

Vinaa Khadpe
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.612 OF 2024

Popat Baburao Kamble .. Petitioner
Versus
Bajirao Nivrutti Nyaynit and ors .. Respondents

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• Mr. Vikrant Shinde, Advocate for the Petitioner.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 19, 2024

P.C.:

- 1.** Heard Mr. Shinde, learned Advocate for the Petitioner.
- 2.** The impugned order dated 3 August 2023 at exhibit D – page 70 has been passed on the Application filed by Defendant Nos.1 and 2 under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 seeking transposition of Defendant Nos.3 to 16 as Plaintiffs in the suit proceedings.
- 3.** Briefly stated the Plaintiff and Defendant Nos.3 to 16 executed a joint power of attorney in favour of Defendant No.1 permitting Defendant No.1 to sell the suit property. Defendant No.1 exercised his right under the Power of Attorney and sold the suit property to Defendant No.2 but there appears to be a dispute with respect to the Plaintiff receiving consideration pursuant to the sale. Hence the suit is filed. It transpires that Plaintiff approached trial Court with a relief for revocation of the power of attorney and a declaratory relief to cancel the sale deed

executed by Defendant No.1 in favour of Defendant No.2.

4. In the above backdrop, considering that the substantive right emanated from the joint power of attorney executed by the Plaintiff along with Defendant Nos.3 to 16 in favour of Defendant No.1, Defendant Nos.1 and 2 made a joint Application for transposition. Application was to the effect that Defendant Nos.3 to 16 be transposed as Plaintiffs specifically in view of the relief seeking cancellation of the sale deed between Defendant No.1 and 2. The above aspect has been correctly considered by the learned trial Court in terms of provisions of Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 and appropriate cogent findings having been returned in paragraphs 5, 6 and 7 of the order dated 3 August 2023. Learned trial Court has allowed the Application filed by Defendant Nos.1 and 2 and directed the Plaintiff to carry out necessary amendments and file an amended copy of the plaint.

5. No fault whatsoever can be found with the order dated 3 August 2023 wherein the aforementioned facts have been relied upon and rightly considered qua the rights of the parties to the suit. In any event in view of the reliefs prayed for in the suit proceedings for declaration and cancellation of the power of attorney and the sale deed, the order dated 5 August 2023 has been correctly passed and is sustained.

6. Resultantly, Writ Petition is dismissed.

Vinaa Khadpe

[MILIND N. JADHAV, J.]

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