

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

CIVIL REVISION APPLICATION NO. 157 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Shrishailya S. Deshmukh for the Applicant.
Mr. Rahul D. Matkari for Respondent No.1.
Mr. S.D. Shinde for the Respondent Nos. 2 to 7.

**CORAM : K. K. TATED, J.
DATED : 28/11/2016**

PC.:

. Heard learned Counsel for the parties.

2 By this Civil Revision Application, the plaintiff is challenging the order dated 10.07.2013 passed below Exh. 119 by 7th Joint, Civil Judge Senior Division, Nashik in Special Civil Suit No. 199 of 2009 allowing Defendant No.1's application for transposing Defendant Nos. 8 and 9 as Plaintiffs.

3 In the present proceeding, the plaintiffs filed Special Civil Suit No. 199 of 2009 for cancellation of Sale Deed dated 22.07.2008 and other reliefs. The Plaintiff Nos. 1 to 6 and Defendant Nos. 8 and 9 the owners of the suit property. Plaintiff Nos. 1 to 6 executed Power of Attorney in favour of Defendant Nos. 8 and 9 for the suit property. Pursuant to the said power of Attorney, Defendant Nos. 8 and 9 executed Power of attorney in favour of Defendant

no.1. Pursuant to the said power of attorney, Defendant No.1 sold suit property to Defendant No.7 by Registered Sale Deed dated 22.07.2008. In that suit, Defendant No.1 preferred Application below Exh.119 for transposing Defendant Nos. 8 and 9 as Plaintiffs on the ground that Defendant Nos. 8 and 9 supporting the Plaintiffs being the co-owners of the Suit property. Considering this fact, the Trial Court allowed Defendant No.1's application below Exh.119. Hence, the present Civil Revision Application.

4 The learned Counsel for the Applicants original plaintiffs submits that the Trial Court erred in coming to the conclusion that Defendant No.1 has made out case for allowing the Application below Exh. 119. He submits that there is no provision under C.P.C. particularly in Order I Rule 10 to pass such type of order. He submits that till today Defendant Nos. 8 and 9 have not filed their written statement. Before filing written statement, the Trial court erred in coming to the conclusion that Defendant Nos. 8 and 9 support the Plaintiffs and because of that other Defendants' right may affect. On the basis of these submissions and the ground raised in Civil Revision Application, the Plaintiffs submit that the impugned order passed by the Trial Court allowing Defendant No.1's application below

Exh.119 is required to be set aside.

5 On the other hand, the learned Counsel for the Defendants No.1 as well as Defendant Nos. 2 to 7 vehemently opposed the present Civil Revision Application. They submit that the Trial Court has fairly considered the fact on record that though, plaintiffs filed suit for setting aside the registered Sale Deed, they made some of the co-owners as Defendant Nos. 8 and 9. Hence, there is no question of interfering the impugned order passed by the Trial Court.

6 I heard both the sides at length. It is to be noted that in the present proceeding, the interest of plaintiffs as well as Defendant Nos. 8 and 9 is one and the same. The Plaintiffs executed Power of Attorney in favour of co-owners i.e. Defendant Nos. 8 & 9 and thereafter, Defendant Nos. 8 & 9 executed the Power of Attorney in favour of Defendant No.1. If some of the co-owners remained as Defendants in the suit, then definitely it will affect the interest of the other defendants.

7 Considering these facts, I do not find any reason to interfere in the well reasoned order dated 10.07.2013.

8 Hence, Civil Revision Application stands rejected.

(K.K.TATED, J.)