

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2662 OF 2023

Sopan Ramchandra Dhaigude and Ors.

Petitioners/
.. Orig. Plaintiffs

Versus

Sarpanch Grampanchyat Khed and Ors.

Respondents/
.. Original Defendants

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• Mr. P. B. Gujar, Advocate for Petitioners.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 09, 2024

P.C.:

- 1.** Heard Mr. Gujar, learned Advocate for Petitioners.
- 2.** The present Writ Petition takes exception to twin orders i.e. the order dated 02.03.2022 passed by the learned Trial Court below Exhibit-15 and the judgment dated 19.07.2022 passed by the District Judge in Miscellaneous Civil Appeal No.82 of 2022, *inter alia*, rejecting the temporary injunction Application filed by the Plaintiffs.
- 3.** Mr. Gujar, learned Advocate appearing for the Petitioners would submit that one of the issue considered made by the Trial Court for rejecting the temporary injunction Application is the fact that prior to the suit transaction which is admitted, there was another transaction by way of gift deed by virtue of which a portion out of the suit property was gifted to the Gram Panchayat for a school.

4. He would fairly submit that substantive challenge to the gift deed as also with respect to the suit transaction / agreement is maintained in the suit. Perusal of both the orders and more specifically order passed by the learned Appellate Court reveals that the said Court has *prima facie* considered the pleadings and proceedings and passed reasoned concurrent orders.

5. Considering that the suit has been filed for seeking declaration in respect of the suit property / land as also for challenging the gift deed and more importantly in view of the fact that Petitioners got knowledge of the said gift deed only as late as in March-2019, it would be proper to direct the Petitioners to prosecute the suit on the basis of their evidence and seek determination of the suit proceedings strictly in accordance with law by keeping all questions and contentions of the Petitioners open. Both the impugned orders are therefore upheld with a specific direction to the Trial Court to determine the suit proceedings as expeditiously as possible.

6. With the above directions, Writ Petition is dismissed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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