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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6487 OF 2015

Mohd. Adil Khan Mohd Akil Khan @ Azhar Mamu PETITIONER

VERSUS

Suresh Nanappa Meencheria RESPONDENT

.....
Mr. J. M. Murkute, Advocate for the petitioner
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th JULY, 2015

ORAL ORDER :

1. The petitioner, who is defendant in Regular Civil Suit No. 482 of 2011 instituted by present respondent seeking perpetual injunction, purports to have been aggrieved by order of temporary injunction passed by trial court on application therefor, pursuant to Order 39, Rules 1 and 2 of the Code of Civil Procedure and as his Miscellaneous Appeal against order of temporary injunction has also failed, he is before this court.

2. Learned advocate for the petitioner vehemently submits that there is no dispute that the present petitioner is a true owner of the property, though seemingly, there is document dated 2nd May, 2005 in favour of the plaintiff, the same is not

admissible in evidence, having regard to relevant provisions under relevant law. He further refers to certain transactions entered into subsequent to said document, which he contends are not legal. He, therefore, submits that the order granting temporary injunction is unsustainable, a true owner cannot be restrained from enjoyment of possession of the property.

3. Perusal of the orders impugned shows that before the suit had been instituted, under written transaction, the possession appears to have been parted with by present petitioner. Learned advocate for the petitioner contends that documents are not reliable and is bogus, criminal prosecution is already in progress. He, therefore, submits that the transactions entered into with Sundar Ubale and his subsequent partnership with other persons, consequently their entering into transactions with respect to the suit property, are not legal at all and further that the agreement, which the petitioner had entered into in respect of the suit property, has been cancelled on 25th April, 2011 and claims to be in possession of the suit property.

4. However, both the courts have taken stock of the situation and after considering relevant aspects have considered that the plaintiff, *prima facie*, appears to be in possession of the property

pursuant to certain transactions, legality of which is sought to be questioned by the present petitioner.

4. Looking at that both the courts have considered relevant aspects and the orders passed cannot be termed as perverse and since the orders are passed by following sound judicial principles, I am not inclined to entertain the writ petition. Writ petition, as such, stands rejected.

5. Learned advocate for the petitioner refers to that the suit is of 2011, he, therefore, requests for direction of expeditious disposal of the same. Having regard to the date of the suit, it is desirable that the suit be proceeded with expeditiously.

[SUNIL P. DESHMUKH, J.]