

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.2563 OF 2016

Sukhdeo Shankar Bhil Vs. Sumanbai Popat Patil

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
Mr.V.B.Patil, advocate for the petitioner.	

CORAM : S.V.GANGAPURWALA, J.

Date : 18.04.2016.

PER COURT :

1. Heard.
2. Mr.Patil, learned counsel for the petitioner states that the orders are passed by the authorities U/s 36A of the Maharashtra Land Revenue Code. Even the Respondent-plaintiff filed Writ Petition in this Court. In light of that, the trial Court would not have entertained the suit for injunction. Moreover, the petitioner is also not in possession of the property in view of the steps taken in the proceedings U/s 36A of the Maharashtra Land Revenue Code. According to the learned counsel, when an application for framing of preliminary issue U/s 9-A of the C.P.C was filed, the Court ought to have framed the preliminary issue of jurisdiction.

3. I have considered the submissions. The suit filed by the Respondent-plaintiff is for a limited purpose i.e. the plaintiff shall not be dispossessed without due process of law. The suit is not seeking any relief of declaration. The proceedings U/s 36A of the Maharashtra Land Revenue Code, can proceed further. There is no impediment for it. The contention of the present petitioner that pursuant to the proceedings U/s 36A of the Maharashtra Land Revenue Code, the present Respondent-plaintiff is not in possession can be considered by the trial Court while adjudicating the suit on merits. However, the Civil Court can consider the relief which is claimed. It is another thing whether the plaintiff on merits is entitled for the relief or not, that will depend upon the factual merits of the matter. As the suit is for limited purpose, that the plaintiff shall not be dispossessed without due process of law, the question of jurisdiction may not arise.

4. The Writ Petition is disposed of. No costs.

(S . V . GANGAPURWALA, J .)

Dt.18.04.2016.
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