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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7716 OF 2016

Shri. Balaram Vitthal Pawar and othersPetitioners

V/s.

Shri. Dyandev Balu ChimaneRespondent
(Pawar)

Mr. Pratap Patil for the Petitioners
Mr. Umesh R. Mankapure for Respondent no. 1

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 26, 2021.

P.C.:

1] Heard. Impugned in the petition is, Order passed in MCA No. 70 of 2015 on June 9, 2016 whereby the injunction refused by the learned Trial Court on 19th October 2015 in simplicitor suit for injunction being RCS No. 135 of 2015 was set aside and temporary injunction is ordered against the Petitioner-Defendant restraining them from obstructing Plaintiff's possession over land Gat Nos. 297, 360, 456 & 415.

2] The submissions of learned counsel for the Petitioner are, Partition Suit initiated in 1975 came to be decreed and each of the parties were held to be entitled to 1/3rd share. In 1992 under the execution of the said Partition Decree, each of the decree holder and Judgment-Debtor were allocated shares to the extent of 1/3rd and accordingly mutation entry No. 149 was carried out. Subsequent thereto, said mutation entry No. 149 was cancelled and mutation entry No. 670 was carried out pursuant to which it can be inferred that Petitioners are in settled possession of the property and not the Respondent-Plaintiff. Learned counsel would urge that once the Petitioners are in settled position of the suit property by virtue of execution of the Partition Decree, court below has committed an error in granting temporary injunction.

3] Mr. Mankapure, learned counsel for the Respondent original Plaintiff would urge that mutation entry No. 670 is already cancelled by the order of the Additional Collector, Sangli and mutation entry No. 149 is restored to the file in favour of the Plaintiff and that being

so, aforesaid contentions do not hold any substance.

4] I have appreciated the submissions.

5] Mr. Mankapure has produced a copy of order dated 18th May 2020 whereby it can be inferred that mutation entry No. 670 was cancelled and mutation entry No. 149 was restored from which it can be inferred that by virtue of partition decree, respondent plaintiffs are in possession of the suit property.

6] In the aforesaid background, order of grant of injunction appears to be quite justified.

7] No case for interference is made out. Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]