

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
CIVIL APPLICATION NO.411 OF 2014
AND
CIVIL APPLICATION NO.607 OF 2014
IN
FAMILY COURT APPEAL NO. 260 OF 2014

SMT. SUCHETA W/O SACHIN IYER
VERSUS
SACHIN S/O KRISHNAMURTHY IYER AND ANOTHER

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. V. Purohit, Advocate for applicant/appellant.
Shri A. M. Sudame, Advocate for respondent No.1 and respondent
Nos.2.i) and 2.ii).

CORAM : A.S. CHANDURKAR AND G. A. SANAP, JJ.
DATE : 09/12/2021

The appellant has made the application bearing Civil Application No.411/2014 for the amendment of the Memo of Appeal and Civil Application No.607/2014 for addition of Shri Sumukh s/o Mukesh Mishra, the purchaser of the suit house as respondent No.3.

It is stated in the amendment application that on 08/01/2014, the respondent No.2 sold the suit house to the proposed respondent No.3. It is stated that in view of the decree of injunction granted by the Family Court, the sale deed would be null and void. The appellant and her daughters are occupying the entire first floor of the suit house. It is stated that in order to have proper adjudication of the appeal, the amendment sought for in the appeal memo is necessary. Similarly, it is stated that since the sale deed is null and void,

for the purpose of adjudication of the said issue in the appeal, the subsequent purchaser would be necessary party.

We have heard the learned Advocate for the appellant and the learned Advocate for the respondent No.1 and legal heirs of respondent No.2. Perused the record and proceedings.

On going through the record and proceedings, we are of the view that the dispute sought to be agitated by incorporating the amendment and by addition of the purchaser as party in this appeal, would be beyond the scope of the jurisdiction of the Family Court. The appellant would be required to file appropriate proceedings before the Civil Court for redressal of grievance made in the amendment application as well as application for addition of the purchaser as party respondent No.3 in this appeal. The appeal has been filed against the Judgment and decree passed by the Family Court in exercise of jurisdiction under the Family Courts Act, 1984. In this appeal, the scope of jurisdiction of the Family Court cannot be widened. The amendment application as well as the application for addition of the parties is, therefore, not tenable in this appeal. The issue which falls outside the jurisdiction of the Court cannot be allowed to be agitated by amending the pleading to incorporate the relevant facts touching the said dispute.

In our view, there is no substance in both the applications. The appellant would be required to take recourse to the available remedy to redress her grievance before the Civil Court. Both the applications are accordingly rejected.

The civil applications stand disposed of accordingly.

(G. A. SANAP, J.)

(A.S. CHANDURKAR, J.)

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