



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 624 OF 2013
WITH
CIVIL APPLICATION NO. 10870 OF 2013
IN SA/624/2013

Dnyandeo Chima Janjire And Another

....Appellant

VERSUS

Kisan Chima Janjire And Others

.....Respondent

.....

Mr. C. K. Shinde, Advocate for Appellant

Mr. S. P. Salgar h/f Mr. N V Gaware, Advocate for Respondent No. 1

...

CORAM : R.M. JOSHI, J

DATE : FEBRUARY 01, 2024

PER COURT :

1. This Appeal is filed under Section 100 of Code of Civil Procedure seeking challenge to the judgment and decree passed by First Appellate Court in RCA No. 414/2004 dated 10.12.2012 whereby the judgment and decree passed by Trial Court in RCS No. 271/1981 dated 12.10.2004 granting perpetual injunction was set aside to the extent of Defendant Nos. 5 to 9.

2. Learned Counsel for the Appellants/Original Plaintiffs submit that having regard to the nature of dispute between the parties and also in view of the fact that another suit is filed by the Defendants for partition of

the suit property, learned trial Court was justified in injuncting all the Defendants. It is his submission that having regard to the facts and circumstances of the case, the First Appellate Court ought not to have caused interference in the said findings and decree to the extent of Defendant Nos. 5 to 9 also.

3. Perusal of the impugned judgment and decree passed by the First Appellate Court indicates that the original suit was filed against Defendant Nos. 1 to 4 for seeking injunction against them. Subsequently, Defendant Nos. 5 to 9 appeared before the Trial Court and sought impleadment in the suit. Though they were added as Defendants, no relief was prayed against them. In such circumstances, the First Appellate Court has held that the decree passed by the trial Court against these Defendants is not sustainable for want of claiming of any relief against them.

4. Having regard to the settled position of law that the Court cannot travel beyond the pleadings and the relief prayed therein, the judgment and decree passed by First Appellate Court cannot termed as perverse in order to cause any interference therein. Hence, no substantial question of law involved in this Appeal. In the result, Appeal stands dismissed. Pending applications are also disposed of.

(R. M. JOSHI, J.)