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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.125/2014

Rupesh Gangadhar Kashtewar
and others.

...Petitioners..

Versus

Vasant Chinnaji Totawad & others.

...Respondents...

.....

Shri P.R. Katneshwar, Advocate for petitioners.

Shri S.V. Warad, Advocate for respondent nos.1 & 2.

.....

CORAM: T.V. NALAWADE, J.

DATE: 26.11.2015

ORDER :

1] The present proceeding is filed to challenge the order made in Special Civil Suit No.9/2012 by learned Civil Judge, Senior Division, Biloli, on Exhibits 23 and 26. These applications were filed by defendant nos.2 to 5 to challenge the jurisdiction of civil Court. They contended that in view of the nature of reliefs claimed and the provisions of the Maharashtra Cooperative Societies Act, 1960, the suit in civil Court is not tenable. These applications were contested by the plaintiffs who are members of cooperative housing society. After hearing both the sides, the civil Court

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held that in view of the nature of dispute and as the defendants are not members of the society, the suit in civil Court is tenable.

2] Learned counsel for the petitioners submitted that while deciding the issue of jurisdiction, the trial Court has touched the other points, which need to be separately decided on merits.

3] It needs to be observed that for deciding the objection, only the provisions of the Maharashtra Cooperative Societies Act touching the jurisdiction could have been considered and the issue of jurisdiction could have been decided. In respect of the other reliefs claimed, there are separate issues and they need to be decided separately from the issue of jurisdiction. However, the issues in respect of rights of plaintiffs, when the suit is not filed by the society, also need to be considered by the civil Court.

4] With these observations, the revision application is disposed of as dismissed.

(T.V. NALAWADE, J.)