

Anand

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

CIVIL REVISION APPLICATION 243 OF 2022

Sane Guruji Shikshan Sanstha, Hadapsar, .Applicants
Pune & anr.

Vs.

Dnyaneshwar Nathoba Bathe .Respondent

Ms Manjiri Parasnis, Advocate, for the Applicants
Mr. Sachin Punde, Advocate, for the Respondent

CORAM : ROHIT B. DEO, J.

DATE : 25.07.2022

P. C.

. The Applicants are the Defendants in R.C.S. 97 of 2021 which is brought by the Respondent/Plaintiff for perpetual injunction restraining the Defendants from interfering with the possession of the Plaintiff qua the suit property which is described in paragraph 1 of the plaint.

2. The Defendants preferred an Application for rejection of the suit plaint. Twin contentions are the basis of the Application preferred under O. VII, Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC'). The first contention

is that the suit is barred in view of the provisions of Section 50 of the Maharashtra Public Trust Act, 1950 (for short 'Act') in the absence of sanction to institute the suit. The other contention is that no cause of action is disclosed.

3. The learned trial Judge was pleased to reject the Application by Order dated 20.12.2021 which is impugned herein.

4. The learned trial Judge referred to the decision in *Mohamed Hassan Samru Vs. Peer Hazarath Diwanshah Dargah Trust and ors.*, reported in *2002(3) ALL MR 66* and held that considering the prayers of the suit, sanction of the Charity Commissioner is not required. This finding is unexceptional. The Plaintiff is seeking to assert his civil rights. The Plaintiff is not raising any question which is required to be determined under the provisions of the Act nor is the Plaintiff seeking any relief which falls within the categories specified in Section 50, which is to be read with Section 51 of the Act. The limited submission of the Plaintiff is that he is the owner of the suit property and the

Defendant 1 – Trust is attempting to disturb his possession. For such suits, sanction of the Charity Commissioner is not required. The other contention that the Plaintiff does not disclose cause of action merits out right rejection. The entire plaint is founded on the allegation that the Defendants are attempting to disturb the possession of the Plaintiff. It is well settled that plaint cannot be rejected on the ground that the cause of action is defective or is without substance. Failure to disclose cause of action is indeed a ground. However, if the plaint is read holistically, there are sufficient averments which, if accepted at face value, discloses cause of action to claim injunctive relief. At this stage, the Court is not expected to look into the veracity of the averments.

5. I do not see any error in the order impugned.

6. The Petition is dismissed.

(ROHIT B. DEO, J.)