

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

CIVIL REVN. APPLN. NO. 1155 OF 2014

Shri Sudhir Shrirang Sonawane & anr.	... Applicants
v/s	
Baidabai Bhikaji Londe	
(deceased, through Lrs) & ors.	... Respondents

Mr.Ashish Pawar i/by Amit Karande for the applicants.

Mr.Manoj Badgujar i/by Abhijeet Kulkarni for Resp.Nos.1 (A), 1 (B) and 2.

Coram: N.M. Jamdar, J.

Dated: 23 September 2016

P.C.:

By this revision application, the Applicants have challenged the order passed by the learned Civil Judge, Senior Division, Baramati, disposing of the application taken out by the Applicants/Defendants under Order 7 Rule 11 (a) and 11 (d) of the Code of Civil Procedure. The Applicants had sought to contend that the suit is not maintainable as it is time barred and also that all properties are not brought in common hotchpotch.

2 The impugned order is passed on 29 October 2014. The application which is filed in the year 2014, has remained pending. Perusal of the farad-sheet shows that it has been adjourned from time

to time. In the circumstances, I am not inclined to adjourn the hearing of the revision application any further as sought for. The learned Civil Judge has, after considering the facts and circumstances, has come to the conclusion that the issues raised by the Applicants are mixed questions of law and fact and at this stage, at the threshold, the plaint cannot be rejected and the matter needs to be decided on merits. The learned Civil Judge has opined that the objections raised by the Applicants will be considered on merits after the evidence is led by the parties. Therefore, the contentions raised by the Applicants are not foreclosed but are only deferred by the learned Civil Judge. The learned Civil Judge, upon consideration of the material, is well within his jurisdiction to take such a decision. Since there is no jurisdictional error, no interference in the impugned order is warranted.

3 The civil revision application is rejected. All contentions of the parties on merits are kept open.

(N. M. Jamdar, J.)