



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION NO.61 OF 2024

Pralhad s/o Mahadeo Viche and ors.

(Vs.)

Vithal s/o Mahadeorao Viche and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.B. Mirza, Advocate for the applicants.

CORAM : G.A. SANAP, J.

DATE : 29.11.2024

Heard learned Advocate for the applicants. Perused the record and proceeding.

2. In this revision application, challenge is to the order dated 20.01.2024 passed by learned Civil Judge Junior Division, Telhara, whereby the learned Judge rejected the application made by the defendants for rejection of plaint.

3. It is the case of the defendants that there is no cause of action for filing the suit. The cause of action is imaginary. The plaintiffs have no right in respect of 13 R land. The dispute has been raised belatedly. It is also stated that the plaintiffs have claimed negative declaration.

4. The plaintiffs have filed the suit seeking decree of permanent injunction restraining the defendants from disposing of the suit property, described in the plaint, in any manner. The plaintiffs in the plaint have stated that 13 R land is a disputed land. It is stated that while carrying out digitalization of the revenue record, the land admeasuring 13 R was recorded in the name of Mahadeo Viche. It is stated that the plaintiffs have made application before the revenue authority for correction of the mistake. It is the grievance of the plaintiffs that taking the advantage of this revenue entry, the defendants are intending to dispose of that part of the land admeasuring 13 R.

5. Learned Judge, on consideration of the submissions has recorded a finding that no case is made out for rejection of the plaint. I have gone through the plaint. The plaintiffs are claiming decree of permanent injunction restraining the defendants from disposing of suit property. The relevant material facts in support of the prayer have been pleaded in the plaint. If the submission advanced by the learned Advocate for the defendants is accepted, then the Court at this stage, would be required to appreciate the facts and material and record a finding of fact. In my view, it is not permissible while considering the application under Order VII Rule 11 of the Code of Civil Procedure. It is evident that learned Civil Judge Junior Division,

Telhara has properly appreciated the submissions. I do not see any substance in this application. The order passed by the learned Judge is in accordance with law. As such this revision application is rejected and disposed of.

JUDGE

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