

ORDER BELOW EXH. NO. 13.
(Dated 08.04.2026.)

This is an application filed by the defendant No.1 under Order 7 Rule 11 (a) & (d) of the Code of Civil Procedure for rejection of the plaint.

2. Read application and say filed by the plaintiffs at Exhibit No. 15. Heard both sides at considerable length. Perused the record.

3. It is contended by defendant No. 1 that, the plaintiffs have instituted this suit for declaration and permanent injunction. However it is pleaded in the suit that, defendant No. 1 should be restricted from mutating his name on 7/12 extract. Mutation on 7/12 extract is legal process and as per Order 7 Rule 11(d), if the prayer is barred by any law or the prayer is against any law then the plaint should be rejected. Plaintiffs are praying to stop the process of mutation which is legal process. Therefore, the plaint should be rejected as it is barred by law. As well as it is contended by plaintiffs that, entire plaint has not disclosed cause of action therefore, plaint should be rejected.

4. Plaintiffs filed their say and they contended that, the Will of deceased Jaysing Shankar Tarse, who is the father of the plaintiff No. 1 & 2 and husband of plaintiff No.3 is bogus and defendant No. 1 is trying to mutate his name on 7/12 extract of all suit properties. The Will of deceased Jaysing Tarse is challenged and it is not made in accordance with the law. Plaintiffs are legal heirs of deceased Jaysing Tarse and without their knowledge the Will was executed which is doubtful. Witnesses on Will are relatives of defendant No. 1. Plaintiffs are totally excluded in the Will. If mutation in 7/12 extract will not be restrained, then defendant No. 1 will sell all the suit properties, therefore, he and concerned

authority should be restrained until final disposal of suit. Maharashtra Land Revenue Code does not exclude civil court from passing any order. Civil court has jurisdiction to stay the process of mutation until final decision of the case. Therefore, the application is not tenable and should be rejected.

5. Having heard both the parties it can be prime facie seen that, the relation between plaintiffs and late Jaysing Tarse is not disputed. Defendant No. 1 claiming that, suit properties are self acquired properties of late Jaysing Tarse and plaintiffs have no right to file this suit. The mutation on 7/12 extract is legal process and as per Order 7 Rule 11(d), if the suit is barred by any law then the plaint should be rejected. In the present suit whether rights of plaintiffs and defendant No. 2 are involved or not is the prime question. Late Jaysing Tarse through Will dated 14.02.2025 disposed of all his properties to defendant No. 1. Plaintiffs and defendant No. 2 are legal heirs, as per law they have right in the suit property. As per submission of the plaintiffs challenging mutation entry or restraining from mutating any entry is not legal process. Civil court has jurisdiction to restrain concerned authority from mutating any name on 7/12 extract.

6. The defendant No. 1 stated that, the entire plaint does not disclose any cause of action but on perusal of plaint the cause of action such as defendant No. 1 is trying to mutate his name on 7/12 extract via Will is mentioned. The Will dated 14.02.2025 is itself challenged and it is prayed that, it should be declared as null and void. It is the submission of the defendant No. 1 that, plaintiffs can not challenged process of law as mutating his name on 7/12 extract of suit properties. The defendant No. 1 placed reliance on the following authorities:

**1. Goa Pollution Control Board Vs. Govt. of Goa & Others.
2023(5) ALL M. R. 110**

7. It is submitted by defendant No. 1 that, rejection of plaint – no injunction can be granted preventing state board constituted under Water Act and Air Act from exercising its statutory power, plaint rejected as jurisdiction of civil court ‘barred’. It is submitted by learned advocate that, no legal process or procedure can be stopped by civil court as civil court is barred under order 7 rule 11 (d) of C.P.C. Plaint filed is clearly barred under law and no injunction could be granted against the statutory authority, thereby preventing them from exercising their statutory powers. In the present case plaintiffs want to restrain defendant No. 1 from mutating his name on 7/12 extract. Mutation on 7/12 extract is legal process and as per order 7 rule 11(d) of C.P.C., if the prayer of plaint is barred by any law, then plaint should be rejected.

8. On the other hand the plaintiffs also relied on the following authorities:

1. Ranjeet Mohite Vs. Nandita Singh & Others.

Civil Appeal No. 3252 of 2025

2. Harish Ishwarbhai Patel Vs. Jatin Ishwarbhai Patel

SLP 16483 of 2022

9. I have read carefully above cited authorities. Learned advocate of plaintiffs argued that, in *Ranjeet’s case* (cited supra) it is held that, the plaint was rejected by trial court due to technicalities but Hon’ble Supreme Court held that, it is to be ensured that, disputes involving significant property rights are decided on

merits rather than technicalities. The plaint was restored. In the present case, on perusal of plaint cause of action such as challenging of Will can be seen. Prima facie plaintiffs are legal heirs and they are stating that, some of suit properties are ancestral properties. It is prayed that, defendant No. 1 shall not alienate, transfer, mortgaged or shall not create any third party interest in suit properties. As per submission of defendant No. 1 restraining any authority from his legal duties is barred by law. Talathi or statutory authority can not be restrained from making mutation entry as per Will dated 14.02.2025. It is well settled law that, civil court has jurisdiction to declare any mutation entry as null and void.

10. Therefore, the issue is regarding restraining any authority is barred by law or not. The defendant No. 1 placed his reliance on *Goa Pollution* (Cited Supra). The facts of cited authority are different from the facts of the present case. It is well settled law that, mutation entries in revenue records are not a legal process as it does not transfer title or create any ownership. They are merely for administrative purpose. It is result of mere transfer of property for revenue records. The Hon'ble Supreme Court time and again held that, mutation does not create, extinguish or confer any right, title or interest in property but rather updates records to identify who is responsible for paying land revenue.

11. Therefore, restraining statutory authority from mutating name of defendant No. 1 on 7/12 extract is not real dispute but the Will upon which the mutation can be possible is challenged in the suit. It is also well known that, partial rejection of plaint under order 7 Rule 11 of C.P.C. is not permissible. A plaint must be rejected in its entirety or not at all. In the present suit, rights of plaintiffs are involved. Prima facie, plaintiffs are legal heirs of late Jaysing Tarse. Civil court has jurisdiction regarding challenge of Will on grounds of fraud. Plaintiffs and

defendants will get an opportunity to file their evidence. At this stage, the application needs to be rejected. Hence, I pass following order:

ORDER

1. The application is rejected.
2. Costs in cause.

Date :- 08.04.2026

(Aaditya A. Vyas)
2nd Jt. Civil Judge Junior Division,
Malshiras.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

(a) Name of the Stenographer :- S. T. Korbu

(b) Court :- 2nd Jt. Civil Judge Junior Division and
Judicial Magistrate First Class, Malshiras.

(c) Judgment/Order signed
by PO on :- 08/04/2026.

(d) Judgment/Order uploaded
on :- 08/04/2026.