

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No. 308 OF 2013

Pradip Baburao Kadappa & Anr. ... Applicants

Vs.

Ramchandra Appa Sutar (Decd.)
through LRs. Indumati R. Sutar & Ors. ... Respondents

Ms. Prabha Badadare, Advocate for the applicants.

Mr. Gajanan M. Savagave, Advocate for respondent nos. 1(1) to 1(3).

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **30th July, 2018.**

P.C.:

In this Civil Revision Application, the order dated 3rd November, 2012 passed by the learned Civil Judge Junior Division, Ichalkaranji below Exhibits 99 and 102 in Regular Civil Suit No. 271 of 2003 is challenged.

2. For the sake of convenience, the parties are addressed as per their original status. The present applicants are original defendant nos. 1 to 2, respondent No. 5 is a plaintiff and respondent No. 1 is the main contesting party, who was subsequently added as defendant No. 6. The plaintiff has filed the suit for simplicitor injunction that no third party is to be created in the suit property. Defendant No. 6 filed an application under Order 1 Rule 2(10) of he

Code of Civil Procedure and thereafter he was impleaded as party-defendant No. 6. The plaintiff and defendant nos. 1 and 2 filed pursis on 15th June, 2012 that they have settled the matter amicably out of the Court and so the plaintiff is not interested in proceeding with the suit, hence the suit is to be dismissed. Defendant No. 6 moved the Application resisting the said withdrawal on the ground that defendant No. 6 has purchased 36R of the land and his residential property is in the said land and it is a collusive withdrawal. Defendant No. 6 prays that he is to be transposed as plaintiff and order of withdrawal is not to be passed. After hearing the parties, the learned Judge of the trial Court has passed a well reasoned order and allowed defendant No. 6 to be transposed as plaintiff after payment of necessary Court fees.

3. The learned counsel for the petitioner has submitted that the order dated 3rd November, 2012 passed by the trial Court is illegal, as respondent No. 1 has already filed similar suit earlier and therefore, he is challenging the said order.

4. The learned counsel for the respondents opposed this Civil Revision Application.

5. The learned trial Judge has considered the submissions elaborately. No illegality is found in the order passed by the trial Court. Hence, no interference is called for. The order of the trial Court is maintained. Civil Revision application is dismissed. The trial Court to proceed.

(MRIDULA BHATKAR, J.)