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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5868 OF 2022

Bhagwan Dashrath Salve and Another PETITIONERS

VERSUS

Jayshri Vijay Kirtikar RESPONDENT

.....
Mr. M. B. Ubale, Advocate for the petitioners
Mr. Angad L. Kanade, Advocate for the respondent
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 11th APRIL, 2023

ORDER :

1. The petitioners are aggrieved by the order passed by learned 11th Civil Judge, Junior Division, Aurangabad below Exhibit-5 in Regular Civil Suit No. 411 of 2021.
2. The respondent – plaintiff filed the suit against petitioner - defendant for relief of removal of tin shed and material of the defendant lying on the suit plot and for permanent injunction. In the suit, application Exhibit-5 is filed for temporary injunction. The suit as well as temporary injunction application is resisted by the defendant, by filing written statement and say. Trial Court, after hearing the parties, allowed application Exhibit-5 and granted injunction against the defendants and further directed

the defendants to remove the tin shed over the suit property. The defendants are aggrieved by this order.

3. Heard learned advocate for the petitioners and the learned advocate for the respondent. Perused the grounds raised in the writ petition, documents annexed with the same and the impugned order.

4. *Prima facie*, it appears from the record that the plaintiff is rightful owner of the suit property. The defendants have erected tin shed on the suit plot owned by the plaintiff and are now claiming ownership of the suit plot by way of adverse possession. Though the Trial Court has granted final relief in the nature of interim relief, however, taking into consideration the peculiar facts of the present case, in my opinion, the Trial Court is justified in issuing the said direction to the defendants to remove the tin shed illegally erected by them on the suit plot, owned by the plaintiff.

5. The Trial Court, while granting said direction, has taken into consideration the documents placed on record by the plaintiff showing his ownership on the suit plot. It is also observed by the Trial Court that the defendants have not placed on record any document showing as to how he erected tin shed

in the plot owned by the plaintiff. The Trial Court, in the facts of the case, is justified in issuing temporary injunction against the defendants. There is no illegality or perversity in the order impugned in the present petition. The writ petition, being devoid of merit, is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

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