

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 9625 OF 2015

Mansurbi Wahid Sayyed
Age: 55 years, Occu. Agri and Household,
R/o Shiradhon, Tq. Kalamb,
Dist. Osmanabad. ...PETITIONER

Versus

1. Jagdishchandra Narayan Mundada
Age: 68 years, Occu. Agril.,
2. Pawan Prakashchandra Mundada
Age: 22 years, Occu. Agril.,
Both R/o. Shiradhon, Tq. Kalamb,
Dist. Osmanabad ...RESPONDENTS

.....
Mr. A. V. Patil h/f Mr. S. P. Dhobale, Advocate for petitioner
Mr. A. T. Jadhavar, Advocate for respondent No.2
.....

CORAM : SUNIL P. DESHMUKH, J.

DATE : 17th MARCH, 2016

ORAL JUDGMENT:

1. Rule. Rule returnable forthwith. Heard learned counsel for the parties finally, by consent.

2. Petitioner purports to question legality, propriety and validity of series of orders passed in the proceedings initiated before the revenue authorities.

3. It is the case of petitioner that while suit is pending for partition and separate possession bearing Regular Civil Suit No. 310 of 2009, an application for interim and temporary injunction had been moved having regard to the activity by defendants to alienate the property which was likely to create some difficulties. During pendency of temporary injunction application, the alienation has taken place in favour of present respondents. Pursuant to said transaction, mutations were sought and were granted against which present petitioner had moved revenue appeal, which failed and against the same revision had been filed before the Commissioner, which too has been rejected. As such, the present writ petition has been filed.

4. It is submitted on behalf of petitioner that the hasty conduct of respondents is surprising and as such, is required to be suitably dealt with. He submits that despite pendency of temporary injunction application the sale deed has been executed and even the mutations pursuant to the same have taken place. He submits that revenue authorities have dealt with the matter touching the property in respect of which suit is pending between the parties.

5. On the other hand, Mr. Aashish Jadhavar, learned counsel for respondent No.2 points out that various aspects involved in the matter and submits that the respondents pursuant to the sale-deed have been put in possession. He submits that temporary injunction application (Exhibit-5) filed by petitioner – plaintiff had been rejected, an appeal therefrom also met with same fate. Subsequently, plaintiffs filed application Exhibit 28 seeking restraint on the defendants from alienating the suit property. Said application was allowed. However, said order was reversed in an appeal. He further submits that owing to obstruction by present petitioner, respondents filed Regular Civil Suit No. 473 of 2012 for perpetual injunction along with temporary injunction application. Said application was rejected, however, in appeal at the instance of present respondents, the order of refusal of injunction by trial court was reversed. Writ petition No. 7149 of 2013 filed by defendants in said suit against order of District Court was also dismissed on 17-10-2013.

6. Taking into account aforesaid position and that civil suit is pending in respect of suit property, whatever entries which have taken place in respect of the same, would be subject to decision in the civil suit. As such, no interference is called for

in the orders which are sought to be challenged before this court in the writ petition.

7. Writ petition, as such, stands dismissed. Rule stands discharged.

(SUNIL P. DESHMUKH, J.)

sms