

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.383 of 2014

Pramod Sadashiv Sonavane : Applicant
versus
Smt. Ahilyabai Lahu Telam and anr. : Respondents.

Mr. Girish R Agrawal for the Applicant.
Mr. Zubin K Saiya for the Respondent Nos.1 and 2.

CORAM : R. M. SAVANT, J.
DATE : 25th February 2015

P.C.

1 The revisionary jurisdiction of this Court is invoked against the order dated 7/12/2013 passed by the learned 6th Joint Civil Judge Senior Division, Nashik by which order the learned Judge has held that it has the jurisdiction to try and entertain the suit.

2 The preliminary issue that was framed was to the following effect :-

“Whether this Court has jurisdiction to try this suit in view of bar under Section 10 of the Maharashtra Reservation of Land to Scheduled Tribe Act, 1974?

3 The Applicant herein is the original Defendant whereas the Respondents herein are the original Plaintiffs. The suit in question being Special Civil Suit No.396 of 2013 has been filed by the Plaintiffs for a

declaration that Plaintiff No.1 is the owner of the suit properties and that the name of the Defendant which has been entered in the 7x12 extract as owner be deleted, and the direction be issued to enter the name of the Plaintiff No.1 in the revenue record.

4 The Defendant and the Plaintiffs are Adivasis. The Applicant Defendant claims to have purchased the land in question and some other lands by obtaining permission of the Collector as warranted by Section 36 of the Maharashtra Land Revenue Code. In so far as the Plaintiff No.1 is concerned, it is her case that all through out she is in possession and she is not aware as to how the name of the Defendant has been recorded in the 7x12 extract. It is her case that obstruction to her possession has taken place for the first time in the year 2012. It is in view of the fact that the parties are Adivasis that the Defendant sought framing of the preliminary issue which the Trial Court has accordingly framed and which has been adverted to herein above.

5 The Trial Court considered the said issue and having regard to the fact that the reliefs sought by the Plaintiffs is neither covered by Section 9 or Section 10 of the Maharashtra Restoration of Land to Scheduled Tribe Act, 1974 and having regard to the nature of the reliefs sought in the suit i.e. the declarations which the Trial Court was of the view, could be granted only by a Civil Court, hence the Trial Court answered the said issue by ruling that it has

the jurisdiction to try and entertain the suit.

6 The learned counsel appearing on behalf of the Applicant Shri Girish Agrawal whilst assailing the impugned order sought to raise contentions which, in my view, would be available to the Defendant as a defence in the suit and which can be urged at the hearing of any application for interim relief that may be filed by the Plaintiffs, but the said contention in my view would not impinge upon the jurisdiction of the Trial Court to entertain and try the suit as the Trial Court has observed that the reliefs sought are not covered by Section 9 or Section 10 of the Maharashtra Restoration of Land to Scheduled Tribe Act, 1974. In my view, therefore, in so answering the preliminary issue that has been framed there is no error of jurisdiction committed by the Trial Court for this Court to interdict in its revisionary jurisdiction. The above Civil Revision Application is accordingly dismissed. However, the hearing of the suit in question being Special Civil Suit No.396 of 2013 is expedited.

[R.M.SAVANT, J]