

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

WRIT PETITION NO. 7516 OF 2015

Waman Nivrutti Kasbe

..Petitioner

Vs.

Eknath Mahadu Kasbe & Ors.

..Respondents

Mr. Ramesh Soni i/b Ram & Co. for the Petitioner

CORAM : R.M.SAVANT, J

DATE : 5th October 2015

P.C. :

1 The Writ Jurisdiction of this Court is invoked against the order dated 13-2-2015 passed by the Learned Adhoc District Judge-1, Nashik, by which order, the application for injunction Exhibit 5 pending the Appeal came to be rejected. The injunction sought was that the Respondents in the Appeal should be restrained from interfering with the possession of the Petitioner i.e. original Appellant.

2 It is required to be noted that the application for temporary injunction filed by the Plaintiff in the Suit in question was rejected by the Trial Court. Thereafter the Suit in question itself has been dismissed. The injunction sought is in respect of Gat No.75/2 of which the Petitioner claims to be in possession by virtue of the partition effected by his father prior to which a

partition had taken place between his father and uncle. The Lower Appellate Court did not countenance the said submission urged on behalf of the Appellant. The Lower Appellate Court was of the view that since it was the case of the Appellant and the property was owned by Mahadu Kasbe it was incumbent upon the Appellant to show that there was a partition between the sons of Mahadu which included the father of the Appellant unless the same is proved the case that the father of the Appellant has effected further partition of property could not be accepted. The Lower Appellate Court further held that the Plaintiff has failed to satisfy the three ingredients for the grant of temporary injunction.

3 In my view having regard to the reasons mentioned for rejection of the application for injunction, no case for interference in the Writ Jurisdiction of this court is made out. The Writ Petition is accordingly dismissed.

4 However, the hearing of the Appeal in question is expedited.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed order