

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.418 OF 2017

Lakhan B. Mandhyan & Ors.	 Applicants
V/s.	
Jitendrasingh Kashmir Singh Nile & Ors.	 Respondents

Ms. Ashwin Poojari, i/by M/s. Vimadalal & Co., for the Applicants.

Mr. Yatin R. Shah for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 2ND APRIL 2018.

P.C. :

1. Heard Ms. Poojari, learned counsel for the Applicants, and Mr. Shah, learned counsel for the Respondents.

2. By this Revision Application, filed under Section 115 of the Code of Civil Procedure, 1908, the Applicants are challenging the order dated 10th March 2017 passed by the 4th Joint Civil Judge, Junior Division, Ulhasnagar, below the application at "Exhibit-14" in Regular Civil Suit No.240 of 2014.

3. The application at "Exhibit-14" was filed by the present Applicants, who are Defendant Nos.3 to 7, for striking off the pleadings of the

Respondents-Plaintiffs, under order 6 Rule 16 r/w. Section 151 of the CPC, and also for passing 'Decree' on admission, under Order 12 Rule 6 r/w. Section 151 of the CPC.

4. As a matter of fact, the very prayers made in the application; one for striking off pleadings and another for passing 'Decree' on admission, are self-contradictory. Moreover, the impugned order passed by the Trial Court goes to show that the Trial Court has considered all the aspects, which are raised by the Applicants in the said application, for striking off pleadings and also for passing the 'Decree' on admission. The Trial Court has also noted that the averments made in the plaint are required to be considered and on the basis of the said averments, the Respondents-Plaintiffs have pleaded about rejecting the appeal filed against the bogus Sanad. Merely on that count, it cannot be said that the Respondents have admitted the said Sanad. On the contrary, the Respondents have claimed a declaration that the Sanad be declared as illegal and bogus.

5. In view thereof, the Trial Court has rightly exercised its discretion in rejecting the said application. All these questions being the issues of facts, they can be properly considered only at the time of final hearing of the Suit and not at this interim stage. There is nothing on record either to pass the 'Decree' on admission or to strike off the pleadings.

Therefore, there is no jurisdictional error committed by the Trial Court in rejecting the said application. Hence, no interference is warranted in this Revision Application.

6. The Revision Application stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]