

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT
AURANGABAD**

**APPEAL FROM ORDER NO. 34 OF 2014
WITH
CIVIL APPLICATION NO. 2424 OF 2014**

Subhash Baburao Patil .. Appellant

Versus

Vasant Rangnath Magar and Another .. Respondents

Shri Prashant K. Deshmukh, Advocate for the Appellant.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 08TH SEPTEMBER, 2015.**

PER COURT :

1. The suit filed by the present respondents seeking declaration of ownership and injunction is decreed. The present appellant aggrieved thereby has filed an appeal before the District Court alongwith application **Exh. 5** for stay of the said judgment and decree. The said stay application is rejected vide the impugned order dated 07th December, 2013. The appellant has assailed the said order before this Court.

2. Mr. Deshmukh, the learned counsel for the appellant submits that, the respondent No. 1 is not the owner of the property. The appellant and his brother have executed sale deed in favour of Hanumant Rama Bhojane and he is in possession of the said land. The learned counsel submits that, the trial Court has not properly appreciated the evidence on record. The appellant has proved the title and possession. If the decree is not stayed, the respondent No. 1 would dispossess the appellant.

3. I have considered the submissions.

4. Right since institution of the suit, the injunction restraining the defendants from interfering in the possession of the plaintiff was in force. After recording the evidence the suit is decreed, thereby injunction is clamped against the defendants. The application for stay of the said decree is rejected. The appellate Court has observed that, there is no material on record to show that, the respondent No. 2 is in possession of the land. Even, the present appellant claims to have alienated the land in favour of respondent No. 2. Naturally, has divested himself of any right. A person who does not have any interest in the property cannot claim any right. The appellate Court has considered the long standing injunction in favour of the plaintiff. The order does not suffer from any illegality

5. Considering the above, appeal from order is dismissed. Civil application also stands disposed of. No costs.

[S. V. GANGAPURWALA, J.]

sam/Sep. 15