

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1283 OF 2019

Ganpat Bhagoji Kshirsagar & Ors. ... **Petitioners**
Versus
Sou.Anjana Krishna Jamdade ... **Respondent**

....

Mr.Dilip Bodake, Advocate for the Petitioners.

Mr.Ajit J. Kenjale, Advocate for Respondent.

....

CORAM : A.M.BADAR J.

DATED : 13th NOVEMBER 2019.

ORAL JUDGMENT :

1 This is the Writ Petition by the defendants challenging the appellate Order dismissing his appeal and confirming the Order passed on an application for temporary injunction by the learned trial Court. In a suit filed by sisters, the learned trial Court had restrained her brother i.e. defendant and other defendants from selling out or alienating the suit property so also raising loan and creating encumbrance on said property.

2 Heard.

3 Rule. Rule is made returnable forthwith.

4 By consent, heard both sides finally. The learned Counsel appearing for the respondent/plaintiff vehemently argued that the plaintiff is having half share in the suit property and the defendants may sell out the suit property.

5 I have considered the submissions so advanced. Undisputedly, there are about 17 field properties involved in the suit. It is not in dispute that defendants are also co-owners of the suit property. The learned Counsel appearing for the defendants drew my attention to the statement made in reply to the effect that the defendants are not going to sell out the suit properties, however, only problem which the defendants are facing is to the effect that they are unable to take crop loan for cultivation of the suit properties which are undisputedly in their possession.

6 In this view of the matter, the impugned Order of grant of temporary injunction for restraining the defendants from taking loan from the Banks or Co-operative Societies needs to be modified and as such, the following Order :

ORDER

- (i) The impugned Order is modified to the effect that the defendants are permitted to take crop loan to the extent of their probable 50% share in the suit properties till disposal of the suit.

(ii) The petition is accordingly disposed of.

7 Needless to mention that the plaintiffs shall not be responsible for such encumbrance on the suit properties which may be created by the defendants.

(A.M.BADAR, J.)