

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 325 OF 2024

Ranjan Bhausahab Dombé ..Applicant

Versus

The State of Maharashtra & Ors ...Respondents

Ms. Manisha Devkar, with Shankar Katkar, for the Applicant.

Mr. Mayur S. Sonavane, AGP, for Respondent No.1.

Mr. G. N. Salunke, i/b Swaraj Jadhav & Umesh Kurund, for
Respondent No. 6.

CORAM: N. J. JAMADAR, J.

DATED : 4th MARCH 2025

P.C.:

1. This Revision Application is directed against an order dated 21st July 2022 passed by the learned Civil Judge, Pandharpur on an application (Exhibit “85”) in Regular Civil Suit No. 591 of 2017, whereby the application preferred by the applicant-plaintiff, for a decree on admission under order XII Rule 6 of the Code of Civil Procedure 1908 (“the Code”) came to be rejected.

2. Shorn of superfluities, the background facts can be stated as under:

3. Maruti Laxman Deshmukh (defendant no. 8) was allotted 81 R land out of the Survey No. 62/2 as a project affected person.

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Inadvertently, the said land came to be mutated in the record of rights with two distinct Survey Numbers, i.e., Gat No. 103/2B/2B/2 and Gat No. 103/1 and two independent 7/12 extracts were issued in the name of defendant no.8.

4. On 2nd June 2004, defendant no. 8 executed a registered Agreement to Sale in favour of Bajarang Sambhaji Bagal (defendant no.9), wherein both the Gat numbers were mentioned. Defendant no. 8 sought permission from the competent authority to sale the said land. On 29th March 2005, the Divisional Commissioner, Pune, granted permission to sale the said agricultural land bearing Gat No. 103/2B/2B/2. Pursuant thereto Sale Deed was executed by defendant no.8 in favour of Bajarang Bagal (defendant no.9) furnishing description of the said land with reference to Gat No. 103/2B/2B/2.

5. The land changed hands and, eventually, under a registered Sale Deed dated 23rd October 2008 the plaintiff purchased the said land from Bajarang Bagal (defendant no.9).

6. In the meanwhile, taking undue advantage of another record of rights, in the form of 7/12 extract of Gat No. 103/1, in respect of the very same land the defendant no.8 executed a Sale Deed in favour of Shahaji Namdev Babar (defendant no.12). Eventually, Shahaji Bahar (defendant no.12) executed a Conveyance in favour of Mahesh Devidas Sathe (defendant no.13).

7. Asserting that the plaintiff has been in possession of the suit land and the instruments executed by defendant no. 8 in favour of defendant no.12 is null and void, the plaintiff instituted the suit for declaration and the consequential relief of injunction.

8. In the said suit, defendant no. 13 appeared and filed Written Statement. Likewise, defendant nos. 1, 5, 6 and 7, who are the State and instrumentalities of the State, also filed Written Statement.

9. Asserting that in the Written Statement filed on behalf of defendant no. 13 and defendant nos. 1, 5, 6 and 7, there are clear and categorical admissions of the plaintiff's claims, an application for a decree on admission came to be filed.

10. The application was resisted by defendant no.13.

11. By the impugned order, the learned Civil Judge rejected the application holding that there was no admission as claimed by the plaintiff. On the contrary, the defendant no 13 has categorically denied the plaintiff's claim.

12. Ms. Devkar, the learned Counsel for the applicant, submitted that, it is a matter of record that in respect of one and the same land which was allotted to defendant no.8 as a project affected person inadvertently two separate 7/12 extracts were issued and by taking undue advantage thereof, defendant no. 8 executed two Conveyances in favour of the predecessor in title of the plaintiff and the predecessor in

title of defendant no. 13. This fact has been admitted by defendant no. 13 in the Written Statement. Likewise, defendant nos. 1, 5, 6 and 7 have also conceded in unequivocal terms that inadvertently two separate 7/12 extracts were issued and, thereupon, defendant no. 8 has executed two Conveyances. Attention of the Court was invited to the contentions of defendant no. 13 in the Written Statement, especially paragraph 19.

13. Mr. Salunke, learned Counsel for the respondent nos. 6- defendant no. 13 countered the submissions on behalf of the applicant. It was urged that there is no admission as claimed by the plaintiff. In fact, in the instant application itself, the applicant has raised a qualified ground that the defendants have admitted the claim of the plaintiff, in principle.

14. Mr. Salunke submitted that legal position is well-settled that to sustain a decree on admission, the admission must be clear and unequivocal.

15. I have perused Written Statements, especially the contentions in paragraph 19 of the Written Statement of defendant no. 13. Undoubtedly, there is a reference to the history of the two transactions executed by defendant no.8. However, the defendant no. 13 categorically contends that the Sale Deed executed by defendant no. 8 in favour of the predecessor in tile of the plaintiff was sham, bogus and

invalid and sans delivery of possession of the said land. On the contrary, under the Sale Deed executed by defendant no. 8 in favour of predecessor in title of defendant no. 13, the latter came in possession of the suit land. The Written Statement of the State of Maharashtra and officers/instrumentalities of the State, also narrates the sequence of the transactions. However, these Written Statements do not constitute admission of the claim of the plaintiffs.

16. The core question that would arise for adjudication in the suit would be, which of the two Sale Deeds executed by defendant no. 8 is valid and commands precedence. That essentially is a matter for adjudication at the trial.

17. A profitable reference in this context can be made to a decision of the Supreme Court in the case of **Himani Alloys Limited Vs Tata Steel Limited**¹ wherein, the Supreme Court has cautioned against passing a decree on admission in the absence of a clear and unequivocal admission. The observations in paragraph 11 read as under:

“11. It is true that a judgment can be given on an “admission” contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to

1 (2011) 15 SCC 273.

exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear “admission” which can be acted upon.”

(emphasis supplied)

18. The aforesaid being the position in law, the learned Civil Judge can not be said to have committed any error in rejecting the application to pass a decree on admission.

19. There is no such infirmity in the impugned order which warrants interference by this Court in exercise of supervisory jurisdiction.

20. Civil revision application, thus, stands rejected.

[N. J. JAMADAR, J.]