

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

CIVIL REVISION APPLICATION NO. 596 OF 2022

Medha Surendra Bhandari

.. Applicant

Versus

Mohan Shankar Dabholkar

.. Respondent

.....

- Mr. Ajit Tamhane i/by Tamhane & Co. for Applicant
- Mr. Vikram N. Walawalkar i/by Mr. Virendrasinh V. Tapkir for Respondent

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 23, 2023.

P.C.:

1. Heard Mr. Tamhane, learned Advocate Applicant.
2. The present Civil Revision Application has been filed seeking exception to the order dated 05.11.2022 passed by the learned Trial Court. Application is filed below Exhibit-14 under Order 7 Rule 11(d). The Applicant i.e. defendant before the learned Trial Court submitted that the suit plaint filed in 2020 seeks execution of the agreement/sale deed/ writing between the parties made as far back as on 2003. Mr. Tamhane has taken me to the suit plaint and more specifically paragraph No. 3 of the same which states that there was an agreement between the parties on 25.03.2003 whereby the Applicant and her deceased mother had agreed to transfer the suit property to the Respondents. The copy of the agreement dated 25.03.2003 is appended to the Petition at Page Nos. 29 and 30. Mr. Tamhane in his usual fairness submitted that undoubtedly possession of the suit

property since 2003 is with Respondent, but the execution and contents of the Agreement dated 25.03.2003 and the averments made therein regarding the same are expressly denied by Applicant.

3. Be that as it may, all that would be a subject matter of evidence before the learned Trial Court. In so far as deciding the present Civil Revision Application is concerned, Respondent is in possession of the suit property and is cultivating the same, in that view of the matter the findings returned by the learned Trial Court in the impugned order do not call for any interference. Needless to state that the learned Trial Court shall not be influenced by any observations made here as well as the impugned order and the suit between the parties shall be tried on its own merits strictly in accordance with law.

4. The impugned order is sustained. With the above directions, Civil Revision Application is dismissed.

5. At the joint request of Mr. Tamhane and Mr. Walawalkar considering that both the Applicant and Respondent are more than 70 years old, the learned Trial Court is requested to dispose of R.C.S. No. 30 of 2020 within a period of 12 months from today.

[MILIND N. JADHAV, J.]

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date: 2023.01.31
09:51:57 +0530