

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 210 OF 2015

Anandrao Dnyandeo Mandhare
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Nilkanth P. Bangar, Advocate for Petitioners.
Shri D. R. Korde, A.G.P. for Respondents/State.

CORAM : S. V. GANGAPURWALA, J.

DATE : 06TH OCTOBER, 2015.

PER COURT :

. The present respondent Nos. 4 to 11 have filed suit for injunction restraining the defendants from obstructing the possession of plaintiffs along with further relief that, the order passed by the defendant No. 2 is illegal.

2. The present petitioners/defendant Nos. 4 and 5 filed an application for rejection of plaint and/or dismissal of suit U/O 7 Rule 11-D of the Code of Civil Procedure. The said application is rejected. Aggrieved thereby the present revision.

3. Mr. Bangar the learned counsel submits that, order passed by the Revenue Authority has been challenged by plaintiffs even

before the State. The application for stay is not granted. The said proceedings is pending. The suit could not have been filed in respect of said order. The learned counsel submits that, the Trial Court without considering the said aspect of the matter has rejected the application. The bar en-grafted under Section 158 of the Maharashtra Land Revenue Code, regarding the bar of jurisdiction of the Civil Court is not considered.

4. I have considered the submissions.

5. The relief of perpetual injunction restraining the defendants from obstructing the possession of plaintiffs could only be granted by the Civil Court. The suit for injunction certainly is maintainable. The main contention of the present petitioners is that relief claimed in prayer clause "B" in the plaint could not have been granted by the Civil Court. The matter is subjudice before the State Government. The plaint can not be rejected in part. Whether the Civil Court will be in a position to pass any orders with regard to the judgment delivered by the Additional Commissioner i. e. defendant No. 2 in Revision No. 510 of 2013 is a different matter altogether, which the Court would consider while deciding the suit. At this stage no such finding can be given. The parties have a right to put forth there contention in this regard at the time of the trial of the suit.

6. Considering the above, no interference is called for. Civil Revision Application is disposed of. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Oct. 15