

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**  
**NAGPUR BENCH : NAGPUR**  
**Civil Revision Application No. 136 of 2017**  
**[Sushilsingh Sugansingh Munot Vs. Vishwanath Haribhau Jagrut & others]**

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's orders

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Mr. Abdul Subhan, Adv., for the applicant.  
Mr. R. D. Karode, Adv., for non-applicant no.1.

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**CORAM : A. S. CHANDURKAR, J.**

**DATE : 14th February, 2018**

The original defendant no.3 in the suit for declaration that the plaintiff was in possession pursuant to the document dated 10th April, 2016 along with permanent injunction has filed this Civil Revision Application being aggrieved by the order passed by the trial Court holding that it had jurisdiction to decide the suit.

It is the case of the non-applicants that on 21st December, 2010, the plaintiff was put in possession by the predecessor of the defendants on payment of Rs. 70,000-00. This possession was for a period of two years. Thereafter, on 21st May, 2012, by paying an amount of Rs. 80,000/-, a fresh agreement was entered into. For the period from 2016 to 2021, amount of Rs.3,00,000-00 was paid and agreement dated 10th

April, 2016 was entered into. The predecessor of the defendants expired on 15th November, 2016, after which the plaintiff's possession was sought to be disturbed. Hence, the present suit came to be filed.

In that suit, after filing of the Written Statement, application under Section 9-A of the Code of Civil Procedure, 1908 was filed. There was also a prayer for deciding the preliminary issue as regards jurisdiction. According to the defendants, as the aspect of tenancy was involved, the Civil Court had no jurisdiction. The trial Court by the impugned order rejected that application.

The learned counsel for the applicant submitted that the nature of occupation of the plaintiff was in dispute, so also the genuineness of the said document. The same could be decided only by the authorities under the Maharashtra Tenancy & Agricultural Lands Act, 1958. The trial Court had no jurisdiction to entertain the suit.

The learned counsel for the non-applicants submitted that the suit was simplicitor for perpetual injunction, based on the document dated 10th April, 2016. No declaration as to the status of the plaintiff was sought. Reliance was placed on the decision in **Govardhandas Paikaji Brahmane Vs. Shridharprasad Rautrai** [2004 (1) Mh.L.J. 921].

After hearing the respective counsel and after perusing the averments in the plaint, it can be seen that the plaintiff seeks protection of his possession which he has entered on the basis of the document dated 10th April, 2016. There is no relief sought for declaring him as a tenant of the suit property and his case is based on that agreement which is for the period 2016 to 2021. The trial Court has rightly held that it had jurisdiction to entertain the suit and consider the genuineness of the document dated 10th April, 2016. In the light of the judgment referred to above, I do not find that any jurisdictional error is committed by the trial Court. The Civil Revision Application is, therefore, dismissed. No costs.

**Judge**