



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

CIVIL REVISION APPLICATION NO.59 OF 2026

Pradeep S/o Ramchandrarao Dhote .Vs. Jama Masjid, Rajura through its President
Shri Abdul Rajik s/o Abdul Raheman Qureshi and others

AND

CIVIL REVISION APPLICATION ST. NO.8168 OF 2026

Shri Vilas Shivrao Deshpande and others .Vs. Jama Masjid Rajura and another

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

Court's or Judge's Order

CRA No.59/2026

Mr C.S. Kaptan, Sr. Advocate a/b Mr. P.K. Mohta, Advocate for petitioner.
Mr. M.P. Khajanchi, Advocate for respondents.

CRA St.No.8168/2026

Mr M.P. Khajanchi, Advocate for petitioners.
Mr. P.K. Mohta, Advocate for respondent No.2

CORAM : ROHIT W. JOSHI, J.

DATE : 27/04/2026

1. The present revision application is preferred against the order dated 05.01.2026 passed by the learned 4th Joint Civil Judge Senior Division, Chandrapur, on application at Exhibits 32 and 33 in Special Civil Suit No.178 of 2022. Rejection of plaint is sought on the ground that suit for declaration and mandatory injunction with respect to the suit property was earlier filed by the Marathwada Waqf Board and that the said suit which was registered as Regular Civil Suit No.04 of 1977, was initially decreed, however, the judgment passed in said civil suit was reversed in Regular Civil Appeal No.195 of 1985. The judgment and decree passed by the learned trial Court was reversed and the suit came to be dismissed. The judgment

passed by the learned First Appellate Court was maintained by this Court vide judgment dated 26.02.2016 passed in Second Appeal No.431 of 1994. Special Leave Petition (C) No.22158 of 2016 came to be dismissed by the Hon'ble Supreme Court vide order dated 08.08.2016. Thus, earlier round of litigation has thus attained finality between the Marathwada Waqf Board and late Dipak Shiverao Deshpande and one Hanuman Prashad Zawar, who were defendants in suit.

2. In this background, respondent No.1 has filed another civil suit, being Special Civil Suit No.178 of 2022, seeking a declaration that defendant Nos.1 to 6 (sons and daughters of defendant No.1 in the earlier civil suit) have no right or authority to execute sale deed of suit property and for an injunction restraining them from doing so.

3. The defendant Nos.1 to 6 and 7 filed two separate applications vide Exhibits 32 and 33, seeking rejection of plaint in view of dismissal of the earlier civil suit. The learned trial Court has rejected said applications vide impugned order dated 05.01.2026 on the ground that *res-judicata* cannot be invoked for rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure.

4. Mr. C.S. Kaptan, learned Senior Advocate places reliance on the judgment of this Court in the case of ***Sarjerao Dhondiba Sarode and others ..vs.. Kamal Kerubhau Pachange and others***¹, wherein, although the settled legal principle that *res-judicata* cannot be a ground for rejection

of case is reiterated, it is held that in cases where the plaintiff refers to earlier litigation and relevant documents are produced on record, Order VII Rule 11 of the CPC, may be invoked to reject the plaintiff on the ground of *res-judicata*, if a case for the same made out.

5. The defendant Nos.1 to 7 in the present suit are the legal representatives of the defendant No.1 in the earlier suit. The defendant No.7 has purchased part of the suit property from defendant Nos.1 to 6. The plaintiff has averred that it is a Waqf registered with the Marathwada Waqf Board.

6. In view of the aforesaid, issue notice to the respondents, returnable on **25.06.2026**. Notice to indicate that the revision may be heard finally at the stage of admission.

7. The petitioner is directed to serve the respondent No.1 by speed post in addition to regular mode of service and file affidavit of service before the returnable date.

8. Mr. Khajanchi, who appears in connected Civil Revision Application St. No.8168 of 2026, makes a statement that the respondent No.7 in the present revision application has expired on 02.01.2026 and that his legal representatives are not brought on record before the learned trial Court. The learned advocate has provided names of the legal representatives of deceased respondent No.7.

9. Leave is granted to bring the names of deceased respondent No.7 on record. Necessary amendment be carried out forthwith.

10. Mr. Khanjanchi learned advocate waives services of notice for the respondent Nos.2 to 6 and legal representatives of respondent No.7.

CIVIL APPLICATION NO.29 OF 2026

11. It is stated that the petitioner No.6, who is the original defendant No.6 has expired, however, his legal representatives are not brought on record in the civil suit. In the aforesaid circumstances, a prayer is made seeking leave to permit the legal representatives of deceased defendant No.6 to join the present revision application as legal representatives of petitioner No.6/(original defendant No.6).

12. For the reasons mentioned in the application, application is **allowed**.

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13. Issue notice to the respondents, returnable on **25.06.2026**. Notice to indicate that the revision may be heard finally at the stage of admission.

14. Mr. Mohta, learned advocate waives service of notice for the respondent No.2.

(ROHIT W. JOSHI, J.)