

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL REVISION APPLICATION No.60 OF 2016**

Deodhar Holiday Resorts Pvt. Ltd. & Ors. ... Applicants

Vs.

Shri Rajendra Govind Deodhar & anr. ... Respondents

Mr.S.D. Patil I/b A.P. Amin for the Applicants  
Mr.N.Y. Chavan for the Respondent Nos.1 & 2

**CORAM: Mrs.MRIDULA BHATKAR, J.  
DATED: JULY 30, 2018**

**P.C. :**

1. This Civil Revision Application is directed against the judgment and order dated 21.2.2015 passed by the 2<sup>nd</sup> Joint Civil Judge, Senior Division, Satara, while passing order below exhibit 66 in Special Civil Suit No.272 of 2011. The application is filed by defendant No.1 and 3, who are the applicants before this court, for dismissal of the suit for want of *locus standi* of the plaintiff and also for rejection of the plaint under Order 7 Rule 11(d) of the Civil Procedure Code.

2. The applicants are the original defendant Nos.1, 2 and 3. Applicant No.1 is a company and Applicant No.2 is the defendant No.1. Respondent Nos.1 and 2 are the original plaintiffs. The

original plaintiffs are the shareholders of the company and they have challenged the sale deed dated 12.3.2010 which was executed by the present applicant No.2 in favour of applicant No.3 in respect of immovable property which belonged to applicant No.1 company. He submitted that the Respondents/plaintiffs are not parties to the impugned sale deed and, therefore, have no interest, right and no locus to challenge the said sale deed. He further submitted that a shareholder has no interest or right in the property of the company because he has no right in the assets of the company. He cannot participate in the administration of the company matters and he acquires only a right to participate in the profits of the company and, therefore, the plaintiff has no locus to file suit. He further relied on section 31 of the Specific Relief Act and has submitted that when he is not party to the agreement, this is not going to affect him in any way and this suit cannot be entertained u/s 31 of the Specific Relief Act. In support of his submission, he relied on the judgment of **Bacha F. Guzdar vs. Commissioner of Income Tax, Bombay**<sup>1</sup>. The learned Counsel, therefore, submitted that the order of the trial Court is to be set aside.

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1 AIR 1955 SC 74

3. Learned Counsel for respondent Nos.1 and 2 while opposing this application has pointed out that the applicants have earlier filed Appeal from Order wherein their application under Order 7 Rule 10 of Civil Procedure Code was rejected by the trial Court. In Appeal from Order No.489 of 2013, this Court has held that the civil Court has jurisdiction to try and entertain the suit. He relied on the plaint and the prayers therein. He supported the order passed by the trial Court.

4. Perused the plaint and the prayers. The plaintiffs claim themselves to be Directors of the company. The status of a Director may be questionable, however, section 31 does not put any limitation for the plaintiffs to file a suit in view of the facts of the case. The plaintiffs are undoubtedly one of the shareholders and they are challenging the sale deed, disposing of the property, which is executed by defendant Nos.1 and 3 company in favour of one of the Directors i.e., defendant No.2, at a very low value which is much less than the market value. The prayer for cancellation of the sale deed can be attended to very well by the civil Court and such declaration can be given by the civil Court as some fraud or misrepresentation is claimed. A similar objection was raised in

respect of the competency of the civil Court in Appeal from Order No.489 of 2013 wherein by order dated 20.11.2013, this Court has held that *“The Company Law Board, in my view, in view of above facts, is not in a position to declare the sale deed null and void and/or to pass any consequential order. .... The Civil Court at Satara is the Competent Court to grant the prayers so made. The pendency of other proceedings before any other forum in no way sufficient to deny the jurisdiction of Civil Court at Satara.”*

5. I am of the view that whatever submissions are made by the learned Counsel on the ground of section 31 of the Specific Relief Act and the locus of the plaintiffs, cannot be appreciated and not sustainable in law. The learned Counsel has submitted that u/s 43 of the New Company Law, the jurisdiction of the civil Court is barred. This issue is not mentioned either in the written statement or was agitated before the civil Court. Therefore, this court will not consider this objection.

6. In the case of **Bacha F. Guzdar vs. Commissioner of Income Tax, Bombay (supra)**, the Supreme court while deciding the issue of direct taxation and agricultural income, has observed that the shareholder has only a right to participate in the profits of

the company and the company is a juristic person and is distinct from the shareholders. This ratio laid down by the Full Bench of the Supreme court is still a good law. However, this is not helpful to the case of the applicants.

7. In the circumstances of the case, the Civil Revision Application is dismissed.

**(MRIDULA BHATKAR, J.)**