

Order below Exh.17 in R.C.S. No.94/2023

This is an application filed by defendant No.1 for registering offence against plaintiff and advocate of the plaintiff. Defendant No.1 submits that, in the present matter, there is violation of Article 14 by the court. Without issuing notice, summons has been served by the court. Therefore, there is breach of fundamental right of defendant No.1. The plaintiff has misled the court. Therefore, in view of Section 151 and 152 of the Code of Civil Procedure, 1908 ('CPC' in short) by taking cognizance, offence may be registered against the plaintiff and his advocate.

2. The plaintiff resisted the application by filing say and contended that, there is no reason to exercise the powers under Section 151 of CPC. The reason cited in the application do not warrant exercise of powers under Section 152. Therefore, the plaintiffs prayed for rejection of the application.

3. Heard defendant No.1 in person and learned advocate for the plaintiff. Perused record of the case. The suit is filed for solicitor injunction against defendant No.1 and defendant No.2. Out of the defendants, defendant No.2 is the Collector, Nashik. After institution of the suit, summons were issued for settlement of issues as per order dated 09.06.2021. It seems that, defendant No.1 appeared in this proceeding by filing the present application on 15.06.2021. The date of institution of the suit is 02.06.2021. Defendant No.2 has not demonstrated as to how the issuance of notice before service of summons was mandatory. Further, as per Section 152 of C.P.C., clerical or arithmetical mistake may be corrected. However, there is

no mistake in the order issuing summons for settlement of issues. There is no reason to take cognizance against the plaintiff and his advocate as prayed by the plaintiff. The application is filed under Section 151 and 152 of C.P.C. These provisions do not provide for passing of order to register offence against the party or his advocate. The application is devoid of merit. Hence, following order.

ORDER

The application is rejected.

Sd/-xxx

Date : 03.02.2025.

**(R. S. Kanade)
Civil Judge S.D., Sinnar.**