

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

CIVIL REVISION APPLICATION No.77 of 2022

Dilip s/o Namdevrao Tajane

Vs.

Chi. Mrunal Yuvraj Dumore and another

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

Court's or Judge's orders

Mr. R. D. Bhuibhar, Advocate for applicant/revisionist.

CORAM : AVINASH G. GHAROTE, J.

DATE : 26/07/2022

1. Heard Mr. Bhuibhar, learned counsel for the revisionist. The revision challenges the order dated 13.4.2022 passed by the Civil Judge, Junior Division, Maregaon on the application below Exh.8 under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint on the ground that the suit as filed by the present respondent no.1 was barred by the provisions of the Legal Services Authorities Act. Though other grounds have also been raised, the only ground regarding the suit being barred by the provisions of the Legal Services Authorities Act has been pressed in service by learned counsel during the course of the argument.

2. It is contended by the learned counsel for the applicant by relying upon ***Bharvagi Constructions and Ors. Vs. Kothakapu Muthyam Reddy and Ors.; (2018) 13 SCC 480*** that a challenge to an award under the Legal Services Authorities Act by the Lok-Adalat

would only be available by way of a Writ Petition under Articles 226 or 227 of the Constitution on limited grounds. *Rajendra Bajoriya and Ors. Vs. Hemant Kumar Jalan and Ors., AIR 2021 SC 4594* also has been pressed into service to contend that a relief which cannot be granted by the Civil Court would be a good ground for rejection of the plaint. It is therefore submitted that the impugned order is liable to be quashed and set aside and the application below Exh.8 be allowed.

3. There cannot be any dispute about the proposition as laid down in the aforesaid judgments, however, the factual position in the instant matter as spelt out below, makes them in-applicable.

4. The present revisionist Dilip Tajane has filed the suit for possession against the respondent no.2 being RCS No.39/2019 in respect of the property bearing Plot No.20 of field Survey No.24/2 of Mouza Maregaon for the possession of northern portion. The matter was referred to the Lok-Adalat, in which there was a settlement between the parties on 14.12.2019 and the compromise was effected. This compromise dated 14.12.2019 is challenged by the respondent no.1 by filing a suit for declaration that the decree passed in RCS No. 39/2019 was null and void inasmuch as she claimed an independent right in the property which was the subject matter of the compromise by virtue of a gift deed dated 11.5.2015.

5. It is material to note that the original sale deed dated 22.1.2014 in favour of the petitioner described the property as the northern half which was sold to the petitioner. However, by the compromise arrived at in the Lok-Adalat on 14.12.2019, the entire description of the property was changed from the northern side to southern side.

6. It is thus apparent that the respondent no.1, the plaintiff in RCS No.13/2020 was not a party to RCS No.39/2019, and claims an independent right in the property therein on the basis of a gift deed dated 11.5.2015, executed in her favour by respondent no.2. Since the change of the property has been agreed to in the settlement in the Lok-Adalat by the order dated 14.12.2019 subsequent in point of time and in absence of the respondent no.1, she would definitely have a right to challenge the settlement arrived at by an independent suit to establish her title to the property in question. That being the position, I do not see any infirmity in the impugned order.

7. The application accordingly dismissed. No order as to costs.

JUDGE

Sarkate