

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3842 OF 2017

Sandeep Nana Patil & Anr.

... Petitioners

Vs.

Shivaji Dadu Patil & Anr.

... Respondents

Mr. Sandeep S. Koregave, Advocate for the petitioners.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 21st April, 2017.

P.C.:

The Writ Petition filed by the petitioners/defendants under Article 227 of the Constitution of India is directed against the order dated 4th November, 2016 passed by the Civil Judge Junior Division, Radhanagari, District Kolhapur. The respondents/plaintiffs have filed the suit for simplicitor injunction and in that, the petitioners/defendants have filed an application under Order 7 Rule 11 of Code of Civil Procedure on the ground that cause of action is not made out and secondly the suit is not maintainable under the law.

2. The learned counsel for the petitioners submitted that the suit land involve the issue under the Bombay Prevention of Fragmentation and Consolidation of Holding Act, 1947 and therefore,

it is barred under the law. He further submitted that cause of action is not properly made out.

3. In order to ascertain the maintainability of the suit, the Court has to go by the averments and pleadings in the plaint. There is specific mention about cause of action and respondents/plaintiffs seek relief of injunction simplicitor. Perused the impugned order of the learned Civil Judge Junior Division, Radhanagari passed below Exhibit 16. The reasons given in the order cannot be faulted with. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)