

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8193 OF 2015

Abbas Ismile Golandaj ... Petitioner
V/s.
Asin Aslam Golandaj and Another ... Respondents

Mrs. R.S. Baxi, for the Petitioner.

CORAM: K.K. TATED, J.
DATED : JANUARY 11, 2019

P.C. :

1 Heard learned counsel for the Petitioner.

2 By this Writ Petition under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 4th March, 2015 passed by the learned District Judge-3, Sangli dismissing the Petitioner's Misc. Civil Appeal No. 43 of 2013 and confirming the order dated 21st January, 2013 passed below Exhibit 5 by the 3rd Joint Civil Judge Junior Division, Miraj in Regular Civil Suit No. 403 of 2012.

3 In the present proceeding, the Petitioner-Plaintiff has filed Regular Civil Suit No. 403 of 2012 before 3rd Joint Civil Judge Junior Division, Miraj for injunction restraining the Respondents-Defendants from interference to his peaceful possession in respect of the suit property i.e. agriculture land bearing Gat No. 99 admeasuring 1 H. 54 R, situated at village Vaddi, Tal. Miraj, Dist. Sangli. In that suit, the Petitioner

preferred an Application below Exhibit 5 under Rule 1 and 2 of Order XXXIX and Section 151 of the Code of Civil Procedure. That application was rejected by the trial Court on 21st January, 2013. At the time of rejecting the said application, the trial Court framed the following issues:

- (1) Whether the Plaintiff has made out a *prima facie* case ?
- (2) Whether balance of convenience lies in favour of Plaintiff ?
- (3) Whether Plaintiff will suffer irreparable loss if temporary injunction not granted ?
- (4) What order ?

4 The trial Court held that the Petitioner has failed to make out any case for an order of injunction restraining the Respondents from interference to his peaceful possession over the suit property.

5 Being aggrieved by the said order, the Petitioner preferred Misc. Civil Appeal No. 43 of 2013. The Appeal Court also held that the Petitioner has failed to make out any case for order of injunction.

6 Considering the submissions made by the learned counsel for the Petitioner and the impugned orders passed by both the Courts, *prima facie* it seems that the Petitioner has not made out any case for interim relief. In any case, the Regular Civil Suit No. 403 of 2012 filed by the Plaintiff itself was for

permanent injunction restraining the Respondents from interference to his peaceful possession over the suit property. Considering these facts and the concurrent findings recorded by both the Courts, I do not any substance in the present Petition. Hence, Writ Petition stands rejected.

7 No order as to the costs.

(K. K. TATED, J.)