



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.268 OF 2026**

M/s. Vedant Infracon ... Applicant
versus
Ganesh Balasaheb Shendkar and Ors. ... Respondents

Mr. Anurag Mishra i/by Mr. Nitesh Sancheti, for Applicant.

CORAM: N.J.JAMADAR, J.

DATE : 5 MAY 2026

ORDER :

1. Heard the learned Counsel for the Applicant.
2. This Civil Revision Application is directed against the order dated 10 February 2026 passed by the learned Civil Judge, Pune, whereby the application preferred by the Applicant – Defendant No.22 for rejection of the plaint under the provisions of Order VII Rule 11 (a), (b), (c) and (d) of the Code of Civil Procedure, 1908, came to be rejected.
3. Respondent Nos.1 to 4 – original Plaintiffs, have instituted a suit for partition and separate possession of their share in the lands bearing Survey Nos.14/7 and 14/4 admeasuring 0.39 R and 0.16 R, respectively, situated at Village Pisoli, Tal. Haveli, Dist.Pune (the suit lands) and a declaration that the sale deed dated 27 December 1995 executed in favour of Laxman Bhaguji Masal, the predecessor in title of the Defendants by Kondiba Kshirsagar, the purported landlord, is illegal, null and void ab initio, and, in turn, the sale deed



executed by Laxman Bhaguji Masal in favour of Defendant No.19, and the successive instruments executed thereafter, including the instrument dated 28 December 2013 executed by Defendant Nos.1 to 12 in favour of Defendant No.22, are illegal, null and void ab initio and for the consequential relief of cancellation of those instruments and injunction.

4. The case of the Plaintiffs is that Bhaguji Bhau Masal, the common ancestor, was the protected tenant of the suit lands since the year 1947. The name of late Bhaguji B. Masal came to be mutated to the record of rights of the suit lands as a protected tenant under Mutation Entry No.437. Consequently, on the Tiller's day, late Bhaguji became a deemed purchaser of the suit lands. An order under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 came to be passed and the name of the erstwhile landlord, Kondi @ Kondiba Mahadu Kshirsagar came to be deleted from the record of rights of the suit lands. Bhaguji Masal passed away on 17 October 1983. After his demise, the names of Laxman, Namdeo, Ramchandra and Ashok; the sons, and Chabubai and Kamalbai; the daughters, came to be mutated to the record of rights of the suit lands vide mutation entry No.1070. Yet, Laxman, the predecessor in title of Defendant Nos.1 to 12, after the demise of Chabubai on 4 February 1985, did not enter the names of the Plaintiffs, the successors in interest of Chabubai, in the record of rights of the suit lands.



5. Moreover, in the year 1989, without conducting any inquiry, the name of Kondi @ Kondiba Mahadu Kshirsagar, the erstwhile landlord, was again mutation to the record of rights of the suit lands as the holder thereof, though, late Bhaguji Masal became the deemed purchaser of the suit lands on the Tiller's day. Laxman Bhaguji Masal, with an oblique motive to usurp the suit lands in entirety, made a farce of purchase of the suit lands in his individual name under the sale deed dated 27 December 1995. The said sale deed is void ab initio. Therefore, the transferees of late Laxman and his successors in interest, have also not acquired any title to the suit lands. Hence, the suit for partition, declaration and injunction.

6. Defendant No.22, who is claims to be a bonafide purchaser for value without notice of the alleged rights, title and interest of the Plaintiffs in the suit lands, filed an application for rejection of the plaint on multiple grounds. The principal ground was that the suit for declaration qua, and the cancellation of, an instrument executed in the year 1995 was ex-facie barred by law of limitation.

7. Learned Civil Judge did not accede to the submissions on behalf of the applicant.

8. Mr. Mishra, learned Counsel for the applicant, submitted that the learned Civil Judge was clearly in error in holding that the limitation being a mixed question of law and facts, the plaint cannot be rejected on the ground



that the suit is barred by law of limitation. It was submitted that it defies comprehension that the Plaintiffs would not have been aware of the execution of the sale deed in the year 1995. Though the suit was for partition and separate possession, yet the principal prayer in the suit was that of the cancellation of the instruments executed in respect of the suit lands.

