

10) Apart from this the learned advocate draws attention to the boundaries of the suit plot No.88 as mentioned in the sale deed and in the plaint. In the plaint, the western boundary of the plot is stated as plot no.81, whereas in the sale deed the western boundary is described as plot No.89. This difference, at this stage, cannot lead to an inference of fraud or even failure to disclose a cause of action, it may well be a typographical error. Likewise, the difference in the area of the suit property in the sale deed and the plaint is also a typographical mistake, whereas, in the plaint the area is mentioned as 1200 square meters. Perusal of sale deed will indicates that the area of the suit plot is 1200 square feet. The area of suit plot is 1200 square feet.

11) Mr. Mandlekar, places reliance on judgment of the Madras High Court in the case of *Poppat Jamal and Sons, rep. By its Managing Partner, Mahmud Jamal Vs. N. M. Venkatachalapathy @ Babulal and anr.*, reported in *2007 (1) CTC 251* to contend that contention relating to fraud can be

entertained and adjudicated while dealing with an application under Order VII Rule 11. Perusal of paragraph 7 of the judgment will indicate that the foundation of the case of plaintiff in the said case was that, in an original application filed before a Court, an auction sale held on 02.02.1941 was revoked. However, the copy of the said proceeding indicated that the proceeding itself was dismissed and that the sale certificate was not revoked. Thus, in the said case, the allegation of fraud was apparent on the face of record and therefore case of fraud was examined under Order VII Rule 11 of the CPC, which is not so in the present case. The case of fraud will have to be proved during the course of trial in the present case. The plaint averments and documents filed on record by the plaintiff do not suggest any fraud to reject the plaint.

12) As regards cause of action, it is well settled that the term implies a fact or a bundle of facts which, if undisputed, will give rise to a plaintiff to seek appropriate relief from a Court of law in accordance with law. The plaintiff claims to be in settled possession of the suit property on the basis of

sale deed. The plaintiff will, therefore, have a right to protect his possession and seek injunction against forcible dispossession. It is well settled that a person in settled possession of immovable property is entitled to protect the same and seek injunction against dispossession without following due process of law. It is also well settled that even rightful owner of immovable property cannot disturb possession of a person in settled possession of immovable property without taking legal recourse. The plaint certainly discloses cause of action.

13) In view of the reasons recorded above, in the considered opinion of this Court, Civil Revision Applications are **dismissed**.

(ROHIT W. JOSHI, J.)

Tanmay..