

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15165 OF 2024

Balasaheb Nagnath Tekale

.Petitioner

Versus

Anand Jalindar Londhe & ors.

.Respondents

Mr. R. M. Haridas a/w. Mr. Somnath Thengal i/b. Mr. Prasad P. Kulkarni, Advocates, for the Petitioner
None for the Respondents

CORAM : S. M. MODAK, J.

DATE : 26.11.2024

P. C.

1. Heard Mr. Haridas, learned Counsel for the Petitioner.
2. In a simplicitor Suit for injunction, the trial Court restrained the Defendants from interfering with the possession of the Plaintiff during the pendency of the Suit vide Order dated 26.07.2024. When the Defendants filed an Appeal, **the Appeal was allowed and the aforesaid Order dated 26.07.2024 was set aside** vide Order dated 08.10.2024.

3. Issue notice before admission to the Respondents returnable on **08.01.2025**.

4. There is insistence on granting ad-interim relief in terms of prayer clause (c). The Petitioner is praying for the same relief which was granted by the trial Court. Learned Counsel for the Petitioner has made the following submissions :-

(a) The various documents filed along with the Petition and the findings recorded by the Appellate Court as well as trial Court.

(b) The contention is the Appellate Court has exceeded the scope of enquiry which is contemplated while deciding Misc. Civil Appeal and the Appellate Court has recorded the findings about the Sale Deed of the Plaintiff which is unwarranted.

(c) Mr. Haridas, learned Counsel for the Petitioner relied on the decision of this Court Bench at Aurangabad in the case of ***Baban Anantrao Naik vs. Sau. Pramila Uttamrao Yenare & anr.***, reported in ***2011(6) ALL MR 15*** and relied on the decision of this Court Bench at Nagpur in the case of ***Hindustan Unilever Ltd. vs. Hindustan Lever Kamgar Sangh***, reported in ***2011(6) ALL MR 15***.

5. It seems that the Plaintiff is supporting his possession over the suit land **on the basis of the Sale Deed dated 02.05.2012**, whereas the Defendants claim **to be in possession on the basis of the allotment done in the year 2012 and the Sale Certificate was issued on 28.02.2022**. The tenant/purchaser could not deposit the sale price and that is why the land as per the Sale Certificate, reverted back to the landlord and then it was allotted to the Defendants.

6. The Appellate Court while reverting the trial Court's Order has observed in paragraph No. 16 *"about the plea taken by the Defendants about the mistake committed while entering excess land which is in the name of the Plaintiff as per the Consolidation Scheme"*. **My attention is invited** to the averments made in the Written Statement which are at page Nos. 33 to 35. The Defendants have pleaded that instead of 18 Acres 22 Gunthas land, by joining hands with the officers 24 Acres 35 Gunthas land was recorded in the name of the Plaintiff but the fact remains it is the suit land which is standing in the name of the Plaintiff. The 7/12 extract is on page No. 38. It is true that suit land is admeasuring 2 H 46 R. The Plaintiff is cultivating Jawari in the suit land as shown in 7/12

extract

7. At this stage, I am impressed by the panchanama dated 05.11.2012 prepared by the Talathi, Mohol. This was done when possession has to be handed over to the Defendants on the basis of 2012 allotment. The Talathi has noticed possession of the Plaintiff over the land mentioned therein. Even the Talathi has recommended the measurement through the T.I.L.R. and according to the Plaintiff, yet it is not carried out.

8. I am inclined to grant ad-interim relief in terms of prayer clause (c) which reads thus :-

“(c) Pending hearing and disposal of the present Writ Petition, respondents be restrained from obstructing the peaceful possession of the Petitioner over the suit property i.e. Gat No. 587/2/B admeasuring area 2H 46R situated at village Papari Taluka- Mohol District – Solapur.”

9. Hence order :-

ORDER

(i) Ad interim relief is granted in terms of prayer clause (c) till the next date.

(ii) The Plaintiff is directed to keep accounts from the period

interim injunction is granted for the first time of the income of the recovered from the suit land and when directed to submit it in the Court.

(S. M. MODAK, J.)