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

CIVIL REVISION APPLICATION NO. 336 OF 2024

Anil Hiralal Bhandari

Applicant (Orig.
.. Defendant No.7)

Versus

Vishwanath Dattatraya Thorve and Ors.

.. Respondents

-
- Mr. Nitin Mulye, Advocate for Applicant.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JULY 01, 2024.

P.C.:

- 1.** Heard Mr. Mulye, learned Advocate for Applicant.
- 2.** The impugned order rejects the Application filed below Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short “CPC”) seeking dismissal of the Suit. Suit is filed by the Plaintiffs being the legal heirs of deceased Dattatraya Tukaram Thorve on the premise that the said Plaintiffs have become the owners of the Suit property by adverse possession.
- 3.** Mr. Mulye, learned Advocate for Applicant i.e. Defendant No.7 namely Anil Hiralal Bhandari would contend that as stated in the Suit plaint, Suit property admeasures 1133.33 square meters out of which an area of 400 square feet is built up area. He would submit that Dattatraya Tukaram Thorve was the tenant / lessee of the

predecessor-in-title of the Applicant – Defendant. He would submit that by a conveyance and registered sale deed dated 18.08.2008, the predecessor-in-title of the Suit property conveyed the Suit property to Defendant No.7 alongwith attornment of the tenant / lessee i.e. Dattatraya Tukaram Thorve in the Suit property.

4. In view of the above facts, he would submit that the Suit filed by the Plaintiffs who are the legal heirs of deceased Dattatraya Tukaram Thorve claiming entitlement and declaration on the ground of adverse possession is not maintainable in law and therefore Defendant No.7 approached the learned Trial Court and filed Application under Order VII Rule 11 of the CPC. By the impugned order, the said Application is dismissed.

5. Defendant No.7 who is the Applicant before me is also directed to place on record appropriate material to support his case that after 2008 he was instrumental in payment of the assessment and taxes in respect of the Suit property as landlord. If any rent receipt has been issued by him to the original tenant Dattatraya Tukaram Thorve, the same shall also be placed on record.

6. An arguable case has been made out by Mr. Mulye for issuance of notice and immediate stay of the impugned order dated 12.04.2023.

7. Hence, issue notice to the Respondents. Humdast permitted.

8. In addition to Court notice, Applicant is permitted to serve a copy of the Civil Revision Application and this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. After receiving notice, Respondents are directed to take cognizance of this order and file their Affidavit-in-Reply on or before the next date, if so desired.

10. It is clarified that, this Civil Revision Application shall be disposed of on the next adjourned date at the stage of admission itself after hearing the parties.

11. Respondents are directed to remain present in Court on the next adjourned date either by themselves or through Advocate.

12. In the meanwhile, the proceedings before the learned Trial Court shall stand stayed until the present Civil Revision Application is determined by this Court.

13. Stand over to **15th July, 2024.**

[MILIND N. JADHAV, J.]

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