

Sequeira

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

WRIT PETITION NO. 9255 OF 2016

Smt.Naseema Juber Dawre.

.. Petitioner

Vs

Shri Yusuf Husain Raut & ors.

.. Respondents

Mrs.Jai Kanade i/b Mr.Akshay Petkar, for the Petitioner.

Mr.Tejpal Ingale, for Respondents.

***CORAM : N.M.Jamdar, J.
Tuesday, 18 October 2016.***

P.C. :

The Petitioner challenges the concurrent orders dated 4 March 2016 and 30 March 2016, passed by the learned Civil Judge Junior Division, Shrivardhan and learned District Judge, Mangaon refusing to grant injunction to restrain Respondents from constructing on the suit property and to create third party rights.

2. The suit is filed by the Petitioner on the basis that she is the joint owner of the suit premises and in contravention of her rights, Respondents have proceeded to construct upon the suit property. The application for interim relief was preferred to restrain Respondents from going ahead with the construction during the pendency of the suit. Since there was no injunction granted by both the Courts, the construction is carried out by the Respondents. It is informed that Respondents are residing in the said construction.

3. Prima facie there is a registered sale deed executed in favour of Respondents by the husband of the Petitioner, on 24 April 2006. Merely on the basis of entries of revenue assessment records, the Petitioner cannot claim the independent title and therefore, there is no perversity in exercise of discretion by both the Courts in not granting the order of injunction. In any case the suit is pending and the learned Civil Judge can always pass appropriate orders in respect of the constructed portion, in case the Petitioner succeeds in the suit. In the circumstances, no interference is warranted. The Writ Petition is accordingly disposed of.

(N.M.Jamdar, J.)