

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.833 OF 2022

Mr. Karim Sher Mohammad Khan ..Petitioner
Versus
M/s. Nijamuddin Khan Abbas Kadri and Ors. ..Respondents

Mr. Piyush Shah a/w Dishang Shah i/by Omkar S. Paranjape, for the
Petitioner.

Mr. R. M. Hardas a/w Tushar Sonawane i/by C. K. Deshmukh, for
the Respondent No.2.

Mr. Rohit P. Sakhadeo, for the Respondent No.3.

CORAM : NITIN W. SAMBRE, J.

DATE : 4th FEBRUARY, 2022

PC.

1. This petition is by the plaintiff to the Special Civil Suit No.207 of 2021 wherein the prayer of the petitioner for grant of temporary injunction came to be rejected vide order impugned dated 9th July, 2021 which was confirmed by the learned District Judge-9, Thane in Misc. Civil Application No.44 of 2021.

2. The suit against the Municipal Corporation seeking declaration that the action of demolition of structure and eviction is illegal. Apart from above, an independent suit for declaration is pending.

3. In these proceedings the plea of the petitioner is, he has

perfect his title on the basis of adverse possession, hence it is claimed that he is entitled for relief pleaded in relation to the suit property. So as to substantiate the said claim, reliance is placed on property tax memos, payment of water charges, electricity bills and licence issued under the Shops and Establishment Act.

4. So far as the licence issued under the Shops and Establishment Act, the same is issued in recent point of time.

5. Apart from above, the payment of property tax is made by the petitioner at one time for a period from 1st April, 2006 to 31st March, 2013. Said payment of taxes is based on self-declaration and is of 2013.

6. As such, in my opinion, the aforesaid material placed on record will hardly establish the case of the petitioner that he was in settled and long standing possession of the suit property particularly when the property cannot be identified from the aforesaid documents of which he claims to be in possession.

7. Both the Courts below have concurrently held that the petitioner is not entitled for the injunction as has been prayed by him. That being so, no case for grant of injunction is made out.

8. The petition as such fails, dismissed.

(11) -WP-833-22.doc.

9. At this stage, Mr. Shah, learned counsel for the petitioner has come out with a prayer for expediting the suit.

10. I hardly see any reason for grant of such a prayer.

11. However, it shall be open for the petitioner to move before the Court below at an appropriate stage, which the Trial Court is expected to consider in accordance with law.

[NITIN W. SAMBRE, J.]