

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO.1756 OF 2016
IN
MISC. CIVIL APPLICATION ST. NO. 18147 OF 2016
IN
CIVIL REVISION APPLICATION ST. NO. 7274 OF 2016
(NILKANTH BALIRAM BELORKAR...VS.. DEEPAK BALIRAM BELORKAR)

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

Court's or Judge's orders

Shri A.S.Dhore, Advocate for Applicant.

CORAM : Z.A.HAQ, J.
DATED : OCTOBER 19, 2016.

Leave to carry out correction in the application.

As the registration of the Civil Revision Application was refused for not removing the office objections, without issuing notice to the non-applicant and accepting the reasons given in the application, delay of 62 days in filing the application for restoration of revision application is condoned.

The civil application is allowed.

MISC. CIVIL APPLICATION ST. NO.18147/2016.

For the same reasons recorded above, the order passed by the learned Registrar (Judicial) on 21st June, 2016 is set aside and Civil Revision Application is restored.

CIVIL REVISION APPLICATION ST.NO.7274/2016.

Taken up for hearing on admission.

The applicant/ defendant has challenged the order passed by the trial Court rejecting application (Exh.28) filed by the defendant under Order 7 Rule 11 of the Code of Civil Procedure.

The plaintiff has filed civil suit praying for decree for declaration that the plaintiff has preferential right to purchase the suit property. In this civil suit the defendant filed application (Exh.28) contending that the plaintiff does not have cause of action against the defendant and as the suit property is worth Rs.1.5 crores, the Court of Civil Judge Junior Division cannot try the civil suit. This application is rejected by the trial Court recording that the averments in the plaint are required to be considered at this stage and the pleadings are there to the effect that the plaintiff is having preferential right to purchase the suit property and the cause of action is also disclosed in the plaint.

As far as other ground is concerned, the learned trial Judge has not adverted to it perhaps because the defendant has not placed any material on record to substantiate the contention that the value of the suit property is about Rs.1.5 crores. The learned trial Judge has kept this point open for consideration.

I find that the impugned order does not suffer from any patent illegality or irregularity and it cannot be said

that the learned trial Judge has failed to exercise the jurisdiction vested in him. In my view, the impugned order does not require any interference in revisional jurisdiction.

The civil revision application is dismissed. No costs.

The applicant/ defendant will be at liberty to make appropriate application before the trial Court for considering his objections at appropriate stage and if necessary by framing preliminary issue and trying it, if the trial Court is satisfied regarding that.

JUDGE

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