

VRJ

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

WRIT PETITION NO.13015 OF 2023

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Vasant Kisan Koli & Anr.

... Petitioners

V/s.

Radhabai Hariba Koli & Ors.

... Respondents

Mr. Kuldeep U. Nikam for the petitioners.

Mr. Rajaram V. Bansode for the respondents.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 31, 2023

P.C.:

1. The petitioners are challenging the judgment and orders passed by the Courts below granting injunction to the plaintiff in a suit for partition, declaration and preemption as regards suit property.

2. It appears that the son of plaintiff and father of defendant Nos.1 and 2 was owner of the suit property. He died in the year 2013. Defendant Nos.1 and 2 executed registered sale deed of suit property in favour of the petitioners (original defendant Nos.3 and 4).

3. The plaintiff (respondent No.1) filed Regular Civil Suit No.110 of 2019 seeking relief of partition, declaration and preemption. She filed application for temporary injunction

claiming joint possession over the suit property and injunction not to disturb her possession over the suit property.

4. The Appellate Court has recorded admitted facts in relation to which there is no dispute. Based on the such admitted facts, it appears that the plaintiff is co-sharer along with defendant Nos.1 and 2. By execution of sale deed on 7th June 2019, the petitioners have stepped into the shoes of co-sharers. The suit property is agricultural land and not dwelling house. Therefore, the possession of the defendant Nos.3 and 4 over the suit property needs to be construed for and on behalf of all co-sharers. Therefore, the Courts below have granted injunction against the petitioners. However, considering rights of the petitioners and claim made by the plaintiff in temporary injunction application that she is in joint possession of the suit property, I pass following order:

a) The orders passed by the Courts below granting injunction against the defendant Nos.1 and 2 is modified and substituted as under:

“Defendant Nos.3 and 4 and any other person on their behalf are hereby temporarily restrained from causing any obstruction to joint peaceful possession of the plaintiff over the suit properties along with defendant Nos.3 and 4 till the final decision of the suit.”

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

(AMIT BORKAR, J.)