

Nikita

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

**INTERIM APPLICATION NO.4337 OF 2023
IN
WRIT PETITION (ST.) NO.28475 OF 2018**

Dhananjay Uttam Shinde and Ors. Applicants
In the matter between
Dhananjay Uttam Shinde & Ors.Petitioners
V/s.
Suresh Dadu Shinde and Ors. ... Respondents

Mr. Rahul S. Kadam for the Applicants in interim
application and for Respondents in writ petition.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 1, 2023

P.C.:

INTERIM APPLICATION NO.4337 OF 2023

1. For the reasons stated in the paragraph No.34, the application is allowed in terms of prayer clauses (a) and (b).
2. Office objections to be removed within two weeks from today.

WRIT PETITION NO.28475 OF 2018

3. The petitioners are original plaintiff who filed Regular Civil Suit No.191 of 2017, seeking declaration that sale deed executed in favour of defendant No. 1 to 3, be declare as null and void and for enforcement of preemption right, the petitioners had filed an

application under order 39 Rule 1 and 2, of Code of Civil Procedure, 1908, restraining defendants from disturbing possession of plaintiff over the suit property. The Trial Court rejected the application. The Appellate Court by the impugned order confirmed the order of Trial Court.

4. Based on the material on record, Courts recorded a finding that the plaintiffs had failed to prove their possession over the suit property. The findings are prima facie in nature, which are based on the documents on record. There is no perversity in the findings of Courts below. finding. No interference is called for under Article 227 of the Constitution of India.

5. Since the suit is of the year 2017, the Trial Court is directed to decide the suit as expeditiously as possible.

6. The writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)