



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

914 WRIT PETITION NO. 14895 OF 2023

Arvind s/o. Pannalalji Jangada. **.. PETITIONER**

VERSUS

- 1] Sureshchandra Pannalaji Jangada (Jain)
- 2] Madanlalji Pannalaji Jangada
- 3] Mohanlal s/o. Pannalaji Jangada
- 4] Vijayabai Premchandji Pagariya

- 5] Shantabai Premchandji Ostwal
Deceased through L.R.
- 5-A. Abhay Premchandji

- 6] Leelabai Saklecha. **.. RESPONDENTS**

...

Advocate for the Petitioner : Mr.A.P.Bhandari h/f.
Mr.V.A.Bagdiya

Advocate for Respondent no.1 : Adv.Ganesh Gade h/f.
Adv.A.S.Jadhav

Advocate for Respondent nos.2 to 4, 5A and 6 :
Adv.R.N.Chavan

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 24.01.2024

P.C. :

- 1] The present petitioner has challenged the interim order dated 31.05.2023 passed by the Civil Judge Senior Division, Jalna below Exh.5 in Special Civil Suit

no.108 of 2023 and order dated 08.11.2023 passed by the District Judge, Jalna in Misc. Civil Appeal No.33 of 2023.

2] Heard the learned counsel for the parties. In the present Writ Petition, the plaintiff and defendant no.1 have filed joint undertaking. The joint undertaking along with map is taken on record and marked 'X' for identification.

3] The learned counsel for the parties submits that the affidavit is sworn before the Section Officer of this Court and the learned Advocates for the respective parties have identified the parties before the Section Officer.

4] The learned counsel for the defendant nos. 2 to 6 have no objection to settle the matter as per the joint undertaking, and that the said defendants would also stand by the undertaking by not creating any rights adverse to the joint undertaking.

5] The interim orders passed by both the Courts below would stand modified in terms of para nos.2 to 4 of the joint undertaking dated 24.01.2024. Para nos.2 to 4 of the joint undertaking dated 24.01.2024 reads as under :

2. That the 1/7th share i.e. 1 Hectar 33 R from sr no. 331 Situated at Jalna is been kept aside as mentioned in the map annexed at Exhibit A and more Particularly marked in red colour in the said Map with this undertaking by the petitioner / original defendant No.1 till

the decision of Special Civil Suit No. 108/2023 pending before the Civil Judge Senior Division, Jalna, That the petitioner / defendant No.1 will not create any third party interest in respect of the property to the extent of 1 Hectore 33 R from land Survey No. 331 Situated at Jalna, more particularly marked in the map annexed at Exhibit A with this undertaking till the decision of the special civil suit No. 108/2023 pending before the Civil Judge Senior Division, Jalna.

3. *That the petitioner / defendant No.1 is hereby free to dispose of the remaining land of the survey No. 331 to the extent of adm. 2 Hectore 95 R and 332 adm. 5 Hectore 7 R, total adm. land 08 Hectore 02 R Situated at Jalna situated at Jalna as per his own wish and desire. The said undertaking is submitted jointly and the said undertaking is binding upon the parties.*

4. *In light of the undertaking, order dated 31.05.2023 passed by the Civil Judge Senior Division, Jalna in Special Civil Suit No. 108/2023 and the order dated 08.11.2023 passed by the District Judge in Misc. Civil Appeal No.33/2023, kindly be modified as per this undertaking. The present petitioner/Defendant No. 1 should be restrained from creating third-party interests in the 1/7 share i.e 1 H 33 R land from sr no. 331 Situated at Jalna marked in the map annexed with this undertaking at Exhibit A. All issues of fact and law may kindly be kept open for decision at the trial court.*

6] In view of the above, the present Writ Petition is disposed of in terms of para nos.2 to 4 of the joint undertaking dated 24.01.2024.

**[ARUN R. PEDNEKER]
JUDGE**