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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4702 OF 2019

Sakharam Madhu Chougule & Ors.	..Petitioners.
V/s.	
Dnyaneshwar Mahadev Bhosale & Ors.	..Respondents.

Mr.Anil V.Anturkar, Senior Advocate with Tanaji Mhatugude for the petitioners.

Mr.P.S.Dani, Senior Advocate with Suket Mane I/b. Vidhi Partners for respondent Nos.8 to 10.

CORAM : M.S.SONAK, J.

DATE : APRIL 15, 2019

P.C.:-

Heard Mr.Anturkar, learned senior counsel for the petitioner and Mr.Dani, learned Senior counsel for respondent Nos.8 to 10.

2. Challenge in the petition is to the orders dated April 13, 2018 and March 5, 2019 by which learned trial Judge and the Appeal Court has dismissed the petitioners' application seeking interim injunction pending Regular Civil Suit No.1981/2015.

3. Mr.Anturkar, learned senior counsel for the petitioners submits that the revenue record indicates names of the petitioners-

plaintiffs in respect of the suit property right from the year 1936 and at least till 1951. He points that the defendants have failed to explain the basis on which their names or the names of their predecessors-in-title came to be entered to the survey record in the year 1951. He submits that this situation has not been taken into consideration by the two Courts and, therefore, the impugned order warrants interference.

4. Mr.Dani, learned senior counsel for the respondents defends the impugned order on the basis of reasoning reflected therein. He points out that the two Courts have concurrently held against the petitioners and in absence of any unreasonableness in exercise of the discretion, this Court may not interfere with the order.

5. Having considered the rival contentions, according to me, no case is made out to interfere with the impugned order. The two Courts on the basis of proof of the documents on record have held at least *prima facie* that the petitioners cannot be said to be in possession of the suit property. This suit is for declaration and injunction. It cannot be said that the view taken by the two Courts at the interim stage constitute any unreasonable exercise of discretion. Therefore, having regard to restrictive parameters for interference in such matters as laid down in *Wander Ltd. V/s. Anton Indian P. Ltd.*¹, there is no case made out for interference.

¹ 1990 (supp) SCC 727

6. This petition is liable to be dismissed and is hereby dismissed. However, having regard to the circumstances, the learned trial Judge is directed to dispose of the suit itself as expeditiously as possible and on its own merits and in accordance with law. While disposing of the suit, the learned trial Judge need not be influenced by any observations made by the two Courts in the impugned order or for that matter by this order. The suit will be disposed of on its own merits and in accordance with law by adverting to the evidence which the parties may place before the Court.

7. With the aforesaid observations, the petition is disposed of. There shall be no order as to costs.

(M.S.SONAK, J.)