

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

WRIT PETITION NO.6150 OF 2018

Dadaso @ Gena Sukhdeo Bhale
vs.

...Petitioner

Savita Ramdas Pandule & Anr.

...Respondents

Mr. Ghanasham S. Jadhav for Petitioner.
Mr. B. S. Shinde for Respondent.

CORAM : AMIT B. BORKAR, J.

DATE : 26 NOVEMBER 2021.

P. C. :

By this petition under Article 227 of the Constitution of India, petitioner is challenging judgment and order dated 18/4/2018 passed by the learned District Judge-2 Baramati in Misc. Civil Appeal No.4/2017. Petitioner is original plaintiff who has filed Regular Civil Suit No.64/2015 against the respondents restraining them from disturbing possession of petitioner over Gut No.5.54 ad-measuring 20 R out of 70 R situated at village Khorochi.

2. It is case of petitioner that he along with 8 other persons had purchased the suit property by Sale Deed dated 23/2/2012. It is alleged that defendants tried to disturb alleged possession of petitioners over the suit property and therefore he filed suit for injunction not to disturb possession alleged possession of petitioner over suit property. Learned trial Court by judgment and order dated 2/12/2016 granted injunction against

the defendants.

3. Respondent-Defendant being aggrieved by grant of injunction filed Misc. Civil Appeal No.4/2017 before the Court of Ad-hoc District Judge, Baramati. The learned lower Appellate Court by impugned order dated 18/4/2018 rejected the application for interim relief by holding that petitioner being co-sharer in the suit property and having not purchased specific portion of the suit property, is not entitled for injunction.

4. I have heard Mr. Jadhav for petitioner extensively. Perusal of documents on record show that petitioner has purchased undivided share from the suit property. Once it is *prima facie* proved that petitioner has purchased undivided share in the property, he is not entitled for injunction against co-sharer in the property which has effect to ousting the co-sharer in the suit property.

5. In my opinion, the learned Appellate court is justified in rejecting the application for interim relief of the plaintiff holding that petitioner is a co-owner. There is no error apparent on the face of record. Writ Petition is therefore dismissed.

(AMIT B. BORKAR, J)