

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 731 OF 2022**

JAGANNATH RAMAJI GAIKWAD
(THROUGH POWER OF ATTORNEY HOLDER)
VISHVANATH JAGANNATH GAIKWAD & ANR. ...Petitioners.

V/s
VITTHAL KESHAV YEWALE ...Respondent.

Mr. Rameshwar N. Gite for the Petitioners

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 24, 2022

P.C.:-

1] Petitioners are Defendants in Regular Civil Suit No.63 of 2020 which is based on alleged title of the Respondent/Plaintiff passed on through registered Sale Deed dated 10th August, 1982.

2] I have perused the recitals in the said Sale Deed and the affidavits of the parties.

3] Trial Court granted temporary injunction vide impugned order dated 23/02/2021 which was confirmed by the lower appellate court vide order dated 22/04/2021.

4] It appears that Petitioners/Defendants have not honoured the injunction order. As such, the Trial Court passed the order impugned dated 17/12/2021 ordering police aid.

5] Mr. Gite, learned Counsel appearing for the Petitioners/Defendants would urge that both the courts below committed an error in granting injunction, which is contrary to the revenue record. He would try to claim that the Respondent/Plaintiff is trying to install new electric connection with the aid of the court proceedings, as earlier, connection was not in existence.

6] I have appreciated aforesaid contentions in the light of recitals of the Sale Deed dated 10/08/1982 which permits drawing of water. The said document which is registered one is relied on by both the courts below for granting injunction. Against the concurrent findings, in my opinion, no case for interference is made out in extraordinary jurisdiction.

7] Apart from above, it is required to be noted that the Petitioners/

Defendants have chosen to question the order of lower appellate court, ordering dismissal of appeal, after the Trial Court ordered grant of police aid in the matter of installation of electric connection. Once, prima facie, it is established at this stage that Respondent/Plaintiff has been allowed to draw water in accordance with the Sale Deed which is placed on record, the order of grant of police aid is also quite justified. It is expected of the Petitioners/Defendants to act in accordance with terms of registered Sale Deed dated 10/8/1982 in the matter of drawing of water.

8] In the aforesaid background, no case for interference is made out. Petition stands dismissed.

(NITIN W. SAMBRE, J.)