

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.84 OF 2010

Vishwas s/o. Sonulal Sambre,
age 43 years, occ. Business,
r/o. Bhagyanagar, Old Jalna,
Tq. and Dist. Jalna ..Applicant

Versus

The State of Maharashtra
and others ..Respondents

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Mr.M.K.Deshpande, advocate for applicant

Mr.R.P.Phatake, AGP for respondent nos.1 and 2

Mr.S.M.Godsay, advocate for respondent nos.3 and 4

Mr.E.G.Irale, advocate for respondent nos.5 and 6

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CORAM : M.T. JOSHI, J.

DATE : JUNE 30, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the order of the trial Court
allowing the application of original defendant

nos.1 and 2 for dismissing the suit against them and return of plaint, present Civil Revision Application is filed.

3] Reading of the plaint would show that it is a dispute regarding partnership firm and the effect of dissolution etc. of partnership firm and the license for running a country liquor shop. The pleading would show that no claim is made against original defendant nos.1 and 2.

4] Learned counsel for the applicant points towards prayer clause "E" of the plaint, which runs as under :-

"E) Necessary direction may kindly be given to the defendant no.1 and 2 to insert the name of the plaintiff in the license of said country liquor shop situated at Georai (Masjid) Tq. Badnapur, District Jalna which is running under

license no.CL-III NO.16 as a right of member of joint family business."

5] The entire pleading, however, would show that the dispute is between plaintiff/petitioner and defendant nos.3 to 7 regarding the partnership firm and therefore, consequently, the right to hold the license. Defendant nos.1 and 2 are required to follow the law and legal order, if any, of the court. Therefore, merely because prayer clause "E" was made in the plaint, it would not make the plaint tenable so far as defendant nos.1 and 2 are concerned. It is an admitted fact that upon deletion of defendant nos.1 and 2, the suit would not lie with learned Civil Judge Senior Division, Jalna and the plaint will have to be returned for filing at proper place i.e. Civil Judge Junior Division, Badnapur.

6] The order of learned Civil Judge Senior Division, therefore, cannot be faulted with. Present Civil Revision Application is, therefore, dismissed without any order as to costs.

[M.T. JOSHI, J.]

kbp