

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

Digitally signed
by BIPIN
DHARMENDER
PRITHIANI
Date:
2022.07.06
11:31:46 +0530

WRIT PETITION 224 OF 2022

Shiva Govind Sumbe ... Petitioner
Versus
Vishnu Joti Patil and Ors. ... Respondents

Mr. Padmanabh D. Pise for the Petitioner.
Mr. Pradeep D. Dalvi for the Respondents 1, 3 and 5.
Mr. A. P. Vanarse, AGP for the State-Respondents 9 and 10.

CORAM: ROHIT B. DEO, J.
DATE : 5th JULY, 2022

P.C. :-

1. Petitioner is the original plaintiff in Regular Civil Suit 375 of 2019 which *inter-alia* seeks a deceleration that the sale deeds executed by the original land owner (The Pandit Rao Family) in favour of defendants 1 to 4 do not bind the plaintiff. Certain ancillary and consequential reliefs are further sought. The plaintiff applied for temporary injunction restraining the defendants from interfering with his possession *qua* the suit land, unless recourse is taken to due process of law. The learned Trial Judge was pleased to grant the injunctive relief vide order dated 7th September, 2019, which the Appellate Court has set aside.

2. In the context of the consent order which I proposed to make, it would not be necessary to delve deeper in the respective narratives. Serious issues are raised concerning the import and implication of the provisions of Bombay Tenancy & Agricultural Lands Act, 1946. The

learned Appellate Court has not dealt with the said issues since it was of the view that the issues can be addressed after the evidence is recorded and to that extent, the learned Appellate Court did no wrong. However, after correctly observing that the crucial issue is who is in possession, there is absolutely no consideration much less finding *qua* possession.

4. It is in this backdrop that the parties agree that the matter can be remitted to the learned Appellate Court for passing fresh order after hearing all the stake holders.

5. The parties further agree that status-quo *qua* possession shall be preserved till the Appellate Court considers the appeal afresh.

6. The judgment impugned is set aside and the matter is remitted to the learned Appellate Court with a request to finally dispose of the appeal within sixty days from the appearance of the parties.

7. The parties shall appear before the learned Appellate Court on 18th July, 2022. No formal notice need be issued.

8. Petition is disposed of in the aforestated terms.

[ROHIT B. DEO, J.]