

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1014 OF 2022

Shri. Sanjay Purushottam Thakur

..Petitioner

Versus

Shri. Rajan Vasant Patkar and Ors.

..Respondents

Mr. Prajakt M. Arjunwadkar, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 2nd FEBRUARY, 2022

PC.

1. In suit property petitioner claims to have undivided share and as such initiated suit for permanent injunction restraining respondents/defendants from interfering with his peaceful possession over the suit property.

2. Both the Courts below rejected the prayer for grant of temporary injunction. As such, this petition.

3. The submissions of learned counsel for the petitioner Mr. Arjunwadkar are, the petitioner's possession and title over the suit property is not disputed. In that view of the matter, the Courts below have committed an error in not granting temporary injunction as was prayed particularly when they have recorded findings that the petitioner has undivided share in the suit property.

4. I have appreciated said submissions.

5. Apart from the concurrent findings recorded by the Courts below, petitioner's legal right to seek injunction against the co-sharer is required to be appreciated. The law on said eventuality contemplates that as the petitioner is co-sharer of undivided property, cannot seek injunction against the co-owner.

6. Apart from above, the fact remains that the nature of claim put forth by the petitioner primarily that he has not specified as to particular share or particular portion of land of which he is in settled possession.

7. In the aforesaid background, in my opinion, against the concurrent findings recorded by the Courts below, no interference is called for as the petition lacks merits.

8. As such, petition is dismissed.

[NITIN W. SAMBRE, J.]