



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14724 OF 2023

NARAYAN PANDITRAO LANDGE
VERSUS
GULAB NARAYAN BARVE

Mr. S. S. Deshmukh, Advocate for the petitioner
Mr. V. B. Patil, Advocate for the respondent

CORAM : R. M. JOSHI, J.
DATE : 27th JUNE, 2024

PER COURT :-

1. During the course of the hearing and it is revealed that the learned District Judge in Misc. Civil Appeal No. 15 of 2023 granted injunction restraining the defendant from causing obstruction to the possession of the plaintiff over the suit land without recording the finding as to the possession of the plaintiff over the suit property. It is trite that unless Court comes to the conclusion that plaintiff is possession of property question of passing order of injunction not to interfere in such possession does not arise. In view of the same clause No.5 of operative part of impugned order does not sustain. It is, however, held that there is no perversity in the finding and order passed in respect of other issues and as such that part of order except clause No.5 of operative part of order impugned is confirmed.

2. Hence, Misc. Civil Appeal No. 15 of 2023 is relegated back to the District Court-2, Basmathnagar to the extent of relief of injunction in respect of causing obstruction to the possession of plaintiff over the suit property. Parties are directed to appear before the concerned Court on 15th July, 2024.

3. Needless to say that it would be open for the parties to substantiate their respective case before the Trial Court on relegated issue.

4. Petition stands disposed off.

(R. M. JOSHI, J.)

ssp