

SGPunde

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2896 OF 2022
IN
SECOND APPEAL NO. 115 OF 2022

Kamalbai Dhanaji Rochkari & Ors. ... Applicants
Versus
Vyankat Rangrao Shinde & Ors. ... Respondents

...
Mr.Milind M. Patil (Beedkar) – Advocate for applicants
Mr. Shrikant Y. Patil – Advocate for respondent nos. 1 to 4
....

CORAM : GAURI GODSE, J.
DATE : 08th FEBRUARY, 2023

PER COURT :

1. This application is filed for interim injunction restraining the respondents from disturbing the possession of the appellants/applicants over the suit property. The prayers in the civil application are in the nature of final relief as claimed in the suit. By way of interim injunction, there cannot be a prayer in the nature of final relief that is claimed in the suit.
2. Learned counsel for the applicants state that perusal of 7/12 extract shows that the applicants are in possession of the suit

property. The findings recorded by the trial court as well as the first appellate court do not show that the plaintiffs/appellants are in exclusive possession of the suit properties. The case of the applicants is that the partition decree that was passed in Regular Civil Suit No. 205 of 1990, was executed in Execution Petition i.e. Regular Darkhast No. 61 of 1996 and pursuant to that defendant nos. 3 and 4 were given independent shares. So far as the independent shares of defendant nos. 3 and 4 are concerned, those are also part of the same gut numbers which are the suit properties. Hence, in absence of any specific finding on facts with respect to the independent shares given to defendant nos. 3 and 4 as per the partition decree, which do not form part of the suit properties as described in the plaint, there cannot be an interim injunction which will amount to granting final relief in the suit. Hence the application is dismissed.

[GAURI GODSE]
JUDGE