

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3732 OF 2021

Jagdish Prabhakar Chiddarwar and another -- Petitioners

Vs.

Gajanan Murlidhar Padmawar -- Respondent

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.S. Chawhan, Advocate for Petitioners

CORAM : MANISH PITALE, J.

DATE : 11th JULY, 2022

By this writ petition, the petitioners have challenged concurrent orders passed by the two Courts below on an application for grant of temporary injunction filed by the sole respondent i.e. original plaintiff. It is the case of the petitioners i.e. the original defendants that the Courts below have erred in granting the prayer for temporary injunction.

2. The material on record shows that the respondent has filed a suit for permanent injunction against the petitioners on the strength of a registered sale deed executed in his favour by the petitioner No.1. Despite the registered sale deed having been executed in favour of the respondent, while opposing application for temporary injunction, the petitioners claimed that they continued in possession and that, therefore, there was

no question of restraining them from disturbing the possession of respondent.

3. The Court of the Joint Civil Judge, Junior Division, Pusad i.e. the Trial Court took into consideration the material on record and found that there was indeed a registered sale deed executed by the petitioner No.1 in favour of respondent for a valuable consideration of Rs.11,40,000/- and that there was also a correction deed executed thereafter for correction of boundaries. The details of the manner in which the amount was exchanged was also noted and recorded by the Trial Court. It was also recorded that the registered sale deed stated that possession was handed over to the respondent.

4. Thereafter, the Trial Court referred to the affidavits filed by the adjacent land holders upon which the parties placed reliance. It was found that while some of the affidavits supported the petitioners, affidavits of others supported the stand taken by the respondents. In these circumstances, the Trial Court came to a *prima facie* finding in favour of the respondent and allowed the application for grant of temporary injunction, thereby temporarily restraining the petitioners from obstructing the possession of the respondent.

5. The appeal filed by the petitioners before the District Court at Pusad was dismissed, as the Appellate Court agreed with the findings rendered by the Trial Court.

6. This Court has perused the material on record. Considering the documents and other material on record, this Court is of the opinion that the concurrent findings rendered by the two Courts below are based on proper interpretation of the same to reach *prima faice* findings in favour of the respondent. The respondent placing reliance on the registered sale deed is a crucial aspect of the matter, which has been correctly appreciated by the Courts below and merely because affidavits of some of the adjacent land holders appear to be in favour of the petitioners, cannot be a ground to interfere, particularly when some of the affidavits of adjacent land holders state that the respondent is indeed in possession. Therefore, no ground is made out for interference in the impugned orders. The writ petition is dismissed.

7. Needless to say, the Trial Court shall proceed to decide the suit on its own merits, without being influenced by the orders passed by the Trial Court and Appellate Court, as also the order passed by this Court.

8. The writ petition is disposed of.

JUDGE