

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

WRIT PETITION NO. 11550 OF 2015

Shri Popat Dhondiba Jadhav & ors.
All r/o Bawada, Tal. Indapur, Dist.Pune. ... Petitioner

v/s

Shri Rajendra Jaisingrao Pawar,
R/o Bawada, Tal. Indapur, Dist.Pune ... Respondent

Mr.Ajay Joshi for the petitioner.

Ms.Savita Prabhune for respondent No.1.

Coram: N.M. Jamdar, J.

Dated: 3 October 2016

ORAL ORDER:

The Petitioner challenges the order passed by the learned District Judge, Baramati, 9 June 2015, dismissing the Civil Appeal arising from the order passed by the learned Civil Judge, Junior Division, Indapur, dated 16 March 2012.

2 Heard learned counsel for the parties.

3 The suit is filed by the Respondent/Plaintiff for declaration and

injunction against the Petitioner. The reference in the dispute is to two lands i.e. Gat No.848/12/B and 848/12/A. It appears that, as far as Gat No.848/12/A is concerned, this property is in possession of the Respondent/Plaintiff and the Respondent/ Plaintiff has rights to the same and as far as Gat No.848/12/A is concerned, this property is in possession of the Petitioner. Learned counsel for the Petitioner submitted that the Petitioner has no interest in disturbing the possession of the Respondent as far as Gat No.848/12/A is concerned, but taking advantage of the application for grant of temporary injunction by the learned Civil Judge, the authorities are placing restraint on the Petitioner in respect of Gat No.848/12/B. Learned counsel for the Respondent submitted that the Respondent has no concern with Gat No.848/12/B, however, the Petitioner cannot include Gat No.848/12/A while creating third party rights in land Gat No.848/12/B.

4 In the application for temporary injunction, two reliefs were sought for. Firstly, an injunction against the Petitioner not to disturb the position of the Respondent/Plaintiff; secondly, the Petitioner should not dispose of Gat No.848/12/B by including the boundaries of Gat No.848/12/A. This application has been granted by the learned District Judge. Therefore, as long as the Petitioner does not include boundaries of Gat No. 848/12/A while creating boundaries in respect of Gat No.848/12/B, there cannot be any restraint on the rights of the Petitioner in respect of Gat No.848/12/B. In view of this

clarification, no further orders are required to be passed in this writ petition.

5 The writ petition is disposed of.

(N. M. Jamdar, J.)