

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 11774 OF 2015

Mahadeo Anna Jadhav & Anr. ... Petitioners
Vs.
Khanderao Ramchandra Jadhav & Ors. ... Respondents

Mr. Pratap Patil, Advocate for the petitioners.
Mr. Vinod P. Sangvikar, Advocate for respondent no. 3.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 31st July, 2018.

P.C.:

Rule. Rule made returnable forthwith. By consent, the Petition is heard finally and disposed of at the stage of admission.

2. This Writ Petition is directed against the order dated 27th August, 2015 passed by the learned Principal District Judge, Sangli thereby rejecting the Application of the petitioners/original plaintiffs filed for transfer of Regular Civil Suit No. 1 of 2013 from the Court of Civil Judge Junior Division, Islampur to the Court of Civil Judge Senior Division, Islampur where Special Civil Suit No. 22 of 2014 filed by the petitioners is pending.

3. The learned counsel for the petitioners has submitted that the petitioners have purchased a suit property in the years 1977 and

1980 by two sale deeds from the vendor, who is the predecessor of present vendor/respondent no. 2 in this petition and respondent no. 2 has subsequently sold the same suit property to respondent no. 1 so the petitioners filed Regular Civil Suit No. 1 of 2013. It is pending before the Court of Civil Judge Junior Division, Islampur. In the said suit, the petitioners have prayed the relief of injunction, declaration and possession. The petitioners found that same suit property is sold by one of the family members of the vendor/respondent no. 2 to wife of respondent no. 1 and, therefore, they filed another Suit, i.e., Special Civil Suit No. 22 of 2014 for declaration, injunction and possession. The learned counsel submitted that in both the suits, the property is the same. In both the suits, they claim relief of possession on the basis of two sale deeds of the years 1977 and 1980 and challenges subsequent transaction between the vendor/respondent no. 2 and subsequent purchasers, who are respondents.

4. The learned counsel for the respondents supports the order passed by the learned Principal District Judge, Sangli rejecting the said Application under section 24 of the Code of Civil Procedure. He submitted that the reliefs prayed are different and hence, the Petition

be dismissed.

5. Perused the plaint in both the suits. Considering the nature of the suits, relief prayed and the parties involved in the suits, I am of the view that Regular Civil Suit No 1 of 2013 is to be transferred to the Court of Civil Judge Senior Division, Islampur where Special Civil Suit No. 22 of 2014 is pending. If the suits are decided by two different Courts and contrary orders are passed, it will create anomaly. Hence, the order dated 27th August, 2015 passed by the learned Principal District Judge, Sangli is hereby set aside. Regular Civil Suit No. 1 of 2013 is transferred to Civil Judge Senior Division, Islampur. The trial Court to proceed. Both the suits be expedited.

6. Writ Petition is allowed.

(MRIDULA BHATKAR, J.)