

Rajeev Mohan Bhingarde	...	Applicant
Vs.		
Ravindra Joma Bhagat and others	...	Respondents

CORAM : R. G. KETKAR, J.
DATE : 7TH JULY, 2015

Heard Mr. Arjunwadkar, learned Counsel for applicant at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), original defendant No.1 has challenged the judgment and order dated 06.01.2014 passed by the learned Civil Judge, Senior Division, Panvel below exhibit-34 in Special Civil Suit No.684 of 2011. By that order, the learned trial Judge rejected the application taken out by the defendant No.1 under Section 9-A C.P.C. and held that Civil Court at Panvel has jurisdiction to entertain and try the Suit.

3. In support of this application, Mr. Arjunwadkar strenuously contended that having regard to the assertions made in the plaint, and in particular paragraphs 5, 10 and 11 as also having regard to the fact that presently, vehicle in question is in Kolhapur, the Civil Court at Panvel has no jurisdiction to entertain and try the Suit. He also submitted that in view of Section 16 (f) C.P.C., since the Suit is for recovery of vehicle in question, the Suit ought to have been instituted in the Court within the local limits of whose jurisdiction the property is situate. Since the vehicle is situate in Kolhapur, Panvel Court has no jurisdiction to

entertain and try the Suit. Mr. Arjunwadkar has taken me through the plaint, application filed by defendant No.1 under Section 9-A C.P.C. as also reply filed by the plaintiffs.

4. I have considered the submissions advanced by Mr. Arjunwadkar. I have also perused the material on record. As noted earlier, defendant No.1 has filed application under Section 9-A C.P.C. challenging the territorial jurisdiction of Panvel Court. The learned trial Judge, while rejecting the application, has observed that the transaction between the plaintiffs and defendant No.1 was in respect of purchase of Mercedes Benz car. It is the case of the plaintiff that the amount was paid through Bank of Panvel. Defendants seized the vehicle from the possession of the plaintiff from Panvel. Thus, the plaintiff came with the case that the wrong is done within the local limits of jurisdiction of the Civil Court, Panvel. In paragraphs 8 to 10, the learned trial Judge considered Section 19 C.P.C. and observed that where a Suit is for compensation for wrong done to the person or to movable property, if the wrong was done within local limits of the jurisdiction of one Court and the defendant resides, or carries on business or personally works for gain, within the local limits of the jurisdiction of another Court, the Suit may be instituted at the option of the plaintiff in either of the said Courts. In other words, plaintiff has option either to institute the Suit where according to him wrong was done or where defendant resides or carries on business or personally works for gain.

5. In the present case, perusal of the pleadings of the plaintiff shows that the plaintiff has alleged that the wrong was done by the defendants by seizing the vehicle at Panvel. In view thereof, I do not find that the learned trial Judge has committed any error in holding that in view of Section 19 C.P.C., plaintiff exercised option and accordingly, instituted

the Suit in Panvel Court. In view thereof, no case is made out for invocation of powers under Section 115 C.P.C. Application fails and the same is rejected.

(R. G. KETKAR, J.)

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