

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO.12705 OF 2022

LAXMAN RANGNATH MAGAR
VERSUS
SUNITA MURLIDHAR MAGAR AND OTHERS

...
Advocate for Petitioner : Mr Amar Vinayakrao Lavte

CORAM : SANDEEP V. MARNE, J.
DATE : 14th DECEMBER, 2022

PER COURT :

1. By this petition, petitioner challenges order dated 05.09.2022 passed by the Jt. Civil Judge Junior Division, Jintur, Dist. Parbhani below Exh.29 in Regular Civil Suit No. No. 58/2021 rejecting petitioner's application for production of will dated 20.12.2016.
2. The suit is pending on the stage of deciding the application for interim injunction. The plaintiff in the suit has sought injunction against the defendant for disturbing her possession over the suit property. Both the plaintiff as well as defendant claim possession over the suit property.
3. During pendency of the application for temporary injunction, petitioner has come out with the case that the will has been executed by the late husband of the plaintiff on 20.12.2016 under which ½ portion of the property has been bequeathed to respondent No.1.
4. In my view, the will might not be a relevant factor for deciding the dispute of possession of a party over the suit property. Petitioner who claims possession of the suit property is required to prove the same

independently and not through the will dated 20.12.2016.

5. Therefore, in my view, the application has been rightly rejected by the trial court. however, this would not preclude petitioner from producing the will at the stage of evidence and from proving the same.

6. With the above observations, the writ petition is dismissed.

[SANDEEP V. MARNE, J.]

mta