

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL REVISION APPLICATION NO. 58/2021

Javed Khan Sattar Khan ...Versus...Damodar Kondaji Ingle and ors

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

Court's or Judge's orders

Mr. U.J.Deshpande, ADV for applicant

CORAM : AVINASH G. GHAROTE, J.

DATE : 14/12/2021

Heard Mr. Deshpande, learned counsel for the applicant, who raises the grievance regarding the impugned order which rejected the application under Order 7 Rule 11 (a) of CPC, holding that the plaint discloses the existence of a cause of action. He further submits that there is no cause of action pleaded in so far as relief of permanent injunction is concerned and on this ground the plaint ought to have been rejected.

It is material to note that the suit as filed is for specific performance of an agreement said to have been entered into on 29.09.2014 and 23.11.2017. The earlier agreement was reported to be with all the recorded owners for the area admeasuring 0.54 R, whereas the subsequent agreement is with only two of the defendants for 0.13 R. It is therefore submitted that since no agreement whatsoever was claimed to have been entered, which was so stated by the reply dated 10.3.2015, there was no cause of action and the impugned order therefore cannot be sustained.

A perusal of the plaint as placed on record, in para 12 specifically enumerates the cause of action as having arisen on 29.9.2014, 10.3.2015, 23.11.2017, 16.9.2017 and 16.1.2018, on which dates several actions are said to have taken place. Considering this specific averment, it cannot be said that there was no cause of action whatsoever pleaded in the plaint, as the averments in para 12 disclose such a pleading, considering which I do not find any substance in the application, the same is dismissed.

JUDGE

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