

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

14 WRIT PETITION NO.4419 OF 2019

PRADEEP NAMDEO MAHAJAN AND ANOTHER
VERSUS
ANIL NAMDEO MAHAJAN

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Advocate for Petitioners : Shri Deshmukh Anand I.
Advocate for Respondent : Shri Patil Pramod D.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 08, 2019

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PER COURT :-

1. The petitioners are the plaintiffs in RCS No.159 of 2017. By the order dated 4.12.2017, the trial Court has rejected application Exhibit 6 filed by the plaintiffs seeking temporary injunction. They filed MCA No.79 of 2017 and by the impugned judgment dated 29.11.2018, the said Misc Appeal is dismissed.

2. I have heard the learned Advocates for the respective sides. Both the Courts have concluded that there is no evidence to indicate that the plaintiffs are the sole cultivators of the suit property. It also appears that the defendant is also cultivating a portion of the suit property. Both the Courts, therefore, concluded that the defendant cannot be prevented from entering his parcel of land under the pretext of granting temporary injunction to the plaintiffs.

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3. Learned Advocate for the plaintiffs submits, on instructions, that the defendant be prevented from creating third party interest in his share of the land. Learned Advocate for the defendant submits that these litigating parties are real brothers. All of them should be precluded from creating third party interest.

4. In view of the above, this petition is disposed off by recording that none of the litigating sides would create third party interest or encumbrances on the suit properties till the decision in the suit, except by seeking permission from the trial Court if either of them intends to do so.

(RAVINDRA V. GHUGE, J.)

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