

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1533 OF 2015

Smt. Radhabai Vasant Bhoir & Ors.

...Petitioners

v/s.

Shri Madhu Shankar Bhoir & Ors.

...Respondents

....
Mr. Sachin Ramrao Pawar for the Petitioners.
None for the Respondents.

CORAM : M.S.SONAK, J

DATE : 14th June 2016

P.C :

1] The challenge in this petition is to the order dated 22nd April 2014 made by the Civil Judge Junior Division, Panvel and 17th September 2014 made by the District Court Raigad, declining relief of temporary injunction to the petitioner.

2] At least as of today, the revenue records indicate the names of the petitioners in so far as survey No. 148/1 is concerned and the names of respondents in so far as survey No. 148/2 is concerned. That apart, the records also indicate that the petitioners have already sold out the property bearing survey no. 148/1. It is the case of the petitioners that they were tenants and consequently deemed purchasers in respect of the entire property falling under former survey No. 148. It is the case of the petitioners that Talathi in collusion with the respondents has unauthorizedly bifurcated the property into two survey numbers i.e.

survey No. 148/1 and 148/2. On this basis, the petitioners contend that they continue to be in possession of the property now numbered as survey No. 148/2 and that such a possession is liable to be protected by the order of temporary injunction.

3] The trial court and the appellate court on the basis of material on record have recorded a prima facie finding. At this stage it cannot be said that such findings are vitiated by perversity or that the two courts have grossly erred on principle. Accordingly, no case is made out to interfere with the impugned orders in exercise of jurisdiction under Article 227 of Constitution of India.

4] However, it is clarified that observations and findings in the impugned orders are only prima facie and the trial court need not be influenced by them at the stage of deciding the main suit itself. Similarly, the Trial court also need not be influenced by the circumstances that the present petition is being dismissed. The trial court is in fact directed to dispose of the suit as expeditiously as possible and in any event within a period of one year from the date of production of authenticated copy of this order, in accordance with law and on its own merits.

5] With the aforesaid observations the petition is dismissed. There shall be no order as to costs. Parties to act on an authenticated copy of this order.

(M.S.SONAK, J.)