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

CIVIL REVISION APPLICATION NO.132 OF 2023

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Vijayendra Venkatesh Katti

... Applicant

V/s.

Varadendra Venkatesh Katti

... Respondent

Mr. C.K. Tripathi for the applicant.

Ms. Chadana Salgaocar for the respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 26, 2023

PC.:

- 1.** The original defendant has filed present civil revision application under Section 115 of the Code of Civil Procedure, 1908 challenging rejection of an application under Order 7 Rule 11(d).
- 2.** The respondent/original plaintiff has filed Regular Civil Suit No.475 of 2022 seeking injunction against defendant from mutating his name in the revenue record or claiming right as owner of the suit property or from entering the suit premises.
- 3.** The applicant filed an application under Order 7 Rule 11(d) contending that the suit of the respondent is barred by Section 158 of the Maharashtra Land Revenue Code, 1966 ("MLRC" for short).
- 4.** On perusal of the prayers in the suit, it appears that the plaintiff has prayed for three reliefs: (i) restraining defendant from

mutating his name in the revenue record; (ii) restraining defendant from claiming right as owner of the suit property; and (iii) restraining defendant from entering the suit premises.

5. At this stage, it is necessary to consider Section 158 of the MLRC, which reads thus:

“158. Bar of suits — No suit shall lie against the State Government or any officer of the State Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any entry omitted or amended.”

6. On perusal of Section 158 of the MLRC, it appears that bar created is against seeking relief against the State Government or its officers. The reliefs prayed in the first paragraph of the plaint is only against defendant. Therefore, such prayer is not prima facie barred under Section 158 of the MLRC.

7. Apart from the said contention, the remaining two prayers which are claimed by the plaintiff cannot be said to be barred by Section 158 of the MLRC as the plaintiff seeks injunction against defendant from claiming ownership right and from entering the suit premises.

8. Assuming that first prayer of the plaint is barred by Section 158 of the MLRC, remaining two prayers are not barred by Section 158 of the MLRC. It is well settled that part of the plaint cannot be rejected under Order 7 Rule 11(d) of the CPC. (***see Sopan Sukhdeo Sable & Ors. v. Assistant Charity Commissioner & Ors.*** reported in 2004 (3) SCC 137.)

9. In view of aforesaid reasons, I find no error jurisdiction committed by the Trial Court while rejecting the application.

10. The civil revision application is dismissed. No costs.

(AMIT BORKAR, J.)