

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

904 WRIT PETITION NO. 7689 OF 2016

ABDUL RAHEMAN NASER AHMED CHOUDHARI
VERSUS
PRAMOD RAMKRISHNA AMBURE AND OTHERS

...
Advocate for Petitioner : Salunke V.D.
Advocate for Respondents 1 to 3 : D.D. Pokharkar, N.B. Patil

...
CORAM : T.V. NALAWADE, J.
DATED : 1st September, 2016.

ORDER :

1. The petition is filed to challenge the order made on Exh. 21 in Regular Civil Suit No. 326/2016, which is pending in the Court of Civil Judge, Junior Division, Ausa. Heard both the sides.

2. The suit is filed for relief of permanent injunction by present respondents Pramod Ambure and others against the present petitioner. In the said suit, application was filed under section 9-A of Civil Procedure Code (Maharashtra Amendment) by the present petitioner and he had requested the Trial Court to reject the plaint on the ground of jurisdiction. He contended that in the past, in view of the directions given by the High Court in one Appeal from Order, party is relegated to tenancy Court and in tenancy proceeding filed by present petitioner, it is declared that one Kasim Bagwan, predecessor in title of the plaintiff was not tenant. This proceeding now is pending before M.R.T. It is the

case of petitioner that as tenancy proceeding is pending and original proceeding has gone against Kasim Bagwan and it is held that Kasim was not tenant, the purchasers from Kasim Bagwan cannot come to the Civil Court. It appears that in tenancy proceeding plaintiffs are also parties.

3. It is true that some tenancy dispute is going on between Kasim Bagwan and present petitioner. It is the case of plaintiffs that they have purchased the property under registered sale deed and that was done in 1978 and since then they are in possession of the suit property. They have prayed only for relief of injunction. The learned counsel for respondents placed reliance on the case reported as **1987 Mh.L.J. 628 [Marybai Marshal Pimenta and Anr. Vs. Ramnath Gopal Bhuskute and ors.]**. In that case and in many other cases, this Court has made it clear that the jurisdiction of Civil Court is not ousted if the suit is filed only for injunction. Point involved in such suit is always limited and possession is required to be considered by the Court. In view of these circumstances, this Court holds that the Trial Court has not committed any error in rejecting the application. There are no merits in the petition. Petition is dismissed.

[T.V. NALAWADE, J.]

ssc/