



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

CIVIL REVISION APPLICATION NO.100 OF 2019

Shri Omkareshwar Mahadev Sansthan Hirpur, Tah. Murtizapur, Dist. Akola
through Trustee Sanjay Uttamrao Gawande

Vs.

Sanjay Vasudeorao Dhawale and another

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

Court's or Judge's orders.

Shri Narendra Dhoot, Adv. h/f Shri N.R. Saboo, Advocate for applicant.
Shri C.A. Joshi, Advocate for non-applicants.

CORAM : M.W. CHANDWANI, J.

DATE : 22.08.2025.

1. This application challenges the order dated 16.08.2017 passed by the learned 2nd Joint Civil Judge, Junior Division, Murtizapur, District Akola, in Regular Civil Suit No.68 of 2016, thereby rejecting the application filed by the applicant under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint.

2. It is not necessary to go into the factual matrix of the case in detail. Suffice to say that the non-applicants herein have filed a suit against the Trust claiming themselves to be the tenants in respect of the agricultural land and apprehended dispossession at the hands of the Trust. Therefore, they prayed for injunction restraining the applicant/Trust from disturbing their peaceful possession. The applicant filed an application before the trial Court for rejection of plaint under Order VII Rule 11 on the premises

that the plaint does not disclose the cause of action and the suit is barred under Section 80 of the Maharashtra Public Trust Act as the consent of the Charity Commissioner has not been sought. Another ground which was taken in the application is that, there is no provision for inheritance of tenancy of the Trust in the wake Section 54 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act of 1958. The learned trial Judge rejected the application by the impugned order dated 16.08.2017. Feeling aggrieved with the dismissal of the said application, this civil revision application came to be filed by the applicant.

3. Having heard the learned counsels for the applicant as well non-applicants and having gone through the plaint, it transpires that the non-applicants have filed Regular Civil Suit No.68/2016 claiming themselves to be in possession of the agricultural land. It is claimed that Sanjay Uttramrao Gawande took charge of the Trust and started harassing the non-applicants with intent to oust the non-applicants from the suit property without following due process of law. It is also specifically mentioned that on 21.09.2016 Sanjay Gawande threatened the non-applicants to dispossess them forcibly. Ultimately, they prayed for injunction restraining the applicant/Trust, its agent, employees or anybody claiming on behalf of the applicant from disturbing the peaceful possession of the non-

applicants. Therefore, I do not find any force in the argument of the learned counsel for the applicant that there is no cause of action.

4. So far as bar the under Section 80 is concerned, no doubt, the civil Court has no jurisdiction in these matters to decide any question which is to be decided by any officer or authority under the Act. The non-applicants are claiming injunction. Axiomatically, it cannot be granted by the Charity Commissioner or any of the authorities under the Act. So far as the submission with regard to Section 50 of the Maharashtra Public Trusts Act is concerned, two or more persons having an interest in the case the suit is under sub-clauses (i) to (iii), or one or more such persons in case the suit is under sub-clause (iv) may institute a suit after obtaining consent of the Charity Commissioner in writing. Thus, it presupposes that the suit must be filed by either a trustee or a person having interest in the Trust. The plaint does not disclose that the non-applicants have any interest in the Trust and therefore, the suit filed by the non-applicants does not require permission.

5. This takes me to the last ground that tenancy of the property belongs to the Trust and cannot be inherited. Let me state that, in this regard, the trial Court held that if the issue of tenancy is raised the question related to tenancy is required to be dealt with by the Tahsildar under

Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958, by keeping the suit pending. The plaint cannot be rejected on this ground. The trial Court has given cogent reasons while dismissing the application. Therefore, no interference is required in the findings recorded by the trial Court. The application is devoid of merits and hence, the same stands dismissed.

JUDGE

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