

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

WRIT PETITION NO.12919 OF 2019

Shri. Sachin Santu Gunjal Petitioner

Vs.

Shri. Savliram Parshuram Bhandure Respondents
& Ors.

Mr. Bharat Gadhvi i/by Tejesh Dande & Associates for Petitioner
Mr. Sanjay Anant Ghaisas for Respondent Nos. 9 and 10.
Mr. Vaibhav Kulkarni i/by Grishma N. Lad for Respondent Nos. 1 to 8.

Coram : NITIN W. SAMBRE, J.

Date : 12TH MARCH, 2021

P.C.:

1. The order of issuance of possession warrant passed below Exhibits 35 and 36 by 5th Joint Civil Judge, Junior Division, Nasik is subject matter of challenge.

2. The order of restoration of possession passed in favour of the Respondents was subject matter of challenge in Writ Petition No. 200 of 2016, this Court vide order dated 27th June, 2018 has held its order.

3. I am informed by the learned counsel for the Petitioner, on instructions from the Petitioner, who is present in the Court, that the said order passed by this Court in Writ Petition No. 200 of 2016 is subject matter of challenge in S.L.P. As according to him, the execution of possession warrant issued by the Court below requires to be deferred till the decision of S.L.P.

4. Counsel for the Respondents/original Defendant Nos. 9 and 10, on instructions informs that in case if S.L.P preferred by the Petitioner is allowed, the consequences thereof will follow as the Defendant Nos.9 and 10, who shall be required to restore the possession of the Petitioner.

5. Apart from above, as far as challenge to the order of injunction is concerned, the suit preferred by the Petitioner is for declaration and permanent injunction. The temporary injunction in the nature of order of restraintment was claimed.

6. Both the Courts below have concurrently held that there was no partition between the parties and that being so, injunction cannot be ordered against the co-owner.

7. Having perused the reasons furnished in both the orders, in my opinion, the observations therein of rejection of injunction are very much justified.

8. No case for interference is made out on the said issue also. As such, the petition lacks merits, stands dismissed.

9. The prayer for continuation of interim relief is objected by the counsel for the Respondents, as according to him, the orders of restoration of possession is not taken to its logical end for more than three years. As such prayer for continuation of interim relief stands rejected.

(NITIN W. SAMBRE, J.)