

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

APPEAL AGAINST ORDER NO. 09/2022

(Smt. Satyaphulabai wd/o Bhimsen Nagrare & anr. Vs. Manonath S/o Jogaluji
Khobragade & ors.)

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

Court's or Judge's orders

Mr. B. G. Kulkarni, Advocate for appellants.

CORAM : V. G. BISHT, J.
DATE : 21/04/2022

Heard.

2. The plaintiffs have filed suit bearing Regular Civil Suit No. 881/2018 for declaration and injunction along with an application (Exh.5) against defendants under Order XXXIX Rule 1 and 2 read with Sections 94 and 151 of the Cod of Civil Procedure. Defendant Nos. 1 and 2 have also filed their counter claim and prayed for injunction (Exh. 40). On behalf of plaintiffs, again an application (Exh. 52) under Order XXXIX Rule 1 and 2 read with Sections 94 and 151 of the Code of Civil Procedure came to be filed.

3. Learned 10th Joint Civil Judge, Senior Division, Nagpur after hearing parties, was pleased to reject Exh. 40 and whereas was pleased to allow Exh. 5 and Exh. 52. This order is assailed before this Court.

4. Learned counsel for appellants invited my attention to the counter claim at Annexure-11 filed on record and more particularly para 22 and would submit that in view of valuation of the counter claim, the present appeal is liable to be remitted back to the District Court for disposal in accordance with law.

5. I have gone through the paragraph 22 of the counter claim which shows that valuation of the counter claim for the purposes of jurisdiction is valued at Rs. 25,62,125/- for declaration prohibitory, permanent and mandatory injunction and for cancellation of sale-deeds/agreements. Thus, in view of the valuation of the counter claim, the present appeal would lie before the concerned District Judge.

6. For the aforesaid reasons, appeal against order be remitted to the District Court for final disposal in accordance with law after registering the same as Miscellaneous Civil Appeal.

7. Appeal against order stands disposed of in the aforesaid terms.

[V. G. BISHT, J.]

Gohane

Digitally
signed by
JITENDRA
BHARAT
GOHANE
Date:
2022.04.21
16:14:11
+0530