

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9980 OF 2021

Sitaram Shripati Saudagar
Versus
Laxman Dwarku Adhav

Petitioner

Respondent

Mr. Nikhi Jaju, Advocate for the petitioner.
Mr. L.B. Palod, Advocate for the respondent.

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th JULY, 2023

ORDER :

1. Petitioner is aggrieved by the order passed by learned Civil Judge, Junior Division, Shevgaon, below Exhibit-5 in Regular Civil Suit No. 158/2018, thereby allowing the application for temporary injunction filed by the plaintiff. Petitioner unsuccessfully challenged the said order by filing Miscellaneous Civil Appeal No. 115/2019.

2. Suit is filed by the respondent/plaintiff for declaration and injunction along with temporary injunction application. Petitioner/defendant appeared and resisted the suit by filing written statement and say. Trial Court allowed the temporary injunction application mainly by placing reliance on the sale deed dated 27th May, 1968 executed by Dhrupatabai w/o Shripati Saudagar, Sarubai w/o Shripati Saudagar and three more

persons, all resident of Bhaygaon, Taluka-Shevgaon, District-Ahmednagar. The Appellate Court confirmed the said order. Hence, the present petition.

3. Learned advocate for the petitioner assailed the impugned order contending that since beginning the mutation entries of the suit land are in the name of petitioner. The petitioner was awarded compensation of 3 Ghunta land out of the suit land which was acquired. He has obtained loan on the suit land from the Co-operative Patsanstha. All these aspects are totally ignored by both the Courts. Therefore, he submits that the impugned order be quashed and set aside.

4. Learned advocate for the respondent on the other hand supports the impugned order. He submits that no suit is filed by the petitioner for cancellation of sale deed dated 27th May, 1968. By relying on **Jitendra Singh vs. The State of Madhya Pradesh & Ors.**, (Special Leave Petition (C) No. 13146/2021) he submits that the revenue entries are only for the fiscal purpose and therefore they do not confer title on the person whose name appears in the revenue record. Those entries are in respect of payment of land revenue and no ownership is conferred on the basis of such entries.

5. Having heard the learned advocate for the parties and on perusal documents placed on record including the impugned order, this Court is of the opinion that both the Courts have rightly appreciated the facts of the case and the documents placed on record and rightly held in favour of the plaintiff.

6. Reliance placed by the learned advocate for the petitioner on revenue entries, 7/12 extract and on the fact that he has obtained loan from the Co-operative Patsanstha on the suit land and he was paid compensation for 3 Ghunta portion acquired from the suit land, cannot be accepted at this stage to hold that petitioner is in possession of suit land.

7. Prima facie, there appears substance in the contention of the plaintiff that by way of registered sale deed dated 27th May, 27th May, 1968, the land was sold to him and sale deed contains a recital that the suit land was given in possession of the plaintiff. Both the Courts have recorded concurrent finding of fact which are not liable to be interfered with, in the extra ordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]