

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8413 OF 2024

Chandrakant Bhanudas Jadhav & Ors.

.. Petitioners

Versus

Prakash Nagnath Rajmane & Ors.

.. Respondents

.....

- Mr. Kishor Patil for Petitioners

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 18, 2024

P. C.:

1. Mentioned at the time of rising.
2. Heard Mr. Patil, learned Advocate for Petitioners.
3. Present Writ Petition takes exception to the twin Exh. 5 orders passed by learned Trial Court and confirmed by learned District Court in MCA dated 29.09.2023 and 06.12.2023.
4. Mr. Patil would contend that Suit is filed for injunction in respect of suit property described in RCS No. 302/2023. Consideration for the learned Trial Court as also the learned Appellate Court to allow Exh. 5 Application and uphold the same is based upon certain maps and documents prepared by the Surveyor which are referred to as Consolidation Map and Mojani Register 7/2007 for identification of the suit property for the purpose of granting injunction. Mr. Patil would contend that the concerned documentary

evidence has been rejected by the Authorities and to that extent, he would draw my attention to page Nos. 74-75 of the Petition to substantiate his submissions. He would submit that by virtue of the said consolidation map which has been taken into cognizance, criminal case is pending on the premise that the said consolidation map was a forged map. He would submit that in that view of the matter, fact whether the suit property which is subject matter of Suit proceedings between parties would be required to be correctly identified *qua* its situation and location is precisely the bone of contention between the parties. Mr. Patil would submit that submissions made by both parties are to the contrary in so far as situation and location of suit property in alignment and in consonance with the Pune-Pandharpur Highway is concerned. The Court's consideration is highly questionable and therefore the impugned orders are bad in law.

5. An arguable case is made out by Mr. Patil for issuance of notice and stay of impugned orders dated 29.09.2023 and 06.12.2023. Hence, both impugned orders shall stand stayed in the meanwhile.

6. Issue notice to the Respondents made returnable on 02.07.2024. Humdast permitted. In addition to Court's notice, Petitioners are directed to serve copy of the Petition along with copy of 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. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioners.

7. Respondents are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents since the Suit is of the year 2023 and filed for injunction only.

8. Stand over to **2nd July, 2024.**

Amberkar

[MILIND N. JADHAV, J.]

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