

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7881 OF 2019

SUDHIR SAKHARAM BAGAL
VERSUS
ASHABAI BHAGWAT DESHMUKH ADN ORS

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Advocate for Petitioner : Shri More Abhijit S.
Advocate for Respondents 1 & 2 : Shri Devakate A.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 30, 2019

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PER COURT :-

1. The petitioner / plaintiff is aggrieved by the judgment and order dated 20.4.2019, delivered by the first appellate Court, by which, Misc. Civil Appeal No. No.13 of 2019 has been allowed and the temporary injunction granted by the trial Court under Order XXXIX Rule 1 and 2 of the CPC, vide order dated 11.1.2019 in RCS No.682 of 2018, has been quashed and set aside.

2. I have considered the submissions of the learned Advocates for the respective sides and have gone through the petition paper book with their assistance.

3. It is quite peculiar that both the litigating sides claim to be in possession of 97 Are land, which is the suit property. Both have

produced affidavits of the neighbouring land owners that each of them is cultivating the land. Both the sides have produced notices from the Sugar Factory to indicate that there is a loan on the agricultural produce.

4. The 7/12 extract, however, indicates that the land stands in the name of the petitioner. Though the 7/12 extract and such revenue entries are purely meant for fiscal purposes and do not decide the right and title of any litigant, in the instant case, this entry gains significance in view of the wordings appearing in the two sale deeds executed by the defendants. It appears from the said sale deeds, which are the basis of the claim of the plaintiff that he has purchased the land, that the defendants have received the amounts mentioned in the sale deeds as consideration for selling the suit land and after the amount is received, the possession of the suit land has been handed over to the plaintiff.

5. At a *prima facie* stage, it does appear that as the plaintiff parted with a large amount as consideration for purchasing the suit land and since he was given the possession of the said land, he had no reason to complain. The revenue entries were altered on the basis of such sale transaction. The name of the plaintiff was entered in the said 7/12 extract, by virtue of the sale deeds. This Court has

concluded in Shrikant R. Sankanwar and others Vs. Krishna Balu Naukudkar [2003 (3) BCR 45 = 2003 (2) Mh.L.J. 276], that a sale deed is a piece of evidence to indicate that the purchaser has developed an interest in the property. It was when the defendants started obstructing the plaintiff that he preferred a suit in 2018 seeking injunction against the defendants.

6. I find from the impugned judgment of the first appellate Court that it has completely ignored a categorical statement made in the sale deeds that the possession of the suit land is handed over to the plaintiff, coupled with the 7/12 extract indicating that the petitioner has been put in possession. So also, the first appellate court could not have interfered with the injunctory orders passed by the trial Court, merely because a second view was possible, considering the law laid down by the Honourable Apex Court in the cases of Syed Yakoob Vs. K.S. Radhakrishnan and others [AIR 1964 SC 447] and Surya Dev Rai Vs. Ram Chander Rai [(2003) 6 SCC 682].

7. In view of the above, this petition is allowed. The impugned judgment of the appellate Court dated 20.4.2019 is quashed and set aside and Misc. Civil Appeal No.13 of 2019 stands dismissed.

(RAVINDRA V. GHUGE, J.)

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