

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7450 OF 2024

Vasant Siddharam Kamble

.. Petitioner

Versus

Neminath Tukaram Inde & Ors.

.. Respondents

.....

- Mr. Ajit V. Alage for Petitioner
- Ms. Vrushali Maindad a/w Kapadia (first name not readable) for Respondents

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 10, 2024

P. C.:

1. Heard Mr. Alage, learned Advocate for Petitioner and Ms. Maindad, learned Advocate for Respondents.

2. Perused the impugned orders i.e. order dated 27.09.2022 passed by the learned Trial Court below Exh. 5 in RCS No. 59 of 2021 and order dated 11.08.2023 passed by the learned District Court in Misc. Civil Appeal No. 145 of 2022.

3. It is *prima facie* seen that the Suit is filed simplicitor for injunction and both the Courts below have returned reasons for allowing Exh. 5 and upholding the same. In view of the reasons returned by the learned Trial Court and upheld by the learned District Court, this Court cannot substitute the said reasons merely on the submissions advanced by Petitioner (Org. Plaintiff) that he has a

substantive case on the basis of having a *Kul* in respect of the Suit property. Defendant will get adequate opportunity to advance his case and evidence in rebuttal in accordance with law. I see no reason to interfere with both the impugned orders. Both impugned orders are sustained. Needless to state that the learned Trial Court shall not be influenced by any of the observations and findings in both the impugned orders while determining the Suit which shall be determined on its own merits.

4. Suit is filed in the year 2021 and in view of the limited relief prayed for in the Suit, learned Trial Court is directed by this Court to dispose of RCS No. 59/2021 within a period of six months from today.

5. Possession in respect of the Suit property as envisaged in the twin impugned orders shall remain as it is until the disposal of the suit proceedings. Needless to state that all contentions of both the parties including the Plaintiff i.e. Petitioner before me are expressly kept open.

6. Writ Petition stands dismissed.

[MILIND N. JADHAV, J.]