

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

WRIT PETITION NO. 146 OF 2018

Arjun S/o Chandrakant Deshmukh ... Petitioner

VERSUS

Shri. Madhukar S/o Shivaji Deshmukh ... Respondent

.....
Mr Pravin B. Rakhunde, Advocate for the petitioner
.....

**CORAM : MANISH PITALE, J.
DATE : 03RD SEPTEMBER, 2018.**

PER COURT :-

. Heard Mr Pravin B. Rakhunde, the learned counsel for the petitioner.

2. The petitioner herein is the original defendant in a suit filed by the respondent (original plaintiff) concerning the suit agricultural land. The respondent has sought a decree of perpetual injunction against the petitioner herein, in respect of the said suit land.

3. In the said suit, the respondent has claimed that, the suit land has come to his share on the basis of a compromise decree

passed in RCS No. 412/2014 and that, entries in the record of rights (7/12 extract) have been made on the basis of the same, showing the respondent as the owner as well as in possession of the suit land.

4. As against this, the stand of the petitioner before the court below is that he is the owner of the suit land on the basis of an oral agreement entered into between the father and uncle of the respondent in respect of the suit land. It is claimed by the petitioner that, he had paid the entire consideration and that he was put in possession of the suit land.

5. In the said suit, both the respondent (original plaintiff) and the petitioner (original defendant) filed applications for grant of temporary injunction, raising rival claims that they were in possession of the suit land.

6. The trial Court as well as the appellate court in the present case have concurrently found that while the respondent has placed on record documentary evidence in the form of 7/12 extract to show that he is indeed in possession of the suit land, the petitioner has failed to place on record any document to show that he is in possession of the suit land. It is found by the two courts below

concurrently, that the petitioner has not been able to support his claim of alleged agreement between the father and the uncle of the respondent on the one hand and the petitioner on the other in respect of sale of the suit land. It is found by the courts below that the petitioner has failed even to plead in respect of terms of such an agreement, the amount of consideration paid by him and specific dates relevant to such an alleged oral agreement. On this basis, the courts below have found that while the respondent is entitled to grant of order of temporary injunction, the petitioner's application for the same deserves to be dismissed.

7. A perusal of the concurrent orders passed by the two courts below and the pleadings of the parties, shows, that the findings rendered by the courts below cannot be said to be erroneous. In any case, these are *prima facie* findings while deciding question of grant of temporary injunction. Hence, no case for interference in writ jurisdiction is made out by the petitioner and accordingly, this writ petition is dismissed.

[MANISH PITALE]
JUDGE

Punde