

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

911 WRIT PETITION NO.14872 OF 2019

SAMSHER SURESHRAO WARPUDKAR  
VERSUS  
MANISHA MANISH JAISWAL AND OTHERS

...

WITH  
912 WRIT PETITION NO.14873 OF 2019

SAMSHER SURESHRAO WARPUDKAR  
VERSUS  
PANDURANG BALASAHEB KELEWAD AND OTHERS

...

Advocate for the Petitioner : Shri Deshmukh Vijay Vasantrao.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 10<sup>th</sup> December, 2019**

**Per Court:**

1           The petitioner is aggrieved by the common interlocutory order passed by the Appellate Court dated 29.07.2019 by which, the Appellate Court has allowed the applications exhibit 5 in Miscellaneous Civil Appeal Nos.13/2019 and 14/2019 filed by the original defendants and has stayed the interlocutory orders dated 31.01.2019 passed by the Trial Court in Special Civil Suit No.31/2018.

2           The learned advocate for the petitioner/ plaintiff has strenuously criticized the impugned order. The contention is that the

petitioner is in possession on the basis of the "Batai" agreement since "Gudipadwa" festival of 2015 and continued as such on the basis of the "Sauda Chitthi" (Agreement to Sell) dated 22.12.2017. The lands are in Gat No.52 admeasuring 1 H 3 R and in Gat No.240 admeasuring 1 H 40 R. It is contended that the plaintiff has paid Rs.80 lakhs in cash to the defendants with regard to the transaction for purchasing the suit lands.

3           The grievance is that the Appellate Court did not consider this aspect of the matter and has presumed that the defendants are in possession of the suit lands and has, therefore, enjoined the defendants only from creating third party interest or alienating the suit properties until the final disposal of the appeals. The learned advocate vehemently submits that though there shall be no creation of encumbrances or third party interest in the suit properties, the defendants are likely to dispossess the petitioners/ plaintiff from the said properties.

4           I find from the impugned interlocutory orders passed by the Appellate Court that it has concluded that the Trial Court has wrongly given weightage to the "Sauda Chitthi" without verifying as to whether, there is any evidence in respect of payment of Rs.80 lakhs. The Appellate Court has observed that the "Sauda Chitthi", prima facie, appears to be suspicious and is under a cloud of doubt.

5           I called upon the learned advocate for the petitioner/ plaintiff to state as to whether, he has disclosed the source of income of the

amount of Rs.80 lakhs, in the plaint. It is submitted that there is no such specific averment. However, the petitioner has mentioned his various businesses in paragraph 1 of the plaint. He did not find it necessary to explain as to how the cash amount of Rs.80 lakhs was in hand to be paid to the defendants.

6 I find that in the above backdrop, the Appellate Court has rightly found the transaction doubtful. Even I find it quite doubtful as to how the petitioner/ plaintiff could resort to a cash transaction of Rs.80 lakhs to be handed over to the defendants, who are agriculturists.

7 At this juncture, the learned advocate for the petitioner sought a passover and then submits, on instructions, that the petitioner desires to withdraw these petitions. However, the request is made that the appeals may be expedited.

8 In view of the above, these Writ Petitions are disposed off as withdrawn. The observations of this Court would not influence the Appellate Court while deciding Miscellaneous Civil Appeal Nos.13/2015 and 14/2015.

9 Considering peculiar facts of the case and the request of the petitioner, both the appeals shall be decided by the Appellate Court as expeditiously as possible and preferably on or before 30.04.2020.