

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

16 CRA NO.188 OF 2023

NILESH SANJAY GODSE
VERSUS
SANDEEP BHIMRAJ WANE AND OTHERS

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Advocate for Applicant/Petitioner : Mr. Kotkar Sachin S.

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CORAM : S. G. MEHARE, J.
DATE : 27.10.2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. The petitioner is the defendant/purchaser of the suit premises. The respondent/plaintiff had filed a suit for declaration that he is the tenant in the suit premises and was paying the rent to the vendor of the petitioner.
3. Learned counsel for the applicant has submitted that the temporary injunction is running against him. On the sole statement from the contents of his written statement, the plaintiff was storing the fertilizers without the permission from the Agricultural Department, the injunction was granted in favour of the respondent/plaintiff. Learned First Appellate

Court confirmed the order of the Trial Court issuing injunction and he is now before this Court.

4. Learned counsel for the applicant submits that the plaintiff was never in possession of the suit premises. There was no landlord-tenant relationship between the plaintiff and his vendor. Therefore, there was no cause of action to file the suit. He also submitted that the vendor never recognized the plaintiff as tenant.

5. He also submits that the plaint does not disclose the cause of action to file the suit. Hence, the suit was liable to be dismissed under Order VII Rule 11 of the CPC.

6. The law is settled that jurisdiction of the Court is to be determined from the contents of the plaint. Written statement of the applicant cannot be considered while determining the jurisdiction of the Court. Plaint averments reveals that the suit premises was used for godown since 1980. Since 1980, defendant No.1 Nanasaheb was using the suit premises for warehouse owned by defendant No.2 Shivaji. Plaintiff started his fertilizer shop in the year 2007. Defendant No.1 stopped his business in 2010. The plaintiff asked him about the suit premises and since 2010, it was given him on rent. Since then,

he is in possession. He had paid the *Pagadi* of Rs.4,50,000/- by cheque to the vendor of the petitioner. The plaint averments disclose the cause of action. Nature of the suit requires the evidence to be recorded on merit. *Prima facie* cause of action has been pleaded in the suit.

7. The learned Trial Court has correctly considered the facts and rejected the application of the applicant.

8. There are no errors in the impugned order that warrants interference of this Court.

9. Hence, the civil revision application stands dismissed at admission stage.

(S. G. MEHARE, J.)

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vmk/-