

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 184 OF 2024

Shri. Shrikrushna alias Kisan
Ganpati Gade, since deceased
through its Legal Heirs & anr.

....Applicants

: Versus :

Shree Omkareshwar Devasthan
Trust, through Trustees
D.V. Lonkar and G.V. Lonkar

....Respondents

ALONGWITH
CIVIL REVISION APPLICATION NO. 182 OF 2024

Shri. Pradeep Keshav Gade & anr.

....Applicants

: Versus :

Shree Omkareshwar Devasthan
Trust, through Trustees
D.V. Lonkar and G.V. Lonkar

....Respondents

ALONGWITH
CIVIL REVISION APPLICATION NO. 183 OF 2024

Shri. Vinayak Maruti Gade, since deceased
through Legal Heirs & anr.

....Applicants

: Versus :

Shree Omkareshwar Devasthan
Trust, through Trustees
D.V. Lonkar and G.V. Lonkar

....Respondents

**ALONGWITH
CIVIL REVISION APPLICATION NO. 185 OF 2024**

Shyamsundar alias Shyam Ganpati
Gade (since deceased) through Legal Heirs
Smt. Asha Shamsundar Gade & anr.

....Applicants

: Versus :

Shree Omkareshwar Devasthan
Trust, through Trustees
D.V. Lonkar and G.V. Lonkar

....Respondents

**ALONGWITH
CIVIL REVISION APPLICATION NO. 186 OF 2024**

Shreekar Maruti Gade

....Applicant

: Versus :

Shree Omkareshwar Devasthan
Trust, through Trustees
D.V. Lonkar and G.V. Lonkar

....Respondents

Mr. Anirudha Valsangkar a/w. Mr. Samir Kumbhakoni and Mr. C.S. Joshi, for the Applicants.

Mr. Vaibhav Sugdare a/w. Mr. Aniesh S. Jadhav and Mr. Nikhil V. Adkine, for the Respondents.

CORAM: SANDEEP V. MARNE, J.

Dated: 4 DECEMBER 2024.

P.C. :

1) These Revision Applications challenge the order dated 24 February 2022 passed by 4th Additional Judge, Small Causes Court and Joint Civil Judge Senior Division, Pune rejecting the applications filed by the Petitioners seeking rejection of the plaint under the provisions of Order 7 Rule 11 of the Civil Procedure Code.

2) I have heard Mr. Valsangkar, the learned counsel appearing for the Revision Applicants and Mr. Sugdare, the learned counsel appearing for the Respondents.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the suit is filed by the Plaintiff-Trust describing Defendants as their service tenants. It is the case of the Defendants that there does not exist landlord-tenant relationship between the parties and that therefore the Small Causes Court would not have jurisdiction to decide the suit. Reliance is also placed on the provisions of Sections 50 and 51 of the Maharashtra Public Trusts Act, in support of the contention that the suit in absence of permission of Charity Commissioner is otherwise not maintainable. However, Section 50 of the Act specifically excludes, *inter-alia*, licensee or a tenant. It is Plaintiff's assertion that Defendants are its tenants. Whether Plaintiff would be successful in proving that assertion or not is a subject matter of trial. Reliance by Mr. Valsangkar on the judgment of Karnataka High Court in **R. Ramachandra Bhatta v. Sri Srimath Srirangam Srimath Andavar**

Ashram Bangalore¹ does not cut any ice. In that case, after conduct of trial, the Court had come to a conclusion that landlord-tenant relationship existed between the parties which conclusion is reversed by the Karnataka High Court. The case did not involve rejection of the plaint under the provisions of Order 7 Rule 11 of the Code despite existence of averments in the plaint about existence of landlord-tenant relationship. On perusal of the averments made in the plaint, it cannot be stated that the plaint either does not disclose any cause of action or there is any express bar for filing of the suit. The applications seeking rejection of the plaint are thus totally misplaced and have rightly been rejected by the Trial Court.

4) It must also be observed that the suits are filed in the year 2010 and the applications seeking rejection of the plaint are filed 11 years later in the year 2021, though the Written Statements are filed in the year 2013. It appears that the applications are filed at a stage where Plaintiff has already closed its evidence and when it was the turn of the Defendants to lead their evidence. The objective behind filing of the applications is thus more than apparent. The Trial Court has been extremely lenient in imposing costs of only Rs.5,000/-. The Petitioners have not stopped at rejection of their applications by the Trial Court and have taken further chance by filing the present Revision Applications which have remained pending for further 2 years in this Court. This essentially resulted in further delay in decision of the suits.

5) Therefore, while dismissing the present Revision Applications, this Court is inclined to impose exemplary costs on the Revision Application.

1 AIR 1995 Karnataka 24

The Civil Revision Applications are accordingly dismissed. Each of the Revision Applicants shall pay to Plaintiff further costs of Rs.10,000/- in addition to the one already imposed by the Trial Court within a period of 3 weeks from today. Failure to pay costs within the stipulated time shall result in striking off defence of the the Revision Applicants. Needless to clarify that, the Trial Court shall decide the Suit on its own merits uninfluenced by any of the observations made in this order.

[SANDEEP V. MARNE, J.]