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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8810 OF 2021**

Ashok Devappa Biranje and Ors.Petitioners
V/s
The Tahsildar, Karveer and Ors.Respondents

Mr. Chetan Patil a/w Mr. Mandar Bagkar for the Petitioners.
Mr. P.V. Nelson Rajan, AGP for Respondent Nos. 1 and 2.
Mr. Suryajeet Chavan i/b One Legal Bay for Respondent Nos. 3 and 4.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 02, 2022

P.C.:-

1] This Petition is by original Plaintiffs to regular Civil Suit No.983 of 2014 pending on the file of Civil Judge, Senior Division, Kolhapur. The said suit is initiated by the Petitioners/Plaintiffs for perpetual injunction and declaration against the Respondents on the basis of notice issued by Respondent/Tahasildar under Section 50(3) of the Maharashtra Land Revenue Code. According to the Petitioners, they are in possession of the suit property since long and Respondent/Tahasildar has no authority to initiate proceedings against them, as the suit property is not a government property. That being so, prayer for injunction came to be moved. Prayer for injunction

came to be rejected with the following observations in the operative part of the order:-

“ORDER

(1) The application is rejected.

(2) The defendant Nos. 1 and 2 shall give opportunity of being heard to the present plaintiffs if they raised any legal defence in writing before them today, failing which they are free to obtain possession of the suit property and to deliver the same to the defendant Nos. 3 and 4 so as to complete the sale transaction as per the directions of the Hon’ble High Court and as per the decree passed in Reg. Civil Appeal No. 232 of 2008.

(3) Cost will follow result of the suit.”

2] Petitioners/Plaintiffs feeling aggrieved, preferred Misc. Civil Appeal No.313 of 2014 which was also dismissed on 29/03/2019. As such, this Petition.

3] Counsel for the Petitioners would urge that both the courts below have committed an error apparent on the face of record in appreciating factual matrix, as the property which is a subject matter of the suit is a private property and provisions of Section 50 of the

Maharashtra Land Revenue Code are not attracted. He would further claim that suit for declaration and perfection of title by way of adverse possession is pending consideration at the behest of the Petitioners. That being so, court below ought to have granted injunction against the Respondents, restraining them from disturbing possession of the Petitioners. So as to substantiate his contentions, he would claim that in Second Appeal No.447 of 2012 which was preferred by the present Petitioners, this Court has permitted the Petitioners to defend whatever proceedings which have been initiated against them by Respondent Nos. 3 and 4, seeking possession. According to him, suit for injunction restraining answering Respondents herein from interfering with their possession being RCS No.438 of 1998 was decreed and same was reversed in Civil Appeal No.232 of 2008. As such, according to him, the Court should have granted temporary injunction as prayed by the Petitioners/Plaintiffs, restraining Respondents from taking any action of eviction.

4] Counsel for Respondents would support the order impugned and would urge that the Petitioners are trying to continue in illegal possession of the property without any title. He would claim that

Tahasildar has taken recourse to the proceedings under Section 50 of the Maharashtra Land Revenue Code, as the suit property was government property which was given in auction to answering private Respondents and it was incumbent for Tahasildar to handover possession pursuant to order of this Court passed in Writ Petition.

5] Considered submissions.

6] Both the Courts below have directed Defendant Nos. 1 and 2 to give an opportunity of hearing to the Plaintiffs. Petitioners appear to be not satisfied with that. Factual matrix about the land in question being government land purchased in auction by the Respondents and this court issuing directions to the Respondents to handover possession is not in dispute. As such, what can be noticed is, action taken by the Respondent/Tahasildar is in accordance with and in tune with legal provisions. All that the Petitioners can claim is, right of audience which is already offered by the order of the Trial Court.

7] In the aforesaid backdrop, I hardly see any reasonable ground which warrants interference in the concurrent findings recorded by

both the Courts below.

8] Writ Petition, as such, fails and same stands dismissed.

9] At this stage, Counsel for the Petitioners would urge that ad-interim order passed by this Court on 10/12/2021 be continued for a period of four weeks. I hardly see any reason which warrants continuation of the ad-interim relief. Prayer stands rejected.

(NITIN W. SAMBRE, J.)