

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

WRIT PETITION NO.4008 OF 2022

Shri. Parasu Rama Kamble and Anr. ..Petitioners
Versus
Sou. Indubai Thalu Kamble and Ors. ..Respondents

Mr. Rushikesh Patil i/by Saurabh S. Kurade, for the Petitioners.

CORAM : NITIN W. SAMBRE, J.

DATE : 8th APRIL, 2022

PC.

1. This petition is by the defendants to RCS No.95 of 2018 pending on the file of Civil Judge, Junior Division, Ajara, wherein prayer of the respondent/plaintiff is for grant of perpetual injunction based on title. Respondent's prayer for grant of temporary injunction was rejected by the Trial Court vide order dated 30th January, 2019, as it was held that the respondent/plaintiff has failed to demonstrate her possession over the suit property. In Misc. Civil Appeal No.5 of 2019, learned District Judge reversed the said order and granted temporary injunction in favour of the respondent. The petitioners/ defendants as such feeling aggrieved preferred this petition.

2. The submissions are, considering the nature of claim in the suit and having regard to the long standing possession of the

petitioners/defendants over the suit property, the Court below committed an error in granting injunction. So as to substantiate his claim, he has relied on the findings recorded by the learned Trial Court in the matter of grant of injunction. He has invited this Court's attention to the certain revenue entries carried out by Gram Panchayat in their favour and submits that unless it is demonstrated through measurement or otherwise, the Court below ought not to have inferred settled possession of the respondent/plaintiff over the suit property.

3. I have appreciated said submissions in the light of findings recorded by the learned District Judge in the order dated 26th February, 2021. The fact remains that the learned District Judge was conscious of the fact that the title stood vested in respondent/plaintiff of Gram Panchayat House No.202/2 vide sale-deed dated 12th April, 1988. The Appellate Court was also sensitive to the principle that the possession follows title and as such respondent's/plaintiff's possession over the suit property is safely inferred. Mutation entries by Gram Panchayat are as such considered to be contrary to title document. That being so, no case for interference in the order impugned is made out.

4. The petition as such fails, dismissed.

[NITIN W. SAMBRE, J.]