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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5207 OF 2022**

Maruti Tukaram Karane Petitioner.
V/s
Arun Govind Kamble and Ors. Respondents.

Mr. Kalpesh U. Patil for the Petitioner.
Mr. Balasaheb Deshmukh for Respondent Nos.1 and 11.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 29, 2022

P.C.:-

1] This Petition is by the Plaintiff in regular Civil Suit No.264 of 2019, which is for partition and separate possession. In the said suit, prayer of the Petitioner to injunct Defendant No.10 from carrying out construction or developing part of property is rejected by both the Courts below.

2] I have heard Mr. Patil, Counsel for the Petitioner at length.

3] Mr. Patil would urge that half portion out of survey No.371 of the suit property was gifted to the ancestors of the Petitioner can be

inferred from the revenue record which carries Mutation Entry No.412. He would claim that Respondent-Defendant No.10 is in possession of land bearing Survey No.371/6 where he is carrying out development without sanction from Planning Authority or Grampanchayat. He would urge that since there is presumption of jointness of family and property belongs to Hindu Undivided Family, Respondent-Defendant No.10 needs to be restrained from developing the property. He would further urge that property is Mahar Vatan Land and transfer in favour of Defendant No.10 is without prior sanction or permission from the revenue authorities, so also no sanction to the development is obtained.

4] Mr. Deshmukh would support the order impugned.

5] Even if it is considered that the land in question being Survey No.371/6 of which Respondent-Defendant No.10 is in possession of is developed by said Respondent without sanction or authority, what needs to be appreciated is, Petitioner has not demonstrated his title to the suit property. After consolidation scheme was implemented, land

bearing Survey No.371 appears to have been sub-divided into parts. Petitioner has failed to demonstrate that land bearing Survey No.371/6 is out of Survey No.371 referred to in Gift Deed. Atleast no evidence in the form of documents issued by revenue authorities to that effect is brought on record. As such, Petitioner has failed to demonstrate his title to the suit property. Apart from above, it is established from the rival pleadings that Respondent-Defendant No.10 is in possession of property, as it is alleged that he is carrying out development. Fact remains that Petitioner in the suit has not questioned the title of Defendant No.10 as Defendant No.10 has claimed that he has perfected his title by virtue of Sale Deed.

6] In that view of the matter, no case for interference is made out. Petition fails and same stands dismissed.

(NITIN W. SAMBRE, J.)