

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

WRIT PETITION NO.3290/2021

Shaila Parveen w/o Islahoddin

...Versus...

Haji Salauddin s/o Alauddin and others

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

Court's or Judge's orders

Mr. U. J. Deshpande, Advocate for petitioner.

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/09/2021

Heard Mr Deshpande, learned counsel for the petitioner who submits that the order dated 26.2.2020 passed by the learned Trial Court, rejecting the application at Exh.5 for grant of injunction as filed by the plaintiff and allowing the application at Exh.15 for injunction as filed by the defendant no.1, as well as the judgment of the Appellate Court in rejecting the appeal is based upon incorrect appreciation of the factual position, as the petitioner/plaintiff was in possession of the suit property.

2. Both the Courts below have rendered a concurrent finding based upon the documents on record that the defendant no.1 – father-in-law of the plaintiff, was the

owner of the property and was carrying out the hotel business therein since the last 40 years.

3. The claim of the plaintiff, who is the wife of defendant no.2 (daughter-in-law of the defendant no.1), is based upon the contention that during a tiff, which she had with her husband / defendant no.2, the keys of the hotel were handed over to her on 25.4.2019 on the basis of which she claims to have acquired possession of the property and further claims to be running hotel business therein.

4. The Courts below have in my considered opinion rightly arrived at the finding that it is the defendant no.1, who is the owner of the property bearing plot Nos.31 and 34, on the basis of the Sale Deed dated 12.1.1972 upon which, he has constructed a hotel on 2.9.1995, from which the defendant no.1 was carrying on business. The plaintiff, is a recent entrant in the family due to her marriage with the defendant no.2 on 30.3.2018 and therefore, the findings that it is the defendant no.1, who is in settled position of the property in question, has been correctly arrived, at as a result of which, it is the defendant no.1, who is entitled to hold and

continue possession of the suit property. The findings are well reasoned, based upon the admitted position, documents on record. I therefore, do not see any reason whatsoever to disturb the same, as nothing has been placed on record to take a contrary view. I therefore, do not see any reason to interfere with it. The petition is without any merits, hence, dismissed. No costs.

(AVINASH G. GHAROTE, J.)

Sarkate