

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.173 OF 2018
(Shantilal s/o Nandlal Agrawal Vs. Raosaheb Khiraji Bhapkar)

Mr.V.A.Bagal, Advocate for the applicant.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 30/10/2018

PER COURT :

1. The applicant/original defendant is aggrieved by the order dated 27/06/2018 by which the Trial Court has rejected application Exh.24 filed by the defendant seeking rejection of the plaint.

2. Grievance is that the plaintiff Raosaheb does not have the locus-standi to institute RCS No.29/2016 as he is not authorised to institute the suit on behalf of Khiraji. It is further contended that the text between line Nos.11 to 17 on page No.4 of the Power of Attorney document would indicate that Raoshaeb cannot file the suit on behalf of Khiraji.

3. I find that though the petitioner has not invoked any specific clause of the Code of Civil Procedure for seeking a judicial order below Exh.24, the same is apparently filed for rejection of the plaint

which is to be considered under Order VII rule 11 of the CPC. Neither the executant Khiraji nor the Executee Raosaheb have expressed any grievance before the Trial Court as regards the utilization of the power of attorney in filing the suit. It is also not the case of the petitioner/defendant that the executant has either withdrawn or cancelled the power of attorney. In this backdrop, I do not find that the Trial Court could be faulted for having passed the impugned order, which cannot be branded as being perverse or erroneous.

4. This petition being, devoid of any merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)