

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11708 OF 2022**

NARAYANDAS RAGHUNATHDAS JAJU
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR
AND OTHERS

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Mr. P. P. More, Advocate for the Petitioner.
Mr. S. S. Dande, AGP for Respondents-State.
Mr. Abhay D. Ostwal, Advocate for Respondent No.5.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 29th NOVEMBER, 2022.**

PER COURT:-

1. By this petition petitioner challenges judgment and order dated 15.10.2022 passed by the District Judge-4, Latur thereby confirming the order passed by the Trial Court dated 24.07.2019 rejecting the application for temporary injunction.

2. Mr. Ostwal, learned counsel appears for respondent no.5. The respondent nos.6 and 7 were commonly represented before the lower Appellate Court and therefore, it is not necessary to await appearance on behalf of respondent nos.6 and 7. The learned A.G.P. appears on behalf of respondent nos.1 to 4.

3. The suit is filed by petitioner/ plaintiff for injunction simplicitor. An *ex parte* ad-interim order was passed in favour of petitioner/plaintiff on 13.03.2019 restraining defendant nos.5 to 7 from creating interference in peaceful possession of plaintiff over the suit property. However, after defendants appeared in the suit and opposed the application for temporary injunction, the Trial Court was pleased to reject the application for temporary injunction by its order dated 24.07.2019.

4. In Appeal preferred by petitioner/plaintiff, on the basis of consent given by the original defendant nos.5 to 7, the Appellate Court directed parties to maintain status quo and not to change the nature of the suit properties, not to lay new pipeline, not to harvest crops and not to cut the trees. However, after hearing of the appeal, the Appellate Court was pleased to reject the appeal of the plaintiff/petitioner by its order dated 15.10.2022.

5. I have heard the learned counsels for both the sides. *Prima facie*, it appears that plaintiff/petitioner is not in possession of the suit property. It is not in dispute that the names of original defendant nos.5 to 7 continue to be reflected in the revenue records both as owners and possessors of the suit properties. Only after the suit was filed, plaintiff/petitioner moved an application before the Revenue Authority for cancellation of mutation entry. Accordingly, by order dated 21.01.2020, the appeal of plaintiff/petitioner came to be allowed and the District Superintendent of Land Records, Latur directed to take a fresh decision in the matter after conducting re-enquiry. It appears that, the order of the District Superintendent of Land Records, Latur has been confirmed in appeal by the Deputy Director of Land Records, Aurangabad. The original defendant nos.5 to 7 have preferred an appeal against that order before the Hon'ble Minister, which is pending.

6. Another factor that weighed the mind of the Trial Court in rejecting the application of plaintiff/petitioner for grant of temporary injunction is statement made by him while responding a notice issued for measurement of land at Gut No.196 and 197. In his response, far from claiming any ownership or

possessory rights in those Gut numbers, plaintiff/petitioner indirectly admitted possession of Shardabai Ratanlal Jaju and Ratanlal Gangaram Jaju. The Trial Court has, therefore, proceeded to reject the application for temporary injunction.

7. The suit is of the year 2019. Issues have been framed on 07.07.2019 and the suit is pending for evidence of plaintiff from 13.08.2022.

8. Considering the above position, I am of the view that ends of justice would meet if both the parties are directed not to create any third party rights in respect of suit properties during the pendency of the suit.

9. Accordingly, the order passed by the District Court dated 15.10.2022 in MCA No.51/2019 as well the order passed by the Trial Court on 24.07.2019 are modified to the extent that original defendant nos.5 to 7 shall not create any third party rights in respect of the suit property. The Trial Court is requested to expedite the hearing of the suit and make an endeavour to decide the same as expeditiously as possible and preferably within a period of one year from today.

10. With the above directions, writ petition is disposed of.

(SANDEEP V. MARNE)
JUDGE