

Shri.Dharma Hira Nirguda and others Vs. Shri.B.P.Landge and others.

ORDER BELOW EXH. 22

The defendants have filed an application under Order 7 Rule 11(a) for rejection of plaint on the grounds of absence of cause of action and the suit being barred by law under Order 07 Rule 11(d) of C.P.C.

The plaintiff resisted the same by filing their say at Exh. 23.

Heard learned advocate Shri. Khutale for defendants and learned advocate Smt. Kane for plaintiffs.

The present suit is filed for measurement of boundary of Adiwasi village Hedutane, Taluka Panvel, District Raigad and for allotment of portion of land in their names by taking relevant entries in revenue extracts. The plaintiffs have contended that, their efforts for having measurement by Government department is going on since 2013, but, the same was not able to be conducted because of the influence of defendants, who are having hold in the village. As the defendants tried to grab the land of aforesaid village forcibly on 20/11/2019, therefore, plaintiffs were constrained to file the present suit. The said

contention of the plaintiffs clearly shows the cause of action which arose for filing of the present suit. Whether, the said cause of action is proper or not will be decided on the credibility of the evidence of the respective parties at the time of hearing. Hence, the objection in respect of not having cause of action is liable to be discarded.

As per as the second objection is concerned that, the present suit is barred by law because the relief which are claimed are cannot be granted by a Civil Court, but, the same can be granted by a Revenue Court. Perusal of the reliefs clearly goes to show that, plaintiffs have disputed the area of the village. They want the entire area of the village to be measured by Government Department. In short, the present suit is for measurement and fixation of boundaries of village Hedutane. The said relief can be granted by a Civil Court. Hence, the second objection is also liable to be turned down.

Apart from above, the defendants also contended that, there is no description of boundaries of the area which is turned as suit property in the plaint. As, already pointed out in the aforesaid para that, the present suit is for the measurement and fixation of the boundaries, therefore, this objection is also not sustainable. Similarly, the other objection regarding court fees can also be decided by framing a regular issue.

In view of the aforesaid findings of this court,

ORDER

01	The application Exh. 22 stands rejected.
02	Matter to proceed further.

Panvel.
Dt. 05-03 -2022

(M. M. Rao)
Civil Judge, Sr. Dn., Panvel.