

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

CIVIL REVISION APPLICATION NO.1 OF 2021

Yogesh s/o. Gidandas Nilani,
Age : Major, Occ. Business,
r/o. In front of Kohinoor Mangal
Karyalaya, Savedi,
Dist. Ahmednagar
and ors.

..Applicants

Vs.

The Tahsildar,
Kopargaon, Dist. Ahmednagar,
and ors.

..Respondents

Mr.A.S.Bajaj, Advocate for applicants
Mr.V.S.Bedre, Advocate for respondent no.13

**CORAM : R.G. AVACHAT, J.
DATE : AUGUST 20, 2021**

ORDER :-

The challenge in this Revision Application is to the order dated 06.10.2017 passed by learned Civil Judge, Senior Division, Kopargaon, Dist. Ahmednagar, on application (Exh.33) in Regular Civil Suit No.4 of 2017. By the impugned order, the application moved by the applicants herein (original defendant nos.13 to 16) for rejection of plaint came to be rejected.

2. Heard.

3. Mr.Bajaj, learned counsel for for the applicants, would submit that in the plaint, no cause of action has been disclosed so far as regards present applicants are concerned. The plaint was, therefore, liable to be rejected. Learned counsel took me through the plaint, to ultimately submit that it is conspicuously silent to state, as to whether the applicants herein have made any encroachment on the land belonging to the respondent/plaintiff. The plaint is also silent to disclose or make out a case that these applicants ever obstructed the plaintiff's possession over the suit land. According to learned counsel, only some portion of land gut nos.349/1 to 349/4 is subject-matter of the suit. The applicants have no concern with the land owned and possessed by the plaintiff. According to learned counsel, the suit has been filed for correction of revenue record. In view of the Maharashtra Revenue Jurisdiction Act, 1876, the Civil Court has no jurisdiction to entertain the suit. He, therefore, urged for allowing the application.

4. Mr.Bedre, learned counsel for respondent no.13 (original plaintiff), supports the impugned order.

5. I have considered the rival submissions. Perused the plaint. The plaint is sought to be rejected on the ground of non-disclosure of cause of action. For rejection of the plaint, averments therein have only to be looked into. It is the case of the plaintiff that she owned 3 H 54 R land in gut no.617/1, which totally admeasures 14 H and 24 R. Lateron, gut no.617/1 was renumbered as gut no.349. At present, gut no.349 has been subdivided into gut nos.349/1 to 349/4. The plaintiff claimed to have title and possession over the land admeasuring 3 H 54 R by virtue of sale deed dated 07.09.1979. She claims to have not sold any portion of her land in the said gut number. It is her case that the Village Talathi, while rewriting the revenue record in 1993-94, committed mistake and recorded the land admeasuring 1 H 80 R in her name. As such, 90 Gunthas of land is shown less. It is her further case that defendant nos.3, 5 and 6, taking

disadvantage of the incorrect record, sold the land to defendant no.7 in excess of their share.

6. Here, it has to be ascertained, whether the plaint does not disclose cause of action so far as regards present applicants (defendant nos.13 to 16) are concerned. In paragraph 9 of the plaint, it has been averred that defendant nos.5 to 16, by joining hands with defendant nos.1 to 4, got revenue record changed to their favour. It has further been averred that the land admeasuring 1 H 74 R belonging to the respondent/plaintiff has wrongly been included in the land belonging to defendant nos.5, 6, 8 to 16. It has further been averred that for taking disadvantage of said situation, the applicants herein have proposed to sell out said land. A public notice was, therefore, issued on 01.01.2016 so as to ascertain, whether anybody else claims to have right, title and interest in the said land. It has also been averred in the plaint that if the applicants sell out said land, it would affect the right, title and interest of the plaintiff/respondent. A relief of perpetual injunction restraining the applicants herein from alienating the

said land and even disturbing the plaintiff's possession over the same, has been prayed for. The suit has also been filed for demarcation of boundaries of lands in dispute with a further prayer for declaration of title of the plaintiff/respondent over the suit land.

7. From the above averments in the plaint, learned counsel for the applicants could not be heard to say that the plaint does not disclose cause of action and therefore, liable to be dismissed against the applicants herein. The trial Court has rightly rejected the application (Exh.33). No case is made out for interference therewith. In the result, the Civil Revision Application fails and the same is dismissed.

[R.G. AVACHAT, J.]

KBP