9. To buttress the submission that the plaint can be rejected if it appears to be ex-facie barred by law of limitation, especially when the challenge is to a registered instrument which in itself constitutes a constructive notice, Mr. Mishra placed reliance on a judgment of the Supreme Court in the case of **Uma Devi and Ors. V/s. Anand Kumar and Ors.**¹.

10. Undoubtedly, if in a given case it could be demonstrated ex-facie that the suit is barred by law of limitation, then the Court would be justified in rejecting the plaint on the said ground at the threshold. A useful reference in this context can be made to a judgment of the Supreme Court in the case of **Shri Mukund Bhavan Trust and Ors. V/s. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Anr.**².

11. The facts in the case of **Uma Devi and Ors. (supra)**, on which reliance was placed by Mr. Mishra, are also peculiar. In that case, the partition had taken place in the year 1968, which was evident from the revenue record. The said partition was acted upon. Thereafter, many of the family members

1 (2025) 5 SCC 198

2 2024 SCC Online SC 3844



had executed registered sale deeds in the year 1978. It was in that context, the Supreme Court held that the registered instruments constituted a constructive notice, and the suit was barred by limitation.

12. I am afraid the aforesaid pronouncement is of any assistance to the Applicant. The essence of the matter cannot be lost sight of. Incontrovertibly, Bhaguji Masal was a protected tenant in respect of the suit lands since 1947. The record of rights for the period 1945-46 clearly reveal that Bhaguji Masal was the tenant of the suit lands. On the Tiller's day, Bhaguji Masal, thus, became the deemed purchaser of the suit lands and the name of Kondi @ Kondiba Kshirsagar, the original holder of the lands, came to be subsequently deleted.. The suit lands, pursuant to the statutory deeming fiction created by the Act, 1948, stood vested in Bhaguji Masal. Conversely, the original holder had lost all right, title and interest in the suit lands. Yet, interestingly, in the year 1989, the names of the successors in interest of the landlord have been again mutated to the record of rights of the suit lands in the holders column.

13. In the case of **Sriram Narayan Medhi V/s. The State of Maharashtra**³, the Constitution Bench of the Supreme Court has enunciated that, as a result of the Amendment Act, on the 1st of April, 1957 the relationship of landlord and tenant came to an end, the landholder ceased to be a tenure-holder and the title thereto was vested in the tenants defeasible only on

³ AIR 1971 SC 1992



certain specified contingencies. The relationship of landholder and tenant was thus transformed into a relationship of a creditor and debtor, the erstwhile landlord being entitled only to recover the price fixed under the provisions of the Amendment Act in the manner provided therein under Section 32G and 32H.

14. The reinsertion of the name of the erstwhile landlord as the holder of the property in the year 1989 was, thus, in teeth of the provisions of the Act, 1948.

15. Mr. Mishra attempted to salvage the position by canvassing a submission that, rightly or wrongly, the name of the erstwhile owner was mutated to the record of rights of the suit lands and, thereafter, only Laxman Masal had purchased the suit lands from the holder thereof, under a registered sale deed dated 27 December 1995, and, therefore, the challenge to the said sale deed was clearly barred by limitation.

16. The aforesaid submission does not merit any countenance. The suit lands stood vested in Bhagoji Masal, the original tenant, on the Tiller's day by the statutory fiction. A certificate under Section 32G was purportedly granted. Thereafter, prima facie, the original landlord having been divested of right, title and interest, in the suit lands, could not have conveyed any better title in favour of Laxman Masal.

17. In the aforesaid context, it would be rather audacious to draw an



inference that the suit is ex-facie barred by law of limitation. The registered instruments, in the aforesaid context, cannot be banked upon to divest the rights, which stood vested in the tenant on the Tiller's day. The purchase could have become ineffective only in the manner provided by the provisions of the Act, 1948.

18. Resultantly, the view of the trial Court that the question whether the suit is barred by law of limitation, especially when the Plaintiffs are seeking partition and separate possession of their shares in the suit lands, appears to be justifiable. The aforesaid reasons equally dent the claim of Defendant No.22 that there was no cause of action for the institution of the suit. The Civil Revision Application, therefore, deserves to be dismissed.

19. The Civil Revision Application stands dismissed.

(N.J.JAMADAR, J.)