



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7354 OF 2024

Suman Rupchand Ukande

VERSUS

Babubai Laxman Kathe And Others

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Mr. P. S. Mantri h/f Mr. P. V. Barde, Advocate for the
Petitioner

CORAM : R.M. JOSHI, J

DATE : JULY 16, 2024

PER COURT :

1. Petitioner is Appellant In Regular Civil Appeal No. 116/2015. He filed application vide Exh. 31 seeking injunction against Respondent No. 3/Defendant No. 3, from alienating certain suit properties. This Appeal came to be filed against judgment and decree passed in Special C. S. No. 65/1998 filed for partition and separate possession of the suit property, which was decreed. During the pendency of the Appeal, an application Exh. 31 came to be filed expressing apprehension that Respondent No. 3 has entered into agreement to sale with one Sahebrao Nawale in respect of suit property and hence, injunction is sought.

2. Learned Counsel for Petitioner submits that having regard to the nature of suit the suit for partition and separate possession, it would be in the

interest of justice that Respondent No. 3 be enjoined from creating any third party right in the suit property. It is submitted that in the reply of Respondent, there is no denial of the fact that he intends to sell portion of suit properties.

3. In order to succeed in seeking order of injunction, it is obligatory on the part of the Petitioner/Appellant to make out a *prima facie* case. As rightly observed by the learned Ad-hoc District Judge that there is absolutely no material on record in order to hold that Respondent No. 3 has entered into agreement to sale with Sahebrao Nawale. Apart from this, it is observed that property numbers given by the Appellant are also different than one involved in Special C. S. No. 65/1998.

4. Having regard to these facts, this Court finds no perversity in the order to cause interference therein in exercise of writ jurisdiction. No case is made out even for issuance of notice. Hence, Petition stands dismissed.

(R. M. JOSHI, J.)

Malani