

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 329 OF 2019

Narottam Jivraj Suchde & Ors.

..Applicants

Vs.

Vishal Shaymsundar Kalantri

..Respondent

Mr.Jaideep K. Mitra i/b Mr.Ram Prakash R. Pandey for the
Applicants.

CORAM : C.V. BHADANG, J.

DATE : 6 SEPTEMBER 2021

P.C.

. Heard learned counsel for the applicants at length.

2. The challenge in this Civil Revision Application is to the order dated 27 March 2019 passed by the learned Joint Civil Judge Senior Division, Pune below Exhibit-5 in Special Civil Suit No.238 of 2017. By the impugned order the application Exhibit-5 filed by the applicant for temporary injunction restraining the respondents-defendants from interfering and obstructing the possession of the applicants/plaintiffs over the suit property and/or forcibly evicting them and from creating third party interest has been rejected.

3. On 23 August 2021 a query was made to the learned counsel for the applicant about maintainability of the Revision Application under Section 115 of the Civil Procedure Code ('CPC' for short) where in the order passed rejecting the application for temporary injunction has been directly challenged before this Court.

4. Upon hearing the learned counsel for the petitioner it appears that the Special Civil Suit is filed on 2 January 2017. The valuation of the suit for the purposes of the court fees and jurisdiction is shown to be Rs.10,00,000/-. The Maharashtra Civil Courts Act came to be amended by Act No.XXII of 2016 w.e.f. 29 July 2015. By the said amendment Section 26 of the Act was amended amongst other Sections wherein the pecuniary jurisdiction of the learned District Judge to hear appeals has been enhanced to Rs.1 Crore from Rs.10 Lakhs. Even otherwise the order on the application for temporary injunction cannot decide the suit finally one way or the other, so as to make the Civil Revision Application maintainable.

5. Faced with this the learned counsel for the applicants on instructions seeks leave to withdraw the application with liberty to approach the learned District Judge with an appeal under Order XLIII of the CPC. The only limited request is to protect the applicants on limitation and continue the interim

relief which was operating in this application for a reasonable period in order to enable the applicants to approach the learned District Judge.

6. In such circumstances, the Civil Revision Application is disposed of as withdrawn with liberty to the applicants to approach the learned District Judge with an Appeal under order XLIII of C.P.C. If such an appeal is filed, the learned District Judge will have due regard to the provisions of Section 5 and Section 14 of the Limitation Act and the pendency of this Civil Revision Application from 30 April 2019.

7. Interim relief which is operating in this application by order dated 2 February 2021 shall continue to operate for a period of four weeks.

C.V. BHADANG, J.

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