

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.5617 OF 2015

Deccan Education Society.] ... Petitioner

Versus

Smt. Padma Nilkanth Shirole and Ors.] ... Respondents

Mr. R. M. Pethe for Petitioner.

CORAM :- M. S. SONAK, J.
DATE :- JUNE 24, 2015

P. C. :-

1. Not on board. Upon production, taken on board.
2. This petition challenges order dated 30/10/2013 made by the Additional Judge, Small Causes Court, Pune, permitting recasting of issues as well as directing the Plaintiff to take necessary steps to describe the suit premises/property properly in the plaint.
3. The learned Counsel for Petitioner submits that whilst the Petitioner has no objection to the recasting of issues *per se*, the Petitioner has very serious objection to the direction to the Plaintiff to take steps to describe the suit premises/property and the consequent

recasting of Issue No.1 which concerns identity of the suit premises/property.

4. The learned Counsel invited my attention to the observation in para 7 of the impugned order which reads thus :-

“7. The suit premises in this suit and in SCS No. 381/1992 is the same. However, the plaintiffs in this suit have not described the suit premises by mentioning the final plots as mentioned by the plaintiffs in SCS No.381/1992. As per Order 7 Rule 3 of the C.P Code, plaintiff has to describe the property sufficient to identify it. But if the plaintiffs failed to describe the suit premises correctly, then at the most the plaint can be returned as per Order 7 Rule 10 of C.P Code. However, the issue on that point cannot be framed.”

5. On the basis of the aforesaid, the learned Counsel contends that if there was no proper description of the suit property and the Civil Court was of the opinion that in such a situation, the plaint was required to be returned under Order 7 Rule 10 of the CPC, then, without there being any application from the Plaintiff, no such direction could have been given to the Plaintiff to correctly describe the suit premises/property.

6. In my judgment, there is no necessity to interfere with the impugned order. The impugned order neither suffers from any

jurisdictional error nor perversity of approach. Upon noticing that there is some ambiguity in the description of the suit property, if with a view to rectify such ambiguity, directions are issued to the Plaintiff to properly describe the suit property in the plaint, it cannot be said that such a direction is in excess of jurisdiction. Ultimately, this is a procedural matter and instead of contributing to multiplicity, if the Civil Court directs or permits the Plaintiff to correctly describe the suit property in the plaint, it cannot be said that such an approach on the part of the Civil Court is either erroneous or without jurisdiction.

7. For the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)