

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 100 OF 2025

Shri Pramod Budghmal Nahar and ... Applicants
Anr.

V/s.

Mohan G. Waghavale (deceased) ... Respondents
through LRs. Ganesh AM. Waghawle
and Ors.

Mr. Anwar F. Shaikh, for the Applicants.

Mr. Sudhir Sadavarte, for the Respondents.

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CORAM : N.J. JAMADAR, J.

DATE : 1ST APRIL 2025.

PC:

1. Heard the learned counsel for the Applicants.
2. This Revision is directed against an order dated 7th October 2024 passed by the learned Civil Judge on an application for rejection of plaint (Exhibit-60) in R.C.S. No. 165 of 2021, whereby the application preferred by the applicants/defendant nos. 1 and 2 came to be rejected.
3. The learned counsel for the applicants submitted that the learned Civil Judge has exercised the jurisdiction with material irregularity. Though the plaint does not disclose any cause of action,

and an illusion of cause of action has been created by referring to non-existent boundaries, the learned Civil Judge has declined to exercise the jurisdiction to reject the plaint. It was further submitted that the defendant Nos. 1 and 2, who are the adjacent land holders were, in fact, carrying out measurement of their own land to demarcate the boundary. If the plaintiff is aggrieved by the demarcation of the boundaries, the plaintiff has to take recourse to the proceedings before the authorities under the Maharashtra Land Revenue Court.

4. I have perused the averments in the plaint carefully. The suit is for a simplicitor injunction on the premise that after carrying measurement of the land, the defendant Nos. 1 and 2 have started to cause obstruction to the possession of the plaintiff over the suit property described in Para no. 1-A of the plaint i.e. 2 R land out of Survey No. 43/4/B1.

5. Indisputably, the applicants-defendants nos. 1 and 2 are the adjacent land holders. Evidently, a dispute has arisen over the demarcation of the lands. It would be preposterous to claim that there is no cause of action. The plaintiff may not eventually succeed in the suit. However, that is not the test for rejection of the plaint. The learned Civil Judge has, thus, not committed any error in rejecting the application for the rejection of the plaint.

6. The application stands dismissed.

(N.J. JAMADAR, J)