

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 354 OF 2015

Jamea Madintul Ulum Education Society & Anr. Applicants

VERSUS

Patan Taluka Janata Sah.Kukut

Palan Vyavasaik Sanstha Maryadit & Ors. Respondents

Mr.Vaibhav Gaikwad for the Applicants.

CORAM : R.D. DHANUKA, J.

DATE : 11th SEPTEMBER, 2018

P.C.

By this civil revision application under section 115 of the Code of Civil Procedure, 1908 the applicants have impugned the order dated 2nd May,2015 passed by the learned Joint Civil Judge, Junior Division, Patan rejecting the application filed by the petitioners under Order 7 Rule 11 of the Code of Civil Procedure, 1908 on the ground that the suit was barred by the provisions of law and on the ground that the trial court has no jurisdiction to try and decide the suit.

2. The learned counsel for the applicants placed reliance on section 103(5) of the Maharashtra Co-operative Societies Act, 1960 in support of his submission that since the liquidator was in possession of the property and since the plaintiffs had alleged that the possession was not handed over, the suit was barred under section 103(5) of the Act.

3. Insofar as defendant nos. 2 and 3 are concerned, they are claiming to have purchased the said property. In my *prima facie* view,

section 103(5) of the Maharashtra Co-operative Societies Act, 1960 thus would not be attracted. The learned trial judge has rightly rejected this contention of the defendant nos. 2 and 3 in the said application filed under Order 7 Rule 11 of the Code of Civil Procedure, 1908.

4. Insofar as issue of jurisdiction is concerned, the learned trial judge in my view for the reasons recorded in the order has rightly rendered a finding that the learned Civil Judge has jurisdiction to try the suit filed by the original plaintiffs. The suit does not fall under any of the provisions of the Maharashtra Co-operative Societies Act, 1960.

5. In my view, there is thus no merit in this civil revision application and is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]