

IN THE COURT OF Jt.CIVIL JUDGE JUNIOR DIVISION

AT KADEGAON, DIST.SANGLI

Regular Civil Suit No. 184/2016

Shankar Pandurang Suryavanshi

..... Plaintiff

V/s.

Tanaji Ganpati Yadav.

..... Defendant

Order Below Exh.22

01. The present application is filed by the defendant nos. 1 and 2 and submitted that, the sale deed executed between the plaintiff and defendant no. 1 dated 20/05/1999 is against the provision of The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. This issue is raised by defendants in their written statement and accordingly issue is framed below exh. 25 on same point. Hence, this application is filed to refer that issue to the competent authority as per section 36-A and 36-B of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Finally the defendants prayed to allow their application.

02. The plaintiff has filed his say below exh. 25 and submitted that, this application is filed only to cause delay in the suit. The sale deed dated 13/12/2000 is not hit by the provision of The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Hence it is not required to refer that issue to the competent authority. Finally the plaintiff prayed to reject the application.

03. I heard both sides on this point.

04. After perusal of the provisions laid down under section 36-A and 36-B of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 it is clear that the Civil Court has no jurisdiction to settled, decided or dealt with any issue which is required to be decided under this Act.

05. Ld. Advocate for the defendants relies upon *Mrs. Geetabai Mahagulal Panchbudhe and anr v/s Kailash Prakashchandra Makkad writ petition no. 5746 of 2017*. Hon'ble Bombay High Court Nagpur Bench held that, the issue regarding the sale deed hit by the provision of The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 is required to refer to competent authority as per the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

06. In present suit also the issue involved regarding sale deed dated 20/05/1999 i.e. whether it is illegal because it is hit by provision of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. As per section 36-A the civil court has no jurisdiction to decide this issue. Hence, it is required to refer this issue to the competent authority as per section 36-B of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Therefore, I pass the following order-

ORDER

1. The issue "Whether the sale deed dated 20/05/1999 is illegal because it is hit by provision of The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ?" is refer to the competent authority i.e. Sub divisional officer Taluka-Kadegaon, District Sangli .

2. The competent authority is directed to answer the reference and remit its finding to this court within 3 months of receiving the reference.
3. The present suit is stayed as per section 36-B till the receiving the reference from the competent authority.
4. Both parties to take note.

Date:- 22/02/2023

(P.R.Sabnis)
Jt.Civil Judge (Jr.Dn), Kadegaon