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

CIVIL REVISION APPLICATION NO. 299 OF 2024

Jijabai Raghunath Chaudhari and Ors. .. Applicants

Versus

Madanlal Fulchand Bothara .. Respondent

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- Mr. Pratik Balasaheb Rahade, Advocate for Applicants.

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 11, 2024.

P.C.:

- 1.** Heard Mr. Rahade, learned Advocate for Applicants.
- 2.** The order dated 14.03.2024 passed by the learned Trial Court rejects the Application filed below Exhibit “17” of the Defendants. It is the contention of the Defendants that as far back in the year 1971, the Defendants were issued 32-M Certificate under the Maharashtra Tenancy and Agricultural Lands Act, 1948 in respect of the Suit land / property and on the basis of that 32-M Certificate, the Defendants mutated their names and their successor in-title’s names in the year 2022 in respect of the Suit land / property.
- 3.** Being aggrieved, Plaintiff who was in occupation of the Suit land / property filed Regular Civil Suit No.54 of 2023 seeking declaration and injunction in respect of the Suit land / property on the ground that it is the Plaintiff who has been in possession of the Suit land / property since long.

4. Mr. Rahade would argue that admittedly the cause of action had arisen in the year 2022 for the Plaintiff to file the Suit proceedings. That is true considering the averments made in the Suit plaint. However reliance of the Defendants on the 32-M Certificate is not in its entirety. What is found is that the Defendants have failed to place on record the fact that after the issuance of 32-M Certificate, they paid the purchase price and became owners of the Suit land and thereafter got the Suit land / property mutated in their names and took possession of the Suit land / property and paid the assessment charges in respect of the Suit land / property thereafter since and till the date of filing of the present Suit. Having failed to do so, it cannot lie in the mouth of the Defendants to now submit that issuance of 32-M Certificate is the Defendants' title to the Suit land / property.

5. On reading the Suit plaint, it is clear that no steps were taken by Defendants pursuant to the issuance of 32-M Certificate and therefore considering the averments made in the Suit plaint including the cause of action, the learned Trial Court has returned an appropriate finding in paragraph No.8 of the impugned order which cannot be faulted with. Considering the cause of action having been reflected and admittedly accepted by the Defendants, the order rejecting the Application filed under Order VII Rule 11 of the Civil Procedure Code, 1908 has been correctly passed.

6. I am in consonance with the reasons recorded by the learned Trial Court in paragraph No.8 of the order dated 14.03.2024 and the said order does not call for any interference. The impugned order dated 14.03.2024 is sustained.

7. With the above observations, Civil Revision Application is dismissed.

[MILIND N. JADHAV, J.]

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