



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

CIVIL REVISION APPLICATION NO.97/2023

Tukaram Kisan Mudgal and ors. Vs. Ambadas Sakharam Khand and anr.

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

Court's or Judge's orders

Ms A. M. Telange, Advocate for applicants.

CORAM : ANIL L. PANSARE, J.

DATE : 12.09.2023

The applicants-original defendants have challenged the order dated 19.06.2023 passed by learned Jt. Civil Judge Junior Division, Lonar in Regular Civil Suit No.53/2022. The application filed by the defendants under Order VII Rule 11 of the Civil Procedure Code, 1908 has been rejected by the trial Court.

Learned counsel for the applicants submits that the suit is impliedly barred by the law as the plaintiff has an efficacious remedy available under the provisions of Maharashtra Village Panchayats Act, 1958 and rules framed therein for removing encroachment. As regards revenue entries, the plaintiff has efficacious remedy before the revenue authority.

However, perusal of the order indicates that the plaintiff has filed suit seeking mandatory injunction against the applicants-defendants directing them to remove encroachment made over the property of the plaintiff by removing construction. A further declaration has been sought that the sale deed executed by

defendant no.1 in favour of defendant no.4 is not binding on the plaintiff.

Learned Civil Judge has rightly held that nowhere in the Maharashtra Village Panchayat Act, 1958, it is mentioned that the Civil Court has no jurisdiction to remove encroachment and, therefore, it cannot be said that the jurisdiction of civil court is implicitly barred.

I do not find nay error or perversity in the impugned order. There is no merit in the revision. The same is, therefore, dismissed. No order as to costs.

(Anil L. Pansare, J.)

Kahale