

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5033 OF 1998

Shri. Shankar Chandrappa More

..Petitioner

Versus

Shankar Pandu Patil

deceased by his heirs

Smt. Parwati Shankar Patil and others

..Respondents

Mr. Mandar Limaye, Advocate for the Petitioner.

Mr. R. S. Datar, Advocate for Respondent Nos.1b to 1g.

Mr. A. B. Borkar, Advocate for Respondent No.3.

CORAM : PRADEEP NANDRAJOG, C.J.

DATE : 25th JULY, 2019

P.C.

1] Heard learned counsel for the parties.

2] The Petitioner filed a Civil Suit seeking decree of injunction against the Defendants to restrain them from interfering with the possession of the Petitioner with respect to agricultural land. In the suit seeking decree of permanent injunction, it was pleaded that the Petitioner was tenant. This led reference being made to the Tahsildar to adjudicate whether the Petitioner was tenant. The decision was not in favour of the Petitioner which came to be set aside in an Appeal filed before the Assistant Collector, Kolhapur. The matter travelled to the Maharashtra Revenue Tribunal. The decision

of the Tribunal is challenged in the Writ Petition being against the Petitioner.

3] Suffice it to state that in a suit for injunction simplicitor, title of the parties including possessory title has not to be gone into. The only issue which has to be decided is whether the Plaintiff is in settled possession require the opposite party to initiate proceedings as per law if the other party claims title and seeks possession of the land. This was so held by this Court in the decisions reported as [1983] Mh.L.J. 958 Maruti Sambha Surve Vs. Parshuram Krishna Koratkar and another and 2014 SCC OnLine Bom 3492 Rajaram S/o Raghu Bodhe Vs. Smt. Bayabai alias Gondanbai Wd/o Tulsiram Dange and another.

3] Thus, the Writ Petition is disposed of declaring that the decisions of the Revenue Courts were irrelevant and the suit for injunction would be decided by the learned Trial Judge in accordance with law i.e. after recording evidence of the parties and if it is found that the Plaintiff is not in possession, decree shall be denied. No costs.

CHIEF JUSTICE