

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL REVISION APPLICATION NO.127 OF 2013

Shri Dhanraj S/o Motiramji Ghatale

..vs..

Shri Vinod S/o Devidas Tasre

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

None appears for the applicant.

Shri N.R. Saboo, counsel for the non-applicant.

CORAM : A.P. BHANGALE, J.

DATE : JUNE 12, 2015.

Heard.

Heard submissions advanced on behalf of the non-applicant. None appears for the revision applicant.

It appears that earlier this revision application was dismissed by order dated 30.4.2014. Later on, it was restored on 24.2.2015 and learned Shri Saboo, learned counsel, had waived service. Thereafter, no one appeared on behalf of the revision applicant although according to Shri Saboo, learned counsel, revision applicant is represented by three Advocates viz. Shri A.M. Mahajan, Shri A.G. Ramteke, and Shri H.B. Deshpande.

The grievance of the revision applicant appears that the learned trial Judge refused to

.....2/-

reject the plaint under Order VII Rule 11 of the Code of Civil Procedure. At the instance of the defendant in the suit, there is no dispute that the plaintiff had approached under Section 5 of the Mamlatdars' Courts Act, 1906 and a provisional order was passed which according to Shri Saboo, learned counsel, is for the time being. In view of Section 22 of the Act, such orders in respect of actual physical possession or restoration thereof are temporary in nature as they are always subjected to orders passed by the competent civil court. That being so, merely because the learned trial Judge directed the defendant in the suit to advance arguments on adjourned date without fail, it does not mean that any serious prejudice is caused to either of the parties in RCS No.51 of 2013 which is pending in the trial court for decision according to law. All questions relating to claim in the suit such as right of way, right to possession are questions to be decided by the competent civil Court finally between the parties to the suit. The forum of Mamlatdars' Courts has limited jurisdiction until an order is passed by the competent Court regarding right to possession in the pending civil suit.

Considering above, when the civil suit is

.....3/-

pending for appropriate orders to be passed by the competent civil Court and merely because the suit is adjourned to be advanced by the defendant, *prima facie* there would be no ground which may warrant interference by this Court to exercise revisional jurisdiction as contemplated under Section 115 of the Code of Civil Procedure. The revisional jurisdiction is to be the exceptional exercise to ensure that the orders are passed by the competent civil Court within its jurisdiction without exceeding the limits of jurisdiction and in accordance with.

In the order impugned, I do not find anything to indicate that the impugned order is illegal or contrary to law so as to warrant interference of revisional jurisdiction. That being so, the revision application is rejected. There shall be no order as to costs.

JUDGE

!! BRW !!

...../-