

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 712 OF 2023

Shashikant Bhagwan Mahajan & Anr. .. Applicants

Versus

Umesh Arvind Dhekane .. Respondent

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- Mr. Vaibhav Birmole for Applicants

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 06, 2024

P. C.:

1. Heard Mr. Birmole, learned Advocate for Applicants.
2. This Civil Revision Application challenges the order dated 15.07.2023 passed by the learned CJSD, Pune in Application below Exh. 18 filed under O. VII, R. 11 of the CPA in R.C.S. No. 1688/2022. By the said order, prayer for rejection of plaint filed by the Applicants i.e. the Defendants is rejected. Application is filed on the basis that there is a mis-description of the property shown by the Plaintiff in the suit plaint / proceedings. .
3. Mr. Birmole would submit that parallel proceedings are pending before the Revenue Authorities and in view thereof, the description of boundaries is correctly shown.
4. Be that as it may, submissions made by the learned Advocate are not considered nor argued nor stated in any of the pleadings before

the Trial Court. It is seen that the Suit is for simplicitor injunction on the basis of a registered Sale Deed dated 26.08.2019 in respect of the suit land. Suit land is agricultural land. Description of the boundaries given by the Plaintiff in the suit proceedings is not admitted by Defendants and in that view of the matter, Application under O. VII, R. 11 is filed for seeking rejection of the plaint. Learned Trial Court after considering the submissions and on going through the suit plaint has given cogent reasons in paragraph Nos. 10, 11 and 12 of the impugned order. In view of the specific pleadings as also the fact that the issue raised by Defendant would be an issue which would require evidence, the impugned order cannot be faulted with. It does not call for any interference. It is sustained. Needless to state that all contentions of the Defendants in respect of mis-description of the boundaries in the suit for injunction are expressly kept open for the Defendants to agitate at the time of their evidence. That apart, the Defendants are also at liberty to make an appropriate Application before the learned Trial Court if the revenue proceedings are culminated between the parties during the interregnum. Reserving such liberty, impugned order dated 15.07.2023 stands upheld.

5. Civil Revision Application is rejected.

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[MILIND N. JADHAV, J.]