

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1417 OF 2017

Aparna Ananta Somvanshi & Anr.

...Petitioners

Vs.

Nirmala Shantaram Gharat & Ors.

...Respondents

Mr. Sandesh Patil I/b Anusha Amin, for the Petitioners

CORAM : M. S. SONAK, J.

DATE : APRIL 18, 2019

P.C.:

1. Heard Mr. Patil for the petitioners.
2. Challenge in this petition is to the orders dated 9/7/2008 and 30/4/2016 made by the Ld. Trial Judge and the Appeal Court injuncting the petitioners from causing obstruction to the plaintiffs possession over the suit land or from creating any third party rights in the suit property.
3. Mr. Patil, Ld. Counsel for the petitioners submits that the impugned orders warrant interference because the Ld. Trial Judge and the Appeal Court have failed to appreciate that the Power of Attorney was issued in favour of the petitioners and it is in consequence of such

POA that the petitioners have acquired possession of the suit property and are also entitled to deal with the suit property. He submits that entries in mutation record are not really relevant because they do not decide the issue of title.

4. Upon due consideration of the aforesaid circumstances, I am satisfied that there is no case made out to interfere with the orders made by the Courts below and the scope of interference in such matters is extremely limited. The Courts below on the basis of documents and record have made *prima facie* findings and on such basis enjoined the petitioners herein. There is no unreasonable exercise of discretion by the two Courts. Accordingly, this petition is dismissed. However, there shall be no order as to costs.

5. However, it is made clear that the Ld. Trial Judge is required to dispose of suit on merits and in accordance to the law without being influenced by the observations in the impugned orders or for that matter the present order. The observations are only *prima facie* and the suit will be decided on the basis of the evidence of the parties which will be led at the time of trial.

6. With the clarifications as aforesaid, this petition is disposed of.

7. All concerned to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)