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Exh. 12

IN THE COURT OF HON'BLE CIVIL JUDGE JUNIOR DIVISION ARMORI

Reg. Civil Suit No. 08/2024

Waman Gajanan Ninave + 2

Versus

Naresh Gajanan Ninave

PRELIMINARY OBJECTION TO MAINTAINABILITY OF SUIT

The defendant most respectfully submits his objection as under,

1. That the plaintiff has filed the instant suit seeking declaration that the Will Deed dated 22.09.2005 bearing document no. 642/2005 as null and void and not binding on the plaintiff and further for partition and separate possession and for permanent injunction. Moreover, the plaintiff has filed an application vide Exh. 05 for temporary injunction restraining the defendant from creating third party interest in the suit property and from making any construction thereon till the final adjudication of the suit. Today the instant matter is posted for hearing on application for temporary injunction Exh. 5.

2. It is submitted that the plaintiffs have averred in the plaint para no. 3 and 10 that the plaintiff no. 2 received notice dated 16.06.2022 from Tahsildar Office, Armori regarding the mutation on 7/12 extract of suit property and therefore immediately plaintiff no. 2 appeared before the Tahsildar, Armori and shocked to know that the defendant is trying to have his name mutated on the suit property with the assistance of Will deed dated 22.09.2005. Thus, from the averments made in the plaint it clears that he got knowledge of Will on

Plaintiff to

Say.

24/6/24.

R/Copy?

Launched...
C.F. Plaintiff
24-6-24

16.06.2022 when he received notice of mutation from the office of Tahsildar, Armori.

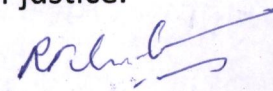
3. The plaintiffs have filed a copy of notice dated 16.06.2022 as per the list of documents filed alongwith plaint. From the perusal of said notice dated 16.06.2022, it is seen that the said notice was issued in Rev. Case No. /RTS-59/2021-22 Mouza – Palora pending in the office of Tahsildar, Armori. It is specifically submitted that the said revenue case was registered in the office of Tahsildar, Armori as per the objections filed by plaintiff no. 1 to 3 on 01.10.2020, 11.12.2020, 14.12.2020 and 15.12.2020 to the mutation on the basis of Will Deed. It is further submitted that the Tahsildar, Armori has passed an order dated 28.06.2022 in the above Rev. Case No. 08/RTS-59/2021-22 and thereby rejected the objections filed by the plaintiffs.

4. Thus, it is clearly seen that even before filing objections to the mutation, the plaintiffs were well within the knowledge of Will deed dated 22.09.2005. But the plaintiffs have deliberately concealed these facts and the documents from this Hon'ble Court. The plaintiff only to bring the suit within limitation has deliberately filed the notice dated 16.06.2022. But in fact the plaintiffs had got the knowledge of the Will deed on or before 01.10.2020 and therefore the suit of the plaintiff is not maintainable as the same is barred by limitation.

It is therefore prayed that, the Hon'ble court be pleased to dismiss the suit being barred by limitation in the interest of justice.

Armori

Date : 24.06.20240


C. F. Defendant

order

Perused application & say
Heard both sides. The
Defendant by way of
instant application has
Prayed for dismissal of
Suit being not maintainable
on the ground of
Limitation. The Plaintiff
vide his say has
Prayed that suit is
maintainable.

The issue of
Limitation being a mixed
Question of fact &
Law & this issue
can be solved after
adducing evidence by
parties, no substance in
application at this stage.
Here Application is

rejected. 190 Madu.

13/12/24.