

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8003 OF 2019

Shakuntalabai w/o Sopan Sungire

Petitioner

Versus

Jeejabai w/o Nagu Pattewad & others

Respondents

Mr.G.G.Suryawanshi, Advocate for the petitioner.

CORAM : Ravindra V.Ghuge, J.

DATE : 02/07/2019

PER COURT :

1 The petitioner is aggrieved by the concurrent findings of the trial Court dated 05.02.2018, rejecting his prayer for grant of temporary injunction and the judgment of the District Court dated 11.04.2019, by which Misc. Civil Appeal has been dismissed.

2 The learned Counsel for the petitioner has strenuously criticised the impugned orders. He draws my attention to the grounds formulated in the memo of petition. Reliance is placed on the judgment of Allahabad High Court in the matter of **Chunni & another Vs. Sulahar & another**, reported in AIR 1972 Allahabad 472.

3 The record reveals that the present petitioner - plaintiff has suffered a decree in RCS No.06 of 2002. She has been directed to hand over possession of the suit property to the defendant. Appeal No.208 of 2011, filed by her, has also been dismissed. The learned Counsel submits that Second Appeal filed by her is pending before this Court and no relief has been granted in her favour. The decree holder has moved Regular Darkhast No.7/2014 in which possession warrant has already been issued and bailiff report has been submitted.

4 Considering the above, the trial Court has rightly noted that the petitioner prays for relief of temporary injunction in the suit so as to stall the execution proceedings and frustrate the decree holder. By seeking a temporary injunction against the defendants, the plaintiff would use the said order to block the possession warrant. The appellate court has also concluded that when the decree has attained finality and the petitioner is under a legal obligation to hand over the possession, no relief, in the nature of temporary injunction, can be granted. Both the Courts have rightly held that though the suit filed by the petitioner is maintainable, same would be considered on its own merits.

5 In view of the above, this petition, being devoid of merits,
stands dismissed.

(Ravindra V.Ghuge, J.)

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