

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5003/2017

Shri Prashant Kishor Chikate and others

..Vs..

Shri Kothiram Shravanji Gharpinde and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.N. Shende, Advocate for the petitioners.
Shri S.R. Gupta, Advocate for the respondents.

CORAM : Z.A. HAQ, J.

DATED : 26.7.2019.

Heard.

2] The respondents have filed civil suit against the petitioners praying for decree for declaration and injunction. In this civil suit, the plaintiffs had filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure seeking temporary injunction against the defendants restraining them from interfering with the possession of plaintiffs over the suit field. By order dated 9th August 2016, learned trial Judge dismissed the application filed by the plaintiffs. The plaintiffs had filed appeal before the District Court under Order 43 Rule 1(r) of the Code of Civil Procedure which is allowed by the impugned judgment.

3] Learned District Judge has recorded that the defendants were in possession of the suit field earlier,

however, in execution of the decree passed in Regular Civil Suit No.40/2003 Vijaykumar Sahu and Vidya Sahu were given possession of the suit filed on 3rd April, 2008. Learned District Judge has further recorded that Mukul Sinha purchased the suit field by sale-deed registered on 23rd April, 2015 for Rs.24,00,000/-, the sale-deed having been executed in execution proceedings i.e. Special Darkhast No.453/2006. It is recorded that the possession of the suit field was delivered to Mukul Sinha on 25th June, 2014 through the Court Bailiff. The respondents / plaintiffs have purchased the suit field from Mukul Sinha by sale-deed registered on 23rd April, 2015. The sale-deed executed in favour of the respondents on 23rd April, 2015 contains the averment that possession of suit property was handed over to the plaintiffs by Mukul Sinha on the date of execution of sale-deed. The documentary evidence on record *prima facie* supports the claim of the respondents that they are in possession of the suit field. The petitioners / defendants have not been able to point out any illegality or perversity in the impugned judgment which necessitates interference by this Court in the extraordinary jurisdiction. Hence, the Writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

4] At this stage, learned Advocate for the petitioner states that the trial Court be directed to expedite the civil suit. Learned Advocate for the

respondents submitted that defendants are not co-operating for expeditious disposal and are not attending the proceedings. Be that as it may, as the civil suit is of 2016, the trial Court is directed to dispose the civil suit till 16th March, 2020. The petitioners / defendants undertake to co-operate for expeditious disposal of the civil suit.

JUDGE

Tambaskar.