

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

CIVIL REVISION APPLICATION NO. 99 OF 2022

Omprakash Premlal Shethiye__ Vs. __ State of Maharashtra and anr

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

Court's or Judge's orders

Mr. C.A.Joshi, Advocate for applicant
Mr. S.M.Ukey, Addl.G.P for State

CORAM : AVINASH G. GHAROTE, J.
DATE : 07/10/2022

1] Heard Mr. Joshi, learned counsel for the applicant and Mr. Ukey, learned AGP for Respondent No.1.

2] The application challenges the rejection of the application under Order VII Rule 11(d) of CPC by the order dated 30.8.2022 (page 50). The suit for perpetual injunction is filed by the Non-applicant No.2 against the present applicant and the Non-applicant No.1, claiming enforcement of a clause in the sale deed dated 18.11.2002 executed by the Non-applicant No.2 in favour of the applicant/defendant no.2, which contained a term that there would be no business of sale of liquor conducted from the premises in question. On violation of this condition, the suit has been filed.

3] The application under Order VII R 11(d) of C.P.C. contends that such a suit would be barred under

the Bombay Prohibition Act, 1949, as it seeks a relief against defendant No.1/State from renewing the license to run a beer and wine shop in a suit premises. In so far as the plea regarding the enforcement of the terms of the sale deed dated 18.11.2002 is concerned, the same would not have any relationship with the bar under the Bombay Prohibition Act. There is no provision under which the plaint can be partly rejected against one of the defendants, considering which since the bar is not attracted vis-a-vis the present applicant, I do not see any reason to interfere with the impugned order.

4] The Revision application is without any merit and is rejected. No costs.

JUDGE

Rvjalit