

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

WRIT PETITION NO.321 OF 2015

Mahadev Anna Jadhav and another

.. Petitioners

Versus

Khanderao Ramchandra Jadhav

.. Respondent

Mr. S. S. Patwardhan, Advocate for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 20th JANUARY, 2015

PC.

1. There is a concurrent finding recorded against the Petitioners/ original Plaintiffs as regards their entitlement to the discretionary relief of injunction. Both the Courts below on the basis of material on record and especially the earlier adjudication that took place by way of Regular Civil Suit No.37 of 1988 which was filed by the present Petitioners on the basis of the Sale Deed dated 28.09.1977 which suit for injunction was dismissed as the Plaintiffs had failed to show their possession in respect of the specific portion of the suit land. In view of the said adjudication, both the Courts below have rejected and confirmed the order passed on Exh.5 refusing to grant interim injunction.

2. The Plaintiffs i.e. Petitioners herein to extricate themselves from the

said position sought to plead in the instant suit that in view of the subsequent developments which have taken place around the suit property, whereby the original owners have sold portions of the land wherein the suit property is comprised the property which has been sold to the Plaintiffs i.e. undivided 10 paisa share has become identifiable. In my view, the said developments even assuming that the adjoining plots are sold would not aid the Plaintiffs, in so far as the identification of specific portion out of a larger area is concerned. Pertinently, in this suit no relief is sought by way of seeking identification of the suit property. This has to be considered in the light of the developments which have taken place around the suit property as alleged by the Plaintiffs, hence no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]