

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3490 OF 2015

Shri Arun Agatrao Gore.] ... Petitioner

Versus

Shri Arjun Dhanushyaban Yadav and Anr.] ... Respondents

Mr. Sambhaji S. Wakure for Petitioner.

CORAM :- M. S. SONAK, J.
DATE :- APRIL 06, 2015

P. C. :-

1. This petition questions the Order dated 28/01/2015 made by the Civil Judge, Barshi, by which the Petitioner's Appeal against Order dated 15/11/2014 came to be dismissed.

2. The Civil Judge, Junior Division, Barshi, allowed the application for temporary injunction filed by the Respondent No.1-Plaintiff and restrained the Petitioner from interfering with the Plaintiff's possession of the suit property. The Petitioner's Appeal came to be dismissed by the learned District Judge vide Order dated 28/01/2015.

3. The learned Counsel for Petitioner submits that for the last five years, on the basis of registered Sale Deed dated 01/04/2010, the

Petitioner is in possession of the suit property. Further, even the survey record indicates the name of the Petitioner. In such circumstances, there was no question of grant of any injunction as against the Petitioner.

4. Having heard the learned Counsel for the Petitioner and perused the record, in my judgment, no case is made out to interfere with the impugned order. In the first place, there are two concurrent findings of fact, *prima facie* though they may be, that it is the Respondent No.1-Plaintiff who is in possession of the suit property. The Petitioner claims title and possession on the basis of Sale Deed which was executed *pendente lite* by the Defendant No.2 in Regular Civil Suit No.468 of 1991. The said suit was decided against the Defendant No.2 and even the Appeal against the same was dismissed by the Appellate Court. The impugned orders record that the decision in Regular Civil Suit No.468 of 1991 has attained finality. There are findings against the Defendant No.2 on the issue of both title as well as possession. In such circumstances, at least *prima facie*, the Petitioner cannot claim right on the basis of the Sale Deed in question.

5. There is neither any perversity in the findings recorded nor can it be said that the learned District Judge has erred in principle.

6. Accordingly, no case is made out to interfere with the impugned order.

7. Petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)