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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.963 OF 2015

Tukaram Balaji Damwale & Others

PETITIONERS

VERSUS

Yogiraj Shivdas Swami & Another

RESPONDENTS

.....
Mr. V. D. Gunale, Advocate for the petitionersMr. S. B. Madde, Advocate for respondent No.1
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th JULY, 2015

ORAL ORDER :

1. The petitioners have moved this court, against concurrent orders passed by the trial and appellate courts on application for temporary injunction filed by present respondent - plaintiff in Regular Civil Suit No. 31 of 2013, pending before Civil Judge, Junior Division, Chakur.

2. After hearing learned advocates for petitioners and respondent No.1, the position emerges that land comprised in gut No. 116 at village Tiwatghal, Taluka-Chakur District - Latur is 3.80 Hectare and that the present petitioners have purchased land aggregating to 3.18 Hectare and present respondent No.1 -

plaintiff has purchased an area of 62 *Are* land, albeit, the area shown in the sale deed is 60 *Are*, from gut No.116. It appears that revenue record show division of gut No. 116 in two parts, viz., 116/2, which is with reference to land holding of present petitioners and 116/1 happens to be land holding of present respondent - plaintiff. The courts have observed that the revenue record of land gut No. 116/1 has been showing possession of vendor of present respondent - plaintiff since 2002 onwards till 2011. The courts have also given reasons as to how claim being made by the petitioners does not adhere to the factual position, for, their land holding may not exceed 3.18 hectare. The courts have also taken into account the partition showing extent of holding by present petitioners, as 3.18 Hectare comprising gut No.116/2. The courts have *prima facie* concurred that the land holding of the petitioners at the stage of hearing of temporary injunction application cannot be considered beyond 3.18 Hectare.

3. Having regard to these considerations, I do not see any point in entertaining the writ petition, since the orders appear to be with reference to *prima facie* record and cases being put up by parties and are not such, requiring this court to interfere with the relevant aspects considered by the two courts. Writ

petition, as such, stands rejected.

4. Looking at the controversy it may be expedient that the suit may be proceeded with expeditiously. The observations hereinbefore are only for the purpose of decision in the writ petition and shall not influence decision making in the suit on merits.

[SUNIL P. DESHMUKH, J.]

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