

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8745 OF 2015**

Shri Gorakh Babu Pawar and Ors

..Petitioners

Vs

Shri Shrikant Shivaji Pawar and
Anr.

.. Respondents

Mr. Kisan B. Sonwalkar, Advocate for Petitioners.
Mr. Vaibhav V. Ugle, Advocate for Respondents.

CORAM : R.G.KETKAR,J.
DATE : 03/12/2015

PC:

1. Heard Mr. Kisan Sonwalkar, learned counsel for the petitioners and Mr. Vaibhav V. Ugle, learned counsel for the respondents at length.
2. By this Petition under Article 227 of the Constitution of India, original plaintiffs have challenged the Judgment and order dated 24.3.2015 passed by the learned Jt. Civil Judge, Jr. Dn. Malshiras, below Exhibit 5 in Regular Civil Suit No. 674 of 2014 as also the judgment and order passed by the learned District Judge-1, Malshiras in Civil Misc. Appeal No. 13 of 2015. By these orders, the Courts below rejected the application made by the plaintiffs for injunction restraining the defendants from causing obstruction to their cultivation of the suit land.
3. Mr. Sonwalkar submitted that both the courts below failed

to consider voluminous documents on record and in particular 7/12 extracts which show that the plaintiffs are in settled possession of the suit land. The Courts below also factually committed error in observing that Krishna Dhondiba Pawar is ancestor of the plaintiffs and that he is one of the consenting parties. He submitted that as the plaintiffs are in settled possession of the suit land, the Courts below committed error in declining to grant injunction.

4. On the other hand, Mr. Ugle supported the impugned orders. He submitted that the Courts below have recorded a categorical finding that the plaintiffs have suppressed material facts and did not come to the Court with clean hands. In fact one of the sale deeds dated 4.6.200 is signed by plaintiff no.3 as a witness. However, that document is also suppressed by the plaintiffs.

5. I have considered the rival submissions made by the learned counsel appearing for the parties. I have also perused the material on record. After considering the material on record, the Courts below have held that the plaintiffs have not established their possession. That part, the plaintiffs claimed to be tenants in respect of the suit land. However, though the land was re-granted in the year 1959 to the landlord, till date no proceedings are initiated under section 32G of the Bombay

Tenancy and Agricultural Lands Act, 1948. The Courts below have also considered various sale deeds. In fact, the learned District Judge also noted that wife of plaintiff no.1 and wife of plaintiff no.4 purchased some portions from the suit land land.

6. In view thereof, I do not find that the Courts below committed any error in passing the impugned orders. Hence, Petition fails and the same dismissed.

(R.G.KETKAR, J.)