

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

WRIT PETITION NO.4634 OF 2017

(ABDUL RAFIK ABDUL MUNAF & OTH....VS.. SATYANARAYAN SHANKARLAL CHHAPARWAL &
OTH)

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

Court's or Judge's orders

Shri A.M.Ghare, Adv. a/w. Shri J.B.Gandhi, Advocate for Petitioners.
Shri S.S.Deshpande, Advocate for Respondents.

CORAM : Z.A.HAQ, J.

DATED : JULY 22, 2019.

Heard.

The application filed by the respondent under Order 39 Rules 1 and 2 of the Code of Civil Procedure was dismissed by the trial Court, consequently the prayer for temporary injunction was rejected. The respondents/ plaintiffs had filed appeal under Order 43 Rule 1(r) of the Code of Civil Procedure which is allowed by the impugned judgment. The learned District Judge has recorded that the respondents/ plaintiffs have been able to *prima-facie* show their possession over the suit fields.

According to the petitioners/defendants, admittedly they have purchased 1 Hectare and 62 Are land out of field Survey No. 364 by registered sale-deeds and being co-owners temporary injunction cannot be granted against them.

The sale-deed executed in favour of the petitioners/defendants does not contain any averment that their predecessor was in possession of the land sold to the

petitioners/defendants and had handed over possession of the lands to the petitioners/defendants. The learned District Judge has observed that the 7/12 extracts *prima-facie* show long standing possession of the plaintiff No.1 over the suit land. It is further recorded that the description of the boundaries of the land purchased by the defendants also is not proper and the portion purchased by the defendants cannot be identified. Admittedly, Regular Civil Suit No. 277 of 2000 praying for decree for partition of respective shares of the parties is going on. The learned District Judge has taken note of the pleadings of the parties in that civil suit also. I find that the relevant material is considered by the learned District Judge and after recording finding that the plaintiffs are in possession of the suit land, temporary injunction has been granted in favour of the plaintiffs. The petitioners/defendants have not been able to point out any illegality or perversity in the conclusions of the learned District Judge which necessitates interference by this Court in the extraordinary jurisdiction.

Hence, the petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE