

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3906 OF 2021
ALONGWITH
INTERIM APPLICATION NO.7621 OF 2021
IN
WRIT PETITION NO.3906 OF 2021**

Sangeeta Namdev GherdePetitioner
V/s
Madhukar Digamber Karande and Ors. Respondents.

Mr. Laxman K. Kalel for the Petitioner.
Mr. Nagesh Chavan for Respondent No.1.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 26, 2021

P.C.:-

1] Heard Mr. Kalel, learned Counsel for the Petitioner/original Defendant No.2.

2] In Special Civil Suit No.59 of 2018 for partition, possession, declaration and injunction, Application-Exhibit-5 moved by the Plaintiff came to be rejected vide order dated 19/7/2018, which came to be reversed by the District Judge, Sangli on 25/2/2021 in MCA No.118 of 2018. As such this Petition.

3] Mr. Kalel, learned Counsel for the Petitioner, so as to attack the order of grant of injunction would invite attention of this Court to the initiation of suit being RCS No. 108 of 2009 and unconditional withdrawal of the same. According to him, since earlier suit for partition and separate possession was withdrawn unconditionally, in the second suit, Court committed an error of law in granting temporary injunction. He would further claim that the Petitioner is a purchaser of the suit property without notice and that being so, she being a co-sharer in the property ought not to have been enjoined.

4] Mr. Chavan, learned Counsel for Respondent No.1/original Plaintiff would support the order impugned. According to him, what was purchased was undivided share and that being so, Court below was justified in ordering injunction.

5] Considered rival submissions.

6] From the available pleadings and documents, it is apparent that present Petitioner has purchased undivided share in the suit property

which is claimed to be property of Hindu Joint Family. Based on the title gained by virtue of sale deed in her favour, she has claimed certain portion of the suit property which is part of common hotchpoch in the suit. Petitioner has failed to establish that property purchased at any time before, was partitioned by metes and bounds. In that view of the matter, Petitioner undoubtedly having purchased undivided share, cannot interfere with the possession of other co-owners of the suit property. That being so, order impugned granting injunction does not warrant any interference.

7] Petition as such lacks merits and same stands dismissed.

8] As a consequence of dismissal of Petition, pending Application also stands disposed of.

9] Liberty to move for expeditious disposal of partition suit.

(NITIN W. SAMBRE, J.)