

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

WRIT PETITION NO. 10927 OF 2018

UMAKANT RAOJI SHINDE
VERSUS
SUNIL ANNASAHBEB SURYAVANHI

**WITH
WRIT PETITION NO.10954 OF 2018**

BALIRAM KESHAVRAO SHINDE.
VERSUS
SUNIL ANNASAHBEB SURYAVANHI

**WITH
WRIT PETITION NO.10958 OF 2018**

ANIRUDH SHANKARRAO SHINDE
VERSUS
SUNIL ANNASAHBEB SURYAVANHI

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Advocate for the Petitioners : Shri Dhase Rahul P..

Advocate for the Respondent : Shri S B Narwade.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 03rd October, 2018

Per Court:

1 I have heard the learned Advocates for the respective sides at length on 01.10.2018. After considering their submissions and upon going through the petition paper books, I disclosed to the learned Advocates that I am not inclined to entertain these three petitions. The learned Advocate

for the Petitioners/ Defendants sought time to take instructions and submits today, in the presence of the Petitioners, that they desire an order of this Court.

2 The Respondent in these three petitions is the original Plaintiff in Regular Civil Suit Nos.278/2016, 280/2016 and 279/2016. Each of these Petitioners is the Defendant in their respective suits. The suits are filed for perpetual injunction restraining the Petitioners/ Defendants from interfering with the possession of the Plaintiff in the suit property. The application Exhibit-5 was filed in each of these suits and by the orders dated 13.12.2017, the applications were rejected. The Respondent/ Plaintiff approached the Appellate Court by preferring Misceallneous Civil Appeal Nos.114/2017, 115/2017 and 113/2017. By the impugned orders dated 16.08.2018, the Appellate Court has set aside the orders of the Trial Court and directed the Petitioners/ Defendants not to interfere with the possession of the Plaintiff over the suit properties till the decision in the suits.

3 Considering the similarity of the factors involved in these cases, I have heard the learned Advocates in these petitions and have taken up these three petitions together for adjudication by their consent.

4 In view of the above, I would not be referring to the detailed sequence of events in these cases since those events have been considered by the Appellate Court in the impugned orders. I also make it clear that

the observations of this Court as well as the Appellate Court are with regard to the interlocutory applications for injunction and therefore, are made at an interim stage in these three proceedings.

5 It is undisputed that these three Petitioners have executed the sale deeds in favour of the Respondent/ Plaintiff on 29.03.2012 in the first petition, 19.06.2012 & 22.04.2014 in the second petition and 08.12.2011 & 26.08.2014 in the third petition. These sale deeds were registered, undisputedly. The considerations were also undisputedly paid by the Plaintiff to these Petitioners. The sale deeds specifically indicate that the Plaintiff would be put in possession of the suit property. Considering these sale deeds and certain errors that crept into the description of the boundaries of the properties in the sale deeds, these sale deeds were got corrected within a short time after their execution. The Plaintiff claimed to have been put in possession of the suit properties.

6 It has come on record that the Plaintiff began cultivating the suit properties and started paying taxes. The Defendants deny all the contentions of the Plaintiff and submit that as the corrections in the sale deeds have occurred by taking advantage of their ignorance and being villagers, the Trial Court has rightly disbelieved the corrections of the boundaries of the suit properties.

7 It also appears from the record that though the Petitioners have alleged that they had entered into a nominal sale and executed such

sale deeds only as a security since they have taken hand loans from the Plaintiff, I find that there is no evidence, at this prima facie stage, to indicate that these Petitioners have returned the hand loan amounts to the Plaintiff, if it is to be presumed that it was a money lending transaction.

8 The entire thrust of the Petitioners' case is that the Plaintiff is a branded moneylender doing business in Nanded. He charges 7% interest per month on the hand loan amounts and compels poor agriculturists to enter into sale deeds. As these agriculturists are gullible, most of them do not realize or grasp the contents of the sale deeds and the Plaintiff has, therefore, been grabbing the properties by resorting to this modus operandi.

9 I am not required to go into these disputed issues between the litigants for the reason that the suits are pending adjudication and any observation of this Court on the disputed questions would affect the rights of the parties before the Trial Court.

10 While considering the applications for injunction, what is required to be seen, in view of the settled law, is as to whether, the Plaintiff can establish that he is in possession of the suit properties. The record available does not indicate, in any manner at this prima facie stage, that the Petitioners/ Defendants have protected their possession over the suit properties, were continued in possession, were cultivating the suit lands and were paying taxes. In fact, 7/12 extracts have also been

modified on the basis of the sale deeds indicating the name of the Plaintiff in the ownership and cultivation columns.

11 In view of the above, I do not find that the injunction clamped by the Appellate Court could be considered as being perverse or erroneous. The Trial Court had got carried away by the fact that though the sale deeds are registered, the boundaries were corrected and the said corrections were not registered.

12 Considering the above, these Writ Petitions being devoid of merit are dismissed.

13 It is once again made clear that all observations of the Appellate Court as well as this Court shall be restricted to the issue of the temporary injunction applications and the Trial Court would consider the suits on their own merits.

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(RAVINDRA V. GHUGE, J.)

Kalyan
Prakash
Sangvikar

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