

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910. WRIT PETITION No. 14299 of 2017

Narhari Chhatru Khandagale,
age 80 years occupation agriculture
R/o Matrewadi Taluka Bhoom District Osmanabad
...**Petitioner**

VERSUS

Ashruba Narayan Khandagale,
age 40 years occupation agriculture
R/o Matrewadi Taluka Bhoom District Osmanabad.
...**Respondent**

Mr. S.A. Wakure, Advocate for Petitioner
Mr. N.S. Tekale, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.

DATE : 18th January, 2019

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith and heard learned counsel for appearing parties finally by consent.

2. This is a petition moved against concurrent decisions rendered by trial court and appellate court. The respondent herein instituted regular civil suit bearing No. 525 of 2016 seeking injunction in respect of land bearing Gat No. 5 (*Hissa* No. 3) to the extent of 59 *Are* situated at Matrewadi Taluka Bhoom against present petitioner/defendant.

3. After hearing learned counsel for the parties, it transpires that parties are claiming existence of the property having different origins. Claim of respondent appears to be that according to the common measurement, which had taken place, area of 62 *Are* is in his possession and there are long standing revenue entries in his favour for area above 59 *Are*. It is being claimed by petitioner that the relevant revenue record of the land is corrected showing restricted ownership of petitioner in Gat No. 5 to the extent of 14 acres 8 *gunthas* and, thus, there is no substance in respondent's claim and he would not be entitled to it.

4. Trial court and appellate court appear to have held that having regard to the scenario, the respondent has shown *prima facie* case and balance of convenience lies in his favour and having regard to long standing record, it appears that he may suffer irreparable loss and, as such, granted application for temporary injunction filed by the present respondent. Trial court in its judgment has referred to respective cases stated. On going through the observations appearing in paragraphs No. 15 and 18, it does not appear that there is any error in appreciation of the matter. Appellate court additionally has referred to several decisions relied on on behalf of the parties and has concurred with

the decision rendered by the trial court. In the face of such a situation herein, appreciation by two courts would not be said to be erroneous and, as such, it is not a case wherein indulgence be given to the petitioner. The petition, therefore, is not entertained and is dismissed.

5. Rule is discharged.

**(SUNIL P. DESHMUKH)
JUDGE.**

Madkar