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

CIVIL WRIT PETITION NO. 514 OF 2022

MR. SHANATARAM JIVAN BHAGAT

....Petitioner

V/s.

**NAGO KANA BHAGAT (DECEASED)
THROUGH LEGAL HEIRS**

.....RespondentS

**Mr. Robert D'abreo i/b Jonita R. Dabreo for the Petitioner
Mr. R. S. Datar for Respondent no. 1
Smt. V. S. Nimbalkar AGP for Respondent no. 2**

CORAM : NITIN W. SAMBRE, J.

DATE: JANUARY 18, 2022.

P.C.:

1] Petitioner, Plaintiff in Reg. Civil Suit No. 32 of 2020, has questioned the order passed by District Judge-3 Vasai in Misc. Civil Appeal No. 61 of 2021 on 22/12/2021 whereby said application came to be dismissed. As a consequence, order of prayer for grant of temporary injunction rejected by the Trial Court is confirmed by learned District Judge.

2] Facts necessary for deciding present petition are as under.

3] Petitioner alleging adverse possession by virtue of which having perfected his title sought declaration in the Suit referred above of ownership and also prayed injunction against the Respondent-Defendant from receiving amount of compensation in addition to claim for damages and permanent injunction. He has prayed for issuance of direction to Respondent-Defendant no. 4 to deposit amount of land acquisition compensation in the pending civil Suit.

4] The trial Court rejected the prayer for grant of injunction on 03/12/2021. Petitioner feeling aggrieved, preferred Appeal from Order under Order XLIII Rule 1 of Code of Civil Procedure, 1908 which is also dismissed. As such this Petition.

5] The contentions of learned counsel for the Petitioner are, Suit property being agricultural land survey No. 27 Hissa 11 and 12 situated at village Koshimbe taluka Vasai which is described in para

1 of the Plaintiff is in his possession since last 70 years. So as to substantiate the said claim he has relied on crop statements in his name from year 2015-2016. It is further claimed that Defendants got their name mutated in other rights column of the Suit property as a protected tenant. It is claimed that such mutation entry is without any possession. According to him, Defendant no. 4 acquired the land for extension of National Highway Mumbai-Vadodara. According to him Defendant number 4 went on releasing compensation in favour of other Defendants. As such he has prayed for injunction.

6] The aforesaid contentions are objected by the counsel for Respondent-Defendant as according to him but for crop statement entries that too of recent years, there is no revenue record or otherwise in favour of the Petitioner to justify grant of claim for injunction. It is further pointed out that both the Courts below have dealt with all the contentions raised by the Petitioner. My attention is also invited to order passed by Defendant no. 4 pursuant to provisions of section 3H (3) of The National Highways Act 1956 so as to claim that objection of the Petitioner for apportionment of the amount is already rejected which order is not questioned.

7] Considered submissions.

8] Both the Courts below have concurrently held against the Petitioner that he is not entitled for injunction as prayed as he has failed to establish prima facie case in his favour. Prayer for apportionment is already rejected by the competent officer i.e. Defendant no. 4. Withdrawal of the amount is subject to furnishing indemnity bond and as such, interest of the authority while disbursing the amount of compensation is already taken care of.

9] But for raising mutation entries i.e. from 2015-2016, there is hardly any revenue record or other material to infer long standing possession of the Petitioners.

10] In the aforesaid backdrop, plea set up by the Petitioner-Plaintiff that he has perfected his title by adverse possession cannot be prima facie inferred.

11] Apart from above, this Court needs to be sensitive to the fact that crop statement from 2015-2016 in the name of the Petitioner are only for fiscal purpose and does not reflect his settled possession or otherwise.

12] That being so, no case for interference against concurrent findings recorded is made out.

13] Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]

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