

Namdeo Keruji Ubale and another	...	Petitioners
Vs.		
Anjali Raje Ajitsingh Dabhade and others	...	Respondents

CORAM : R. G. KETKAR, J.
DATE : 8TH JULY, 2015

Heard Mr. Patil, learned Counsel for petitioner.

3. The learned District Judge while allowing the appeal has observed in paragraphs 8 and 11 to 13 that plaintiff No.1 claims to be in possession of 30 Gunthas out of total area of 1 H, 82.4 R of Survey No.601 of Mouje-Paud, Taluka-Mulshi, District-Pune. Mr. Patil submitted that plaintiff No.2 is in possession of area admeasuring 100 Gunthas i.e. 2 Acres 20 Gunthas. Perusal of the plaint as also the observations made by the learned District Judge in paragraphs 8 and 11 to 13 shows that plaintiff No.1 came with the case that he is in

possession of 30 Gunthas. It is, therefore, not possible to accept submission of Mr. Patil that plaintiff No.2 is in possession of 2 Acres 20 Gunthas. What is contended in paragraph 3 of the plaint is that plaintiff No.1 is in possession of 30 Gunthas and the other heirs are in possession of 2 Acres 20 Gunthas. It is not specifically pleaded that plaintiff No.2 is in possession of 2 Acres 20 Gunthas.

4. While allowing the Appeal, the learned District Judge observed in paragraphs 12 and 13 that it is incumbent on the part of the plaintiffs to mention boundaries of 30 Gunthas land on which they are claiming possession. By taking recourse to survey number or gat number, area of 30 Gunthas claimed by the plaintiff cannot be identified. In view of Order VII, Rule 3 of the Code of Civil Procedure, the Court will not be in a position to pass effective order for want of appropriate identity of any immovable property.

5. In view of the reasons given by the learned District Judge in paragraphs 12 and 13, I do not find that the learned District Judge has committed any error in passing the impugned order. Hence, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed. Liberty is reserved to the petitioners to file application for amending the plaint. If such application is taken out, all the contentions of respondents, including maintainability of such application, are kept open. Order accordingly.

(R. G. KETKAR, J.)