

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO.9 OF 2020

MANGESH BHAGWAN KANDE
VERSUS
THE DISTRICT COLLECTOR, COLLECTOR OFFICE,
AURANGABAD AND OTHERS

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Advocate for Petitioners : Mr. Jadhav Kiran D
AGP for Respondents: Mr. A S Shinde
Advocate for Respondents : Mr. Ravindra C. Misal

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CORAM : V.K. JADHAV, J.
Dated: January 31, 2020

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PER COURT :-

1. With the consent of the parties, heard finally at admission stage.

2. It appears that the learned Civil Judge S.D., Aurangabad has passed the order below exh.1 in R.C.S. No.319 of 2019 on 15.11.2019 to return the plaint under Order 7 Rule 10 of the Civil Procedure Code to the applicant/plaintiff for presentation of the same before the proper court having territorial jurisdiction to try and entertain the suit. Though, original defendant nos.1 and 2 i.e. the State authorities are deleted, the learned

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Judge has not given opportunity of being heard to the applicant/original plaintiff and further failed to notice that in terms of the description of the suit property in clause no.2 the residential house which is subject matter of the suit is situated in Cidco, Ramnagar, Aurangabad.

3. Learned counsel for respondents/defendants submits that during the pendency of the said suit, parties have arrived at settlement and accordingly filed joint Purshis for referring the matter to Lok-Adalat, however, the trial court has not passed any order on it. On restoration of the suit to its original number, the trial court may pass order on the joint purshis filed by the parties for referring the matter to the Lok-adalat.

4. In view of the same, this Court has left with no other choice, but to remand the matter. Hence, I proceed to pass the following order.

ORDER

I. Civil Revision Application is hereby partly allowed.

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- II. The impugned order dated 15.11.2019 passed by the 6th Jt. Civil Judge S.D., Aurangabad below Exh.1 in R.C.S. No.319 of 2019 is hereby quashed and set aside.
- III. R.C.S. No.319 of 2019 is hereby restored to its original position.
- IV. The learned 6th Jt. Civil Judge S.D., Aurangabad shall pass appropriate orders in respect of the territorial jurisdiction, after giving an opportunity of being heard to the applicant/plaintiff.
- V. Civil Revision Application accordingly disposed off.

(V.K. JADHAV, J.)

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