



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

WRIT PETITION NO. 433 OF 2024

(Shrikrushna Madhukar Dharme & Anr.

Vs.

Manohar Aditmal Kruplani)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. V.B. Bhise, Advocate for the Petitioners.
Mr. S.A. Mohta, Advocate for the Respondent.

CORAM: N.R. BORKAR, J.

DATED : 18th JUNE, 2024

Heard.

2. This Petition takes exception to the order dated 27.11.2023 passed by the 2nd Jt. Civil Judge Junior Division, Akot below Exh.159 in R.C.S. No. 153/2021.

3. The Petitioners/original Defendants had filed an application seeking permission to amend the written statement and counter claim. The learned Trial Court, by the order impugned, has rejected the said application.

4. I have heard the learned Counsel for the parties.

5. The proposed amendment sought by the Petitioners (Page 91) reads thus:

“PROPOSED AMENDMENT

5. *In the title clause of the counter claim after the word “suit” words “DECLARATION AND” may kindly be allowed to be added.*

6. *After para no.2, following para no.2a may kindly be allowed to be added in counter claim -*

“2-a The original plaintiff is businessman and not an agriculturist. The sale-deed dated 14.9.2010 document No.2817/2010 alleged to be executed by him from the defendant no.2 is without permission of Collector. As per the provisions of Maharashtra Tenancy and Agricultural lands (Vidarbha Region) Act, 1958 the permission is mandatory for non-agriculturist before purchasing agricultural land. Therefore, the said sale-deed without permission is void ab initio and is liable to be declared void and cancelled.”

7. *After para no.5 following para no.5-a in the counter claim may kindly be allowed to be added -*

“5-a The original defendant/plaintiff in counter claim lodged the complaint against the original plaintiff/defendant in counter claim under section 18 (1) and 16 of Maharashtra Money Lending (Regulation), Act on dated 30.09.2021 before the District Deputy Registrar, Akola. As per the provisions of the Maharashtra Money Lending (Regulation) Act, 2014 District Deputy Registrar, Akola appointed Assistant Registrar of Co-operative Societies, Akot as inquiry officer and Inquiry Officer after completing inquiry under section 16 submitted his report to the District Deputy Registrar on dated 23.5.2023 and remark that, the transaction of alleged sale-deed dated 14.09.2010 document No.2817/2010 between original plaintiff and original defendant no.2 is money lending transaction is not genuine sale-deed and it is also remarked that the original plaintiff is illegal money lender. District Deputy Registrar now directed the Assistant Registrar to further inquire in to the matter as

per section 18 (1) of Maharashtra Money Lending (Regulation) Act, 2014. Therefore in view of the said report the suit filed by the original plaintiff on the basis of illegal and void document is not maintainable and is liable to be dismissed”

8. *In para no.7 of the counter claim “cause of action arose on dated 14.09.2010 document No.2817/2010 when without permission from Collector original plaintiff got executed sale-deed and thereafter on 23.5.2023 when inquiry office i.e., Assistant Registrar, Co-operative Societies, Akot submitted his inquiry report u/s.16 of Maharashtra Money Lending (Regulation) Act, 2014 sale-deed is liable to be declared as illegal and void”*

9. *In para no.9 after the number “Rs.1000/-” following words/may kindly be allowed to be added -*

“and for cancellation of sale-deed dated 14.09.2010 document No.2817/2010 Rs.5,50,000/- proper court fee of Rs.15430/- is paid herewith”

10. *In the prayer clause after prayer clause (1) following prayer clauses (1-a) and (1-b) may kindly be allowed to be added -*

“(1-a) Pass a decree by declaring the original plaintiff/defendant in counter claim is not an agriculturist and sale-deed dated 14.9.2010 document No. 2817/2010 is without permission from Collector is void”

“(1-b) Pass a decree declaring that as per the inquiry report dated 23.5.2023 of Assistant Registrar, Co-operative Societies, Akot who is appointed by District Deputy Registrar, Akola the sale-deed dated 14.09.2010 document No. 2817/2010 is illegal, void and cancelled.”

6. During the course of hearing, the amendment

sought in para 6 of the application is not pressed. As regards, the amendment sought in para 7 and other consequential amendment sought pursuant to said proposed amendment in para 7, the learned Counsel for the Petitioners submits, that the Trial Court has not at all dealt with it in the order impugned.

7. I have perused the impugned order. There is a substance in the submission of the learned Counsel for the Petitioners, and therefore, the order impugned cannot be allowed to stand to that extent.

8. In the result, the following order is passed.

ORDER

(i) The Petition is **partly allowed**.

(ii) The learned Trial Court shall decide the application at Exh. 159 afresh only to the extent of proposed amendment in para 7 and other consequential amendment sought pursuant to the said proposed amendment in para 7. The impugned order to that extent is quashed and set aside.

9. The Petition is **disposed** of in the above terms. No costs.

10. Pending application/s, if any, shall stand disposed of accordingly.

(N.R. BORKAR, J.)