

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION (ST.) NO. 5204 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Sandeep Koregave for the Petitioner.

**CORAM : K. K. TATED, J.
DATED : 11/08/2016**

PC.:

. Heard learned Counsel for the petitioner.

2 By this petition under Article 227 of Constitution of India, the Petitioner Plaintiff is challenging the order dated 30.04.2014 passed by 13th Joint Civil Judge, Junior Division, Kolhapur below Exh.5 in Regular Civil Suit No. 511 of 2013 and order dated 28.11.2014 passed by learned District Judge-1, Kolhapur in Misc. Civil Appeal No. 176 of 2014 confirming the order passed by the Trial Court.

3 In the present proceeding, the petitioners plaintiffs filed suit for partition and separate possession of HUF property and also for cancellation of Sale Deed dated 12.06.2007 and Agreement for Sale dated 29.01.2011 in respect of land bearing Gat No. 17.27 H situated at Halsawade, Taluka Karveer

Dist. Kolhapur.

4 The plaintiffs' contention in the plaint was that Defendant No.1 their father to defeat their fights sold land bearing Gat No. 644 to Defendant No.2 by Sale Deed dated 12.06.2007 and thereafter, Defendant No.2 agreed to sell the said property by Agreement for Sale dated 29.01.2011 to the Defendant No.3. Hence, plaintiffs preferred Application below Exh. 5 for injunction restraining defendants from creating any further third party right, title and interest in respect of suit land Gat No. 644. That application was rejected by the Trial Court. Thereafter, plaintiffs preferred Misc. Civil Appeal No. 176 of 2014 before the learned District Judge, Kolhapur. The same was also rejected by the Appellate Court on the ground that the suit land from Gat No. 644 was purchased by Defendant No.1 by Sale Deed dated 07.05.1984. The said property was self acquired property of Defendant No.1, hence, Defendant no.1 had right to dispose off the same.

5 Considering the fact that both the courts declined to grant any interim or ad-interim relief in favour of plaintiffs and observations made by the Appellate Court in paragraph 15 of the impugned order, I am of the opinion that plaintiffs have not made out case to interfere with the concurrent

findings of facts recorded by the Courts below at the time of refusing the injunction order in favour of the plaintiffs.

6 Hence, following order is passed:

- a) Writ Petition stands rejected.
- b) No order as to costs.
- c) Trial Court to decide the suit on its own merits without influencing the observations made by this Court.

(K.K.TATED, J.)