

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 970 OF 2015**

Nisar Musa Inamdar & Ors.

..Petitioners

Vs.

Farooq Musa Inamdar & Ors.

..Respondents

Ms Tejasweeta Kadam for the Petitioners

**CORAM : R. M. SAVANT, J.
DATE : 3rd FEBRUARY, 2015**

P.C.

1 The Defendant Nos.13 to 18 in the Suit in question being Regular Civil Suit No.69 of 2012 are taking exception to two orders i.e. the order dated 9-8-2012 and the order dated 8-7-2014 passed by the Learned 4th Joint Civil Judge Junior Division and JMFC, Baramati. By the first order the application Exhibit 236 came to be allowed and by the second order the application Exhibit 246 for review of the said order, came to be rejected.

2 In so far as the application Exhibit 236 is concerned, the same was filed for deletion of Gat No.206 from the suit properties in the said Regular Civil Suit No.69 of 2012. The Plaintiff sought deletion of the said property on the ground that the Plaintiff has no claim in respect of the said property. The Trial Court accordingly has allowed the said application by order dated 9-8-2012 by accepting the pursis and passing the said order. The Defendant Nos.13 to 18 thereafter have filed the instant application Exhibit 246 seeking review of

the said order. The review of the said order was sought on the ground that the said Defendants were not heard or were not given an opportunity prior to the passing of the said order dated 9-8-2012. The Trial Court has rejected the said application Exhibit 246 by the impugned order dated 8-7-2014.

3 In so far as the aspect of the Defendant Nos.12 to 18 being not given an opportunity is concerned, the Trial Court adverted to the fact that its predecessor had called for say from the Defendants and it is only the Defendant Nos.6 to 10 who had filed their say vide Exhibit 237, to the said application. However the Defendant Nos.13 to 18 had not filed their say. The Trial Court also adverted to the fact that the said application i.e. pursis was filed on 5-7-2012 and was decided on 9-8-2012 and it was therefore pending for hearing on 24-7-2012 and thereafter on 9-8-2012. The Trial Court further observed that the Defendant Nos.13 to 18 have also signed 8 sale deeds in respect of the portions of the land of the said Gat No.206. However it is their case that they have been cheated. The Trial Court was therefore of the view that it is open for the Defendant Nos.13 to 18 if they are so aggrieved by the conduct of the Defendant Nos.1 to 5 to file appropriate proceedings against the said Defendants. However, that cannot be a ground to review the order dated 9-8-2012 passed by the Trial Court allowing the said application Exhibit 236.

4 In my view, the reasons mentioned by the Trial court for rejecting

the said application Exhibit 246 are unexceptional having regard to the facts and circumstances as mentioned above. Hence no case for interference in the Writ Jurisdiction of this court is made out, the Writ Petition is accordingly dismissed.

5 Needless to state that if any independent proceedings are filed by the Defendant Nos.13 to 18, the same would be considered by the concerned Courts on their own merits and in accordance with law.

[R.M.SAVANT, J]