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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 1042 OF 2022

**BABURAO GUNDU @ GANPATRAO
PATIL AND ANR**

....PETITIONERS

V/s.

BANDU LAKHU PAITL AND ORS

.....RESPONDENTS

Mr. Surel S. Shah a/w Rahul Kasbekar advocate for the Petitioner

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 3, 2022.

P.C.:

1) Petitioner moved an Application Exh. 191 under Order I Rule 10 of Code of Civil Procedure, 1908 which is rejected vide order dated 04/02/2020. Petitioner sought review of the said order which is also rejected vide order dated 18/03/2021 passed below Exh. 197. As such, this Petition.

2) The suit is for simplicitor injunction based on title and it is not the claim of the Petitioner that he is in possession of the suit property. Petitioner claims that he succeeds to the property through

ancestor Gundu.

3) As far as said status of the Petitioner is concerned, in view of denial on record, there is cloud over the right of the Petitioner.

4) In such an eventuality, remedy lies with the Petitioners somewhere else and not in the present Suit.

5) That being so, in a Suit for simplicitor injunction based on title, Court below was justified in rejecting the prayer. Petition stands rejected.

6) However, Petitioner is at liberty to take such other proceedings as are permissible and available in law.

[NITIN W. SAMBRE, J.]