

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2116 OF 2022

Ananda Sidhu Chougale

..Petitioner

Versus

Maula Isub Mulla and Anr.

..Respondents

Mr. N. J. Patil i/by Akshay N. Patil, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 1st MARCH, 2022

PC.

1. The petition is directed against the concurrent findings recorded by both the Courts below whereby prayer of the petitioner owner of the property i.e. land Gat No.844B of restraining the respondents/defendants from carrying out any construction came to be rejected.

2. The contentions are, the prayer of the petitioner/plaintiff for the measurement is pending before the competent authority and till such application is decided, the defendants/respondents needs to be restrained from carrying out construction. According to him, if relief is not granted, same shall result in changing the nature of suit property.

3. I have appreciated the said submissions.

4. The respondents/defendants claimed to be owner of the property over which he is carrying out construction by virtue of sale-deed executed in his favour. Said sale-deed of title which petitioner claims not to be acted upon. However, no relief whatsoever to that effect is claimed in the plaint. Apart from above, the defendants/respondents have given an undertaking to the Court below that if found to be in possession of excess land or land to which plaintiff has no title, he shall undo the construction. As such, interest of the plaintiff to that extent is safeguarded. That being so, no case for interference in the extraordinary jurisdiction of this Court is made out.

5. The petition as such fails, dismissed.

[NITIN W. SAMBRE, J.]