

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 6 OF 2018

Anusuya B. Bansawade .. Applicant
vs.
Jivaji alias Anand B. Bagalkote .. Respondent

Mr. Bhooshan Mandlik a/w. Mr. S.S. Patwardhan for the Applicant.

CORAM : M. S. SONAK, J.
DATE : 11 APRIL 2019.

P.C. :-

1] Heard Mr. Bhooshan Mandlik and Mr. S.S. Patwardhan for the applicant.

2] The challenge in this Civil Revision Application is to the order dated 31st July 2017 by which learned Trial Judge has dismissed the applicant's application at Exhibit-44.

3] Learned counsels for the applicant submits that the Power of Attorney on the basis of which the suit was filed makes no reference to survey number of the suit property. They, therefore, submit that the suit was improperly instituted and is required to be dismissed on this ground alone. They submit that learned Trial Judge has rejected the application for reasons which were not even pleaded by the respondent.

4] Learned Trial Judge has noted that the objection raised is hyper technical. Learned Trial Judge has also noted that the Attorney is the son of the plaintiff and resides in the same house as that of plaintiff. Learned Trial Judge has then noted that even the son would have, in his independent capacity, instituted the suit seeking injunction against the applicant herein whom they claim is a stranger.

5] According to me, the defence that the Attorney is the son and resides in the same house as that of plaintiff has been taken in the reply filed by the respondent. In any case, looking to the Power of Attorney, which is placed on record, it cannot be said that on the basis of the same, the plaint could not have been signed by the Attorney. The Power of Attorney is a general Power of Attorney and confers very wide powers upon the son. The Power of Attorney specifically records that the plaintiff is suffering from left M.C.A. infraction and he is unable to sign.

6] Taking into consideration all the aforesaid aspects, there is no case whatsoever made out to interfere with the

impugned order, particularly, since the impugned order promotes substantial justice.

7] Accordingly, Civil Revision Application is liable to be dismissed and is hereby dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)