

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1061 OF 2024

Ankush Ananda Khatal and Anr.

.. Petitioners

Versus

Ashok Bhanudas Hivare and Anr.

.. Respondents

-
- Mr. Umesh Pawar a/w. Mr. Sagar Sonawane, Advocates for Petitioners.

.....
CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 31, 2024.

P.C.:

- 1.** Heard Mr. Pawar, learned Advocate for the Petitioners.
- 2.** The present Writ Petition takes exception to the order dated 02.11.2023 passed by the learned Trial Court in Misc. Civil Application No.36 of 2023 which has partly quashed and set aside the order passed below Exhibit “6” i.e. T.I. order in Regular Civil Suit No.396 of 2021.
- 3.** Mr. Pawar would submit that Petitioner has filed Regular Civil Suit No.396 of 2021 in respect of an area ad-measuring 37.68 R out of 2 Hector and 16 R land property comprised in Gat No.632. He has straight away drawn my attention to the averments made in the Suit plaint and more specifically on internal page No.4 of the plaint wherein it is categorically stated that by virtue of the registered agreement / document dated 15.02.1999, the Petitioners were put in

possession of the subject property and since that date the Petitioners are enjoying possession without any obstruction. He would submit that the impugned order without taking into cognizance this fact and while reversing the order that was passed below Exhibit “6” has directed the Respondents i.e. Defendants in the Suit restraining them from creating any third party rights in the property, but has not granted any interim injunction in favour of the Petitioner who has been enjoying the subject property out of Gat No.632 since 15.02.1999.

4. He is therefore aggrieved and has approached this Court. An arguable case has been made out for issuance of notice against the impugned order by Mr. Pawar.

5. Hence, issue notice to the Respondents. Humdast permitted.

6. In addition to Court notice, Petitioners are permitted to serve a copy of the Petition and this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

7. Respondents are directed to remain present in Court on the next adjourned date either by themselves or through Advocates.

8. Respondents are directed to file their Affidavit-in-Reply on or before the next date, if so desired.

9. It is clarified that, this Writ Petition shall be disposed of on the next adjourned date at the stage of admission itself.

10. In the meanwhile, Respondents i.e. Defendants shall not cause any obstruction to the Petitioners in so far as the subject matter of the Suit i.e. land ad-measuring 37.68 R out of Gat No.632 is concerned.

11. Stand over to **14th February, 2024.**

[MILIND N. JADHAV, J.]

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