

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.13476 OF 2021
WITH CA/1099/2022 IN WP/13476/2021**

**BALAJI DATTRAM MANURKAR AND ANOTHER
VERSUS
POOJAWATI SANJAYKUMAR MANURKAR THROUGH HER POWER OF
ATTORNEY SANJAY VITHALRAO MANURKAR**

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Advocate for Petitioners : Mr. Amit A. Mukhedkar
Advocate for Respondent : Mr. H. I. Pathan

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 05th JULY, 2022

PER COURT :

1. The petitioners are aggrieved by the order passed by the learned Adhoc District Judge-1, Bhokar in Misc. Civil Appeal No.9/2021, thereby allowing the appeal filed by the respondent and setting aside the common order dated 29/07/2021, passed below Exhibit-5 and Exhibit-20, by the learned Civil Judge Junior Division, Umri in R.C.S. No.27/2021.

2. The petitioners are original defendants in the suit filed by the respondent/original plaintiffs for injunction in respect of land Gut/Survey No.92/1/B admeasuring 91 R situated at Manur, Taluka Umri, District Nanded. Temporary injunction application Exhibit-5 was filed by the respondent/plaintiff in the suit. The petitioners/defendants on appearance, filed written

statement/counter claim. They also filed interim injunction application Exhibit-20 along with counter claim. The Trial Court after hearing both the parties rejected the application Exhibit-5 filed by the plaintiff and allowed the application Exhibit-20 filed by the petitioners/defendants. Being aggrieved, the plaintiff approached the District Court by filing Misc. Civil Appeal No.9/2021. The appeal filed by the respondent/plaintiff is allowed and the order passed by the Trial Court is set aside. Hence, the present petition.

3. The learned advocate for petitioners strenuously submitted that the Trial Court has rightly granted injunction in their favour by taking into consideration the sugarcane supply receipts and affidavits of adjoining farmers. The plaintiff, on the other hand, did not produce any affidavit or documents or any receipt to show her actual possession over the suit property. In that view of the matter, the appellate Court has committed an error in upsetting the order passed by the trial Court, in favour of the defendants. In support of his submissions he placed reliance on the affidavits of the adjoining land owners as well as the sugarcane supply receipts placed on record from page Nos.52 to 56.

4. Learned advocate for respondent, on the other hand, supported the impugned order. He submits that the Appellant Court has passed a well reasoned order which is not required to be

interfered in the extraordinary writ jurisdiction.

5. Perusal of the documents placed on record and the impugned order indicates that the Appellate Court has considered the fact that as per clause No.4 of the sale deed possession of the suit land is given to the plaintiff by defendant No.1 and therefore, the Appellate court has held that, it can be said that the title as well as possession of the suit land is with the plaintiff and plaintiff was not required to seek the relief of declaration of ownership or any other relief, except the relief of injunction in a case where her possession was being disturbed by the persons who are not the owners of the suit land.

6. From the reasoning adopted by the Appellate Court, *prima facie* case is made out by the plaintiff and the balance of convenience lies in favour of the plaintiff and irreparable loss would be caused to the plaintiff if injunction is refused to her.

7. The sugarcane receipts placed on record by the defendants do not, in any manner, show that they are in possession of the suit property i.e. land Gut/Survey No.92/1/B. The sugarcane supply receipt at page No.56, on the contrary, mentions land Gut No.90/1/A. Thus, they do not in any manner support the case of the defendants that they are in possession of the suit property.

8. In view of the specific statement made in the sale deed about delivery of possession at the time of execution of sale deed, which is a registered document, the Appellate Court was justified in setting aside the Trial Court's order which allowed the application filed by the defendants and rejected the application filed by the plaintiff.

9. Order passed by the Appellate Court is a well reasoned order. There is no illegality or perversity found in the order impugned in the present petition. The petitioners have failed to make out a case to warrant the exercise of extraordinary writ jurisdiction. Writ petition is, therefore, dismissed. Accordingly, the civil application also stands disposed of.

(NITIN B. SURYAWANSHI, J.)