

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****SECOND APPEAL NO. 454 OF 2016**

Mr. Suryakant Gopal Vichare and othersAppellants

V/s.

Mr. Eknath Pralhad Joshi and anotherRespondents

Mr. Pradeep D. Dalvi for the appellant
Mr. Sunil S. Bhide for respondent nos. 1A, 1B & 2

CORAM : NTIN W. SAMBRE, J.

DATE : JANUARY 7, 2020.

P.C.

This Appeal is by original plaintiff to R.C.S. No. 88 of 2008. Appellant initiated suit for declaration of ownership of land Survey no. 9 Hissa No. 1/4 to the extent of 19.2 Gunthas from the riverside, as well as for perpetual injunction restraining respondent-defendant from causing obstruction in possession of appellant-plaintiff. In alternate to aforesaid prayer, appellant-plaintiff sought recovery of possession.

2] Suit came to be dismissed by the learned Gram Nyayalay vide its Judgment and Order dated 13/07/2011 which was confirmed in Appeal by the learned District Judge vide Judgment and Order dated 15/12/2015.

3] While questioning both these Judgments, learned counsel Shri. Dalvi appearing for appellant would invite attention of this Court to the Scheme of Gram Nyayalays Act, 2008. Relying on provisions of Section 13 particularly part (I) of IIInd Schedule framed thereunder, he would urge that the Gram Nyayalay has no power to deal with the suit in question particularly when the same was lodged before the learned Court of Civil Judge Senior Division. According to him, as such, both the orders are without jurisdiction and that being so, interference is warranted.

4] Learned counsel for the respondent supports the Judgment.

5] Having delve upon the controversy which is sought to be

canvassed by Shri. Dalvi, learned counsel for the appellant, it is noticed that Gram Nyayalay is a Civil Court within the meaning of the Gram Nyayalayas Act, 2008. Appropriate support can be drawn from Chapter V of the Act. Apart from above, the fact remains that pursuant to the provisions of Code of Civil Procedure and Civil Manual, the civil suit is presented to the court of principal jurisdiction i.e. Civil Judge Senior Division and based on pecuniary and territorial jurisdiction, the allocation of business is carried out.

6] If submissions of learned counsel for the appellant are appreciated in the backdrop provisions of Section 13, what is noted is, appellant has in alternate prayed for Decree for possession. The dispute as regards possession is very much covered under Part (I) of the Second Schedule framed under Section 13 of the Gram Nyayalayas Act, 2008 which reads thus:

“(i)

(ii) *Property Disputes:*

(a) *village and farm houses (Possession)”*

7] As such, relief of possession is claimed by the appellant in the plaint. That being so, other relief which is claimed in the suit which is ancillary to the above one, it has to be held that Gram Nyayalay has every jurisdiction to entertain the suit.

8] In the aforesaid background, it cannot be held that Gram Nyayalay which is manned by officer of rank of Civil Judge Junior Division has no authority in law to delay with the subject matter in the suit.

9] As a consequence of above, there is no merit in the appeal, same stands dismissed.

[NITIN W. SAMBRE, J.]