



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

10 WRIT PETITION NO. 1697 OF 2024

**SHRIDHAR BAJIRAO BIRADAR
VERSUS
SARANGDHAR BAJIRAO BIRADAR & OTHERS**

...
Advocate for the Petitioner : Mr.C.V.Thombre

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CORAM : ARUN R. PEDNEKER, J.

DATE : 12.02.2024

P.C. :

1] Heard. The defendant no.1 filed an application for injunction to the extent of one property in the cross objection by the defendant no.1 in the suit filed by the petitioner. The courts below held that the defendant no.1 is in possession of Gat No. 217 to the extent of 01 H. 31 R. in respect of which he has made out prima facie case since he is in possession thereof and, therefore, balance of convenience lies in his favour.

2] In view of the same, injunction application is granted and the same is confirmed by the appellate Court. The Appellate Court has held that for the purpose of deciding the injunction application it can be said that defendant no.1 has made out prima facie case of oral partition of the year 2015, as such, injunction is granted only to the extent of one property. Since there are prima

facie findings of the Courts below in respect of possession and partition, the same cannot be interfered and will have to be adjudicated at the final stage of the suit.

3] In the event, the petitioner succeeds in the suit, he would be entitled for mesne profits. The trial Court to decide the suit for partition as expeditiously as possible.

4] In view of the same, the present Writ Petition is disposed of in above terms.

[ARUN R. PEDNEKER]
JUDGE

DDC