

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.303 OF 2014

Jagannath Ramchandra Kulkarni (Sathe) : Petitioner
versus
Devkant Shashikant Kulkarni (Sathe) : Respondent

Mr. S S Choudhari for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 28th January 2015

P.C.

1 There is a concurrent finding recorded in favour of the Respondent i.e. the original Plaintiff and against the Petitioner herein i.e. the original Defendant. Both the Courts below on the basis of the material on record have come to the conclusion that discretion is required to be exercised in favour of the Plaintiff as the Plaintiff is in possession and that the possession of the Plaintiff is required to be protected.

2 The dispute between the parties is in respect of the land bearing Gat No.388 which was originally standing in the name of one Ramchandra who was the elder in the family of the Plaintiff and the Defendant. It is the case of the Plaintiff that the Defendant in the year 1981 has voluntarily transferred some part of the land bearing Gat No.388 in the name of Laxman i.e. the grand-father of the Plaintiff. In view of the dispute that has cropped up between the Plaintiff and the Defendant in the year 2009, that the suit in

question came to be filed in the year 2012. The Plaintiff has relied upon a plethora of 7x12 extracts in respect of the suit land which extracts show the entries in the name of forefather of the Plaintiff and thereafter the Plaintiff himself. The said 7x12 extracts also show that the names of the brother and sister of the said Laxman have been deleted from the said revenue record and that the said position continues till date. It appears that the Defendant had filed proceedings against the said revenue entries which are subjudice.

3 Be that as it may, the Courts below on the basis of the said 7x12 extracts and in the absence of any contra material to rebut the presumption which is created on account of the said revenue entries have come to a conclusion that it is the Plaintiff who is in possession and that the said possession was required to be protected and have accordingly allowed the application for temporary injunction and confirmed the same. In my view, having regard to the concurrent orders passed by the Courts below, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]