

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

CIVIL REVN. APPLICATION NO. 271 OF 2011

Alim abdul Rehman Shaikh & ors.

All residents of Badrakali, Old Nashik. ... Applicants

v/s

Shri Madhukar Patilbua Shinde & ors. ... Respondents

Mr.Sandeep Shinde for the applicants.

Mr.Ravi Shinde i/by S.M.Gorwadkar for Resp. Nos.1 to 12.

Coram: N.M. Jamdar, J.

Dated: 6 October 2016

P.C.:

By the impugned order, the learned Civil Judge has rejected the application filed by the Applicants under Order 7 Rule 11 of the Code of Civil Procedure. The impugned order is passed on 24 November 2010, and for the last six years the revision application is pending. There is no interim order staying the proceedings in the suit and, therefore, the suit has substantially proceeded. The learned Civil Judge has taken a view that the plaint cannot be rejected under Order 7 Rule 11 of the Code of Civil Procedure. For this purpose, the learned Civil Judge has gone through the plaint which is filed by the

Respondent/Plaintiff.

2 Considering the fact that the revision application is pending for the last six years and that no interim orders are passed in this revision application, I am not inclined to entertain the challenge to the impugned order when the suit has substantially proceeded. In any case, the learned Civil Judge has only held that an application under Order 7 Rule 11 of the Code of Civil Procedure cannot be entertained. In case, at the time of hearing of the suit the learned civil Judge finds that the suit is barred under the provisions of Order 2 Rule 2, after the evidence is so led, it will be open to the learned Civil Judge to take up that issue for consideration after hearing both sides. In view of this clarification, no further orders are required to be passed. The revision application is disposed of.

(N. M. Jamdar, J.)