

Sequeira

CIVIL REVISION APPLICATION NO. 983 OF 2014.

Mr.Shrishail Sakhare, for Applicants.
Mr.A.B.Tajane, for Respondent.

CORAM: N.M.Jamdar J.
Monday 30 March, 2015

Oral Order :

By this Revision application, the Applicants challenge the order dated 21 August 2014 below Exhibit 34 in Regular Civil Darkhast No.204 of 2013 passed by Civil Judge (J.D) Solapur.

2 The Applicants had filed a suit bearing No.400 of 2010 in the Court of Civil Judge Senior Division, Solapur seeking eviction of the Respondent from the suit premises. The suit was compromised between the parties and a compromise decree was passed on 5 October 2010. It was agreed that the Respondent will vacate the shop premises wherein he was carrying on business of a saloon for several years and had acquired a good will. It was agreed that he will be given a shop in the new building to be constructed by the Applicants, demarcated in the red portion of the map in the compromise decree. It was agreed that the Respondent would purchase the shop.

3 Thereafter the Respondent filed execution proceedings to execute the compromise decree in which the Petitioners have taken an objection which has been over ruled by the impugned order.

4 The learned counsel for the Applicants on instructions submitted that the Applicants have no objection to give shop premises to the Respondent which is described in paragraph No.4 of the Consent decree. Though in the petition, the Petitioners have stated that the Respondent will have to file a separate suit and the Darkhast is not maintainable, this issue need not be considered in view of the above statement of the learned counsel for the Applicants on instructions.

5 In view of the fact that the executing Court cannot go beyond the decree and the decree itself demarcates the property, it is obvious that the learned Civil Judge will execute the compromise decree in respect of the property which is mentioned in paragraph no.4 of the compromise decree, and not in respect of any other property. In view of this clarification, no further orders are necessary in this Revision. The Application is accordingly disposed of.

(N.M.Jamdar, J.)