

Nikita

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

WRIT PETITION NO.1487 OF 2023

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Date: 2023.10.06
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Balgonda Shivgonda Patil and Ors. ... Petitioners
V/s.
Kalgonda Bhimgonda Patil and Anr. ... Respondents

Mr. Uday B. Nighot for the Petitioner.

Mr. Chetan G. Patil, for Respondent Nos.1 and 2.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 5, 2023

P.C.:

1. Challenge in this petition is to the orders passed by the Courts below granting injunction against the defendant not to carry on construction for encroaching over property described in paragraph No.1 of the plaint along with the map annexed with the plaint.

2. The courts below granted injunction by recording a finding that Grampanchayat property No.44 was jointly owned by four brothers. Portion allotted to the plaintiff was given Grampanchayat property No.43/1. Defendant No.1 was allotted Grampanchayat property No.43/2, Defendant No.2 and Defendant No.3 were allotted Grampanchayat property No.43/3. Remaining Grampanchayat property of 43/4 was given to Malgonda

Shivgonda Patil.

3. Prima facie, courts below accepted plaintiffs case that the defendants are not entitled to carry out the construction over the property described in paragraph No.1, of the plaint along with the map annexed. The findings recorded in the courts below are prima facie finding which will not bind the Court while deciding the suit finally. Considering the limited scope of interference, in orders passed in concurrent orders passed by the Courts below granting application for temporary injunction, the petition need not be entertained.

4. However, considering the controversy involved, the Trial Court is directed to decide the suit within one year from today.

5. The writ petition stands disposed of. No cost.

(AMIT BORKAR, J.)