

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

WRIT PETITION NO. 7959 OF 2014

Jaywant Sarjerao Patil

..Petitioner

Vs

Vasantryao Yadavrao Chavan and
Anr.

.. Respondents

Mr. D.V.Sutar, Advocate for Petitioner.

CORAM : R.G.KETKAR,J.
DATE : 20/11/2015

PC:

1. Heard Mr.D.V.Sutar, learned counsel for the petitioner at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 4.5.2013 passed by the learned Civil Judge, Jr. Dn., Ichalkaranji below Exhibit 5 and Exh.18 in Regular Civil Suit No.580 of 2012 as also the Judgment and order dated 21.8.2013 passed by the learned District Judge-1, Jaysingpur in Misc. Civil Appeal No.34 of 2013. By these orders, the Courts below allowed the application preferred by the respondents at Exh.18 and issued injunction restraining the petitioner from disturbing his possession in respect of Gat No.1549, as more particularly described in paragraph 1/A of the Plaint.

3. Mr.Sutar submitted that the petitioner has instituted suit for declaration and injunction. The petitioner has prayed for declaration that the sale deed dated 2.11.2006 executed by father of the petitioner, namely defendant no.2, in favour of respondent no.1-defendant no.1 is illegal, null and void and for perpetual injunction restraining defendant no.1 from causing obstruction to the possession of the petitioner in respect of Gat no.1549 and Gat No. 1547.

4. Respondent no.1-defendant filed written statement as also set up counter claim. Pending the proceedings, he took out application restraining the plaintiff from causing obstruction to his possession over Gat No.1549. By the impugned orders, the Courts below allowed that application by holding that he is in possession of that property.

5. Mr.Sutar submitted that the findings recorded by the courts below are contrary to material on record and that the plaintiff is in possession.

6. Having regard to the concurrent findings recorded by the Courts below that defendant no.1 is in possession of Gat No.1549, I do not find that the Courts below committed any error. In particular, the learned District Judge has considered the aspect of possession from paragraphs 13 onwards. In view thereof, no case is made out for invocation of powers under

Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R.G.KETKAR, J.)