



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**WRIT PETITION NO.5697 OF 2023**

(Abdulsattar Guam Sarvar Rizvi and another Vs. Rahimkhan Rehman Khan Pathan)

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*Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.*

*Court's or Judge's orders.*

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Mr. V. S. Lokhande, Advocate for Petitioner.  
Mr. A. M. Chandekar, Advocate for Respondent.

**CORAM: ANIL S KILOR, J.**

**DATE: 7<sup>th</sup> SEPTEMBER, 2023.**

In a suit for declaration and permanent injunction filed by the respondent/plaintiff Exh.5 application for temporary injunction was filed and its was allowed vide order dated 15.01.2019, which was carried in appeal by the petitioner. The learned lower Appellate Court vide judgment and order dated 12.07.2023 dismissed the appeal. Hence, this petition.

2. The learned counsel for the petitioner submits that a sale-deed was executed in favour of the petitioner on 17.11.2018 in relation to suit shop which supports the case of the petitioner that he is in possession of the suit shop.

3. It is further submitted that the petitioner is running a Driving School and therefore, it is not only in the interest of the petitioner to reject the application Exh.5 filed

by the plaintiff but it is also not in the interest of the students who are taking education in the Driving School. He, therefore, submits that both the Courts below have committed error in not considering the above referred facts.

4. After going through the record and the impugned order, I do not find any substance in the submission of the learned counsel for the petitioner, for the reasons that both the courts below have dealt with the issue in respect of sale-deed and has observed that there is no clause in the sale-deed as regards handing over the possession to the petitioner.

5. Moreover, the tax receipts filed by the plaintiffs show that the taxes were paid by the plaintiffs.

6. Both the courts below have dealt with the matter in detailed and concurrently held that *prima facie* the plaintiff is in possession of the suit shop.

7. As no perversity has been pointed out by the learned counsel for the petitioners. I do not find any reason to interfere with the concurrent finding recorded by both the courts below. Accordingly, the writ petition is dismissed.

(ANIL S. KILOR, J.)