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

WRIT PETITION NO. 1869 OF 2024

Shalanbai Shankarrao Dhumal

.. Petitioner

Versus

Vijay Ramchandra Dhumal and Ors.

.. Respondents

-
- Mr. R.D. Soni i/by Mr. Sachin V. Khandagale, Advocate for Petitioner.
 - Mr. Makarand Panchakshari, Advocate for Respondent No.1.
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2024.

P.C.:

1. Heard Mr. Soni, learned Advocate for Petitioner and Mr. Panchakshari, learned Advocate for Respondent No.1. Mr. Panchakshari appears through VC.

2. The challenge maintained in the present Writ Petition is to the twin orders passed in Exhibit “5” proceedings by the learned Trial Court as also the Appellate Court in MCA.

3. Mr. Soni would submit that Suit has been filed for seeking injunction in respect of the Suit land ad-measuring 1 Hectore 12 Ares. He would submit that by virtue of a registered sale deed between the Petitioner and Defendants in the year 1982, Petitioner became the owner of the Suit land. He has candidly informed the Court that

Petitioner i.e. Plaintiff incidentally was the erstwhile landlord of the Suit land and the execution of the sale deed in 1982 was with the Defendants and their predecessor-in-title who was infact the protected tenant of the Suit land by virtue of the 32-M certificate and 32-G order under the Maharashtra Tenancy and Agricultural Lands Act, 1948 in his favour. As such after the sale deed, the Petitioner became the owner and rights of the tenant stood extinguished.

4. Next he would submit that after a hiatus of more than 4 decades, Defendants who are successors-in-title of the tenant made an Application to the Revenue authorities seeking mutation of their names in respect of the said Suit land. He would submit that this Application came to be allowed and their names were mutated in the other rights column in respect of the Suit land. However subsequently on objection raised by Petitioner their names were deleted by a separate mutation entry.

5. Due to interference by Defendants, Plaintiff approached the Civil Court seeking injunction to protect his possession of the Suit land. He would submit that both the twin orders passed below Exhibit “5” proceed on the premise that names of Defendants were mutated at some point of time in the Revenue Record and therefore on this ground injunction has been denied.

6. Mr. Panchakshari, learned Advocate appears on VC for the

Respondents who are Defendants before the learned Trial Court. He would submit that no order should be passed by the Court until he is heard in matter and atleast one week time be given to file his reply. I have impressed upon Mr. Panchakshari that hearing in this Court is decided by the Court and no Advocate can dictate to the Court as to how the procedure is to be followed for hearing by this Court. I have also impressed Mr. Panchakshari that this Court will permit Respondents to file an appropriate Affidavit-in-Reply and make out a good case if both the Exhibit "5" orders are required to be confirmed, but before that on the basis of the aforementioned submissions made by Petitioner / Plaintiff, clearly an arguable case for stay of the twin orders is made out. There is no denial of the fact that Defendants are not signatories to the 1982 registered Sale Deed.

7. Hence, Respondents are directed to file their Affidavit-in-Reply on merits within a period of two weeks from today. Rejoinder, if any, be filed within one week thereafter.

8. Parties are directed to complete and exchange their pleadings on or before the next adjourned date.

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, there shall be ad-interim relief in terms of prayer clause 'b'.

11. Stand over to 12th March, 2024.

[MILIND N. JADHAV, J.]

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