

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.72 OF 2014

Jaibai w/o. Shyamrao Jadhav
and anr.

..Applicants

Versus

Rajesh s/o. Panditrao Nagre
and others

..Respondents

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Mr.S.R.Deshpande, advocate for applicants

Mr.R.R.Deshmukh, advocate h/f. Mr.R.B.Deshmukh,
advocate for respondent nos.1 and 5

Mr.S.M.Gunjai, advocate for respondent nos.2, 2-A,
2-B, 3 and 4

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CORAM : M.T. JOSHI, J.

DATE : MAY 06, 2015

PER COURT :

Heard.

2] Rule. Rule made returnable forthwith.

3] The trial Court has refused to record the
settlement between the present petitioners/

plaintiffs and present respondent nos.2 to 4 on the ground that these respondents did not file written statement and compromise is against the pleadings made in the plaint.

4] Vide said compromise, respondent nos.2 to 4 have agreed to hand over the possessions of land to the petitioners/plaintiffs. Further, the present petitioners also wanted to withdraw the suit so far as respondent nos.1 and 5 are concerned.

5] The same is opposed by Mr.R.R.Deshmukh, learned counsel for respondent nos.1 and 5, on the ground that the boundaries mentioned in the compromise purshis are false and though, present respondent nos.1 and 5 are in possession of land, respondent nos.2 to 4, in collusion with the appellants are creating the record.

6] It is to be noted that the settlement between the parties in the court, is nothing but an agreement between the parties and the same shall not be binding on any persons other than the persons, who entered into the said settlement. If certain problem regarding the description is there, the same would also be a problem of those concerned parties.

7] The trial court lost sight of the fact that the compromise can be entered into even beyond the suit subject. In that view of the matter, material irregularity is committed by the trial court.

8] Hence, the following order :-

A] The order dated 22nd January, 2014 passed by learned Civil Judge Junior Division, Phulambri,

below Exhibit 30 in Regular Civil Suit No.134 of 2012 is hereby set aside.

B] Instead, the compromise purshis between the present petitioners and present respondent nos.2 to 4 is hereby recorded. Decree be passed in terms of the said compromise between the petitioners and respondent nos.2 to 4 by the trial court.

C] the suit stands disposed of in view of the withdrawal of the same as regards present respondent nos.1 and 5 without any order as to costs.

D] Present Civil Revision Application is disposed of in terms of the above order, without any order as to costs. Rule made absolute accordingly.

[M.T. JOSHI, J.]