

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2249 OF 2018

DHONDIRAM DATTU GAWARE
VERSUS
FAKIRA CHANDRABHAN BARANGULE

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Advocate for Petitioner : Shri Patil S.Y. h/f Shri Deshmukh V.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 27, 2018

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PER COURT :-

1. The petitioner is aggrieved by the concurrent findings of the trial Court by order dated 16.1.2017, by which, the plaintiff was granted temporary injunction and the judgment dated 22.9.2017 by which, the appellate Court dismissed Civil Misc. Appeal No.4 of 2017, filed by the petitioner / defendant.

2. I have considered the strenuous submissions of the learned counsel for the petitioner and have gone through the ten grounds formulated by him in the petition.

3. The trial Court as well as the appellate Court have considered the 7/12 extract, the mutation entries as well as a sale deed, by which, the plaintiff is held to be, *prima facie*, in possession of the suit property. The

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suit has been filed for seeking a declaration that the plaintiff is the owner of the suit property and with the further prayer for injuncting the defendant from interfering with the peaceful possession of the plaintiff.

4. The contention of the defendant is that an affidavit of the adjacent owner to the suit property stating that the plaintiff is not in possession, has not been considered. However, both the Courts have considered the sale deed indicating that the plaintiff is one of the co-owners, as well as the 7/12 extract and the mutation entries. One Regular Civil Suit No.113 of 2003, filed by this petitioner against Kondabai has been dismissed in default. Kondabai had sold a portion of the land to the plaintiff and based on the said sale deed, he claims to be the owner of that portion.

5. Considering the above, I do not find that the grant of temporary injunction could be termed as a perverse or erroneous order, so as to cause any interference. As such, this petition, being devoid of merits is dismissed.

(RAVINDRA V. GHUGE, J.)

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