

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

WRIT PETITION NO.357 OF 2022

Bhauso Vishnu Shedekar

..Petitioner

Versus

Shamrao Laxman Shedekar

..Respondent

Mr. Naveen B. Khaire, for the Petitioner.

Mr. Chetan G. Patil, for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 29th MARCH, 2022

PC.

1. Heard.

2. This petition is by the defendant to RCS No.98 of 2015 which is for simplicitor injunction based on title.

3. Vide order impugned, the Appellate Court granted temporary injunction in favour of respondent/ plaintiff restraining the petitioner from interfering with the possession.

4. Attention of this Court is invited to the evidence recorded during the course of deciding application Exh.5, so as to establish claim that when the father of the petitioner deceased Vishnu who has purchased property in 1990 has died of Cancer and during his last stage, he was not keeping well. As such, it is claimed that partition-deed is sham and bogus document.

5. Prayer is opposed by the counsel for the respondent/plaintiff.

6. It is the contention of the petitioner that the suit property was purchased by Vishnu in the name of the present petitioner that too out of individual income of the petitioner, which cannot be looked into at this stage as there is presumption as to jointness of the family. The fact that whether the property was purchased by the petitioner out of his individual income can be looked into at an appropriate stage of the proceeding.

7. Having appreciated rival submissions, what can be noticed is that the partition-deed executed in 2000 appears to be acted upon as already there is entry to that effect in the Gram Panchayat record. I am informed that petitioner's father was signatory to the partition-deed effected on 15th December, 2000 which was duly acted upon as Gram Panchayat has taken appropriate note about the same at relevant time.

8. In view of above, it cannot be said that the petitioner was in settled possession by virtue of title vested in his father based on sale-deed dated 20th February, 1990. In that view of the matter, no case for interference in the impugned order is made out.

9. The petition as such stands dismissed.

[NTIN W. SAMBRE, J.]