

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

Civil Revision Application No. 208 of 2015

Vinod S/o Laxman Bhombe.

.. Petitioner.

Versus

Arvind S/o Murlidhar Aadgaonkar
And Another.

.. Respondents.

Shri. Suhash B. Ghute, Advocate, for petitioner.

CORAM: T.V. NALAWADE, J.

DATE : 16th NOVEMBER 2015

ORDER:

1) The proceeding is filed to challenge the order made by the learned Civil Judge, Junior Division, Bhokardan, District Jalna on Exhibit 28 in Regular Civil Suit No.65/2014. Heard learned counsel for the petitioner. None appeared for respondents though duly served.

2) The suit is filed by present respondent No.1, plaintiff in respect of one agricultural land. Two reliefs are claimed. He has claimed relief of declaration that sale deed dated 4-1-2014 executed by defendant No.1 Shaukat Ali in favour of defendant No.2 Vinod is null and void. The

second relief is of perpetual injunction in respect of said land to protect the possession. It is the case of the plaintiff that suit property was purchased by his father in the year 1966 from father of defendant No.1 under registered sale deed and so no right or interest is left for defendant No.1 in the suit property. It is contended that defendant No.1 joined hands with revenue authorities and due to that entry of the sale deed was not made in the revenue record. It is contended that by misusing the circumstance a suit was filed by defendant No.1 against him but the said suit was dismissed and no appeal is filed by defendant No.1 against the said decision. It is contended that only to create complications and to harass the plaintiff, defendant No.1 executed sale deed in favour of defendant No.2 in respect of the suit land and so cause of action took place for the suit.

3) Defendant No.2 Vinod filed application under Order 7 Rule 11 of the Civil Procedure Code and he prayed for rejection of plaint. He contended that suit property was Inam land of father of defendant No.1 and so before selling the property to the plaintiff, permission of

the authority like Collector ought to have been taken. It is contended that as no such permission was taken, plaintiff has not become owner of the property and so plaint needs to be rejected.

4) It is not disputed that sale deed was executed in favour of the father of the plaintiff by the father of defendant No.1 in the year 1966. It is also not disputed that suit which was filed by defendant No.1 in respect of the said land is dismissed. In view of these circumstances and as the sale deed is executed by defendant No.1 in favour of defendant No.2, the suit is filed. Relief of declaration in respect of sale deed executed in favour of defendant No.2 is claimed and relief of perpetual injunction is claimed. By any stretch of imagination it cannot be said that such reliefs cannot be granted by civil court. Thus in view of the facts and circumstances of the present case, this Court holds that there is no error in the order made by the learned Civil Judge, Junior Division.

5) In the result, the revision stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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