

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3825 OF 2017

Tatyarao s/o. Tukaram Panchmase .. Petitioner
Age. 65 years, Occ. Agri.,
R/o. Ganpati Chowk, Himayatnagar,
Tq. Himayatnagar, Dist. Nanded.

Versus

Dnyaneshwar s/o. Shankar Pandalwad .. Respondent
Age. 35 years, Occ. Reporter,
R/o. Ganpati Chowk, Himayatnagar,
Tq. Himayatnagar, Dist. Nanded.

Mr. V.R. Jain, Advocate for the petitioner.
Mr. S.S. Gangakhedkar, Advocate for the respondent.

CORAM : S.B. SHUKRE, J.

DATED : 21.03.2017

ORAL JUDGMENT :-

1. Heard. Issue notice for final disposal to the respondent. Mr. S.S. Gangakhedkar, learned Counsel waives notice for the respondent.

2. The challenge in this petition is to the order dated 01.03.2017 passed in M.C.A. No.4 of 2016 by the learned Adhoc District Judge, Bhokar, thereby vacating the order of temporary injunction and status-quo passed by the Trial Court.

3. On going through the impugned order, I do not find that any perversity has been committed by the learned Adhoc District Judge and on the contrary, such perversity is manifestly seen to have been committed by the Trial Court, when it granted temporary injunction. What was not considered by the Trial Court, has been considered by the learned Adhoc District Judge. The pleadings of the petitioner, who is the original plaintiff, are vague. He has not specifically pleaded as to how much of the land has remained in his possession after he had donated some land to Ganesh Temple and also sold to some other purchasers. There is also prima facie doubt about the issuance of the P.R. Card in respect of land CTS No. 1716, which would have to be cleared by adducing evidence by the petitioner and he would certainly have opportunity to do so when the suit goes for full trial, but till that time no presumption can be drawn that there is prima facie lawful basis for possession of the subject land to be with the petitioner. Then, the sale-deed dated 23.12.2014 at this juncture as well as the sale-deed of the year 2002, prima facie do not support the case of the petitioner.

4. In this view of the matter, I do not think that any case is made out by the petitioner. The petition is liable to be dismissed and it is dismissed with costs.

5. It is made clear that the observations made in this petition are confined to the issue raised in this petition and the same shall not influence the Trial Court for deciding the suit on merit. All questions of law are kept open.

[S.B. SHUKRE, J.]