

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 314 OF 2016**

Sou.Sulochana Vitthal Gore

..Petitioner

Vs

1.Subhash Jaywantrao Bhujbal  
and Ors

.. Respondents

Mr. Nitin P.Deshpande, Advocate for Petitioner.

CORAM : R.G.KETKAR,J.

DATE : 12/01/2016

**PC:**

1. Not on board. At the request of Mr. Deshpande, taken up for admission. Heard Mr. Nitin Deshpande, learned counsel for the petitioner. Leave to amend so as to annex copy of the trial Court's order is granted. Amendment shall be carried out within one week.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 7.5.2015 passed by the learned 2<sup>nd</sup> Jt. Civil Judge, Sr. Dn., Pune below Exh.5 in Spl. Civil Suit No.1663 of 2014 as also the judgment and order dated 30.9.2015 passed by the learned District Judge-17, Pune in Misc. Civil Appeal No.216 of 2015. By these orders, the Courts below rejected the application taken out by the petitioner, hereinafter referred to as plaintiff, for temporary injunction restraining the defendants from disturbing

his peaceful possession over the suit property till final disposal of the suit.

3. In support of this petition, Mr. Deshpande strenuously contended that the Courts below committed serious error in rejecting the application. He submitted that the partition is not effected among the sisters. The Courts below relied upon document dated 27.10.1978 styled as 'Watappatra' and held that the partition was effected in the family in 1978. The said document is not registered instrument. He further submitted that the plaintiff has 1/4<sup>th</sup> undivided share in the suit property. The plaintiff and other defendants are jointly in possession of their respective undivided shares. In view thereof, the Courts below ought to have issued injunction as prayed for.

4. The courts below after considering the material on record have prima facie held that the partition was effected in the year 1978. In particular, the learned district Judge has observed that the defendant, one of the sisters of the plaintiff i.e. Anjanabai Jakhate, had represented to the Commissioner in 1999 that the land has been partitioned among the sisters and authority accepted the said theory of partition and no portion of the land was acquired. The learned District Judge also considered intimation of the partition of the suit land given by Shankar Bhujbal, father of the plaintiff, in 1978 and the parties have acted

upon that. For the reasons recorded in paragraphs 34 to 37 of the District Court, I do not find that the Courts below have committed any error in rejecting the application.

5. Mr. Deshpande submitted that the plaintiff will take out appropriate application for measurement of the land. If such application is taken out, subject to the objection of the respondents, the learned trial Judge will pass appropriate order in accordance with law. Subject to this, Petition fails and the same is dismissed. Order accordingly.

(R.G.KETKAR, J.)