



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4110 OF 2019

(Vaibhav Anandrao Panode vs. Sau.Ravitaibai Bhagwanrao Dhole and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of direction,
and the Registrar's orders.*

Court's or Judge's order

Mr. N. S. Bhattad, Advocate for the Petitioner.

CORAM : ABHAY J. MANTRI J.

DATE : SEPTEMBER 10, 2024

The petitioner is aggrieved by order dated 02/03/2019 passed by the learned District Judge-3, Pusad, District Yavatmal, in Misc. Civil Appeal No.54/2013, whereby confirmed the rejection of the application for grant of temporary injunction Exh.5 in Regular Civil Suit No.22/2013, has preferred this petition.

2) Based on a registered Will dated 28/02/2011, the petitioner claimed the right, title, and possession over the suit property as an owner. On 08/04/2013, respondent No.3 obstructed his possession of the suit property. Therefore, he has filed a suit for injunction, wherein he has moved the application (Exh.5) to restrain the respondents from causing any obstruction to the peaceful possession of the petitioner over the suit property. The said application was rejected by the trial Court on 15/11/2013, holding that the petitioner had failed to prove a prima facie case and no balance of convenience lies in his favour to grant an injunction as prayed. The said order was challenged before the learned District Judge – 3 Pusad, District Yavatmal, who confirmed the said order.

3) Mr. Bhattad, learned Counsel for the petitioner, vehemently contended that the status-quo order was in force till the rejection of the application (Exh.5) under Order 39 Rule (1) and (2) of the Civil Procedure Code. However, he failed to point out the said order from the record.

4) He further argued that based on Will, the petitioner is in possession of the suit property and, therefore, the petitioner's possession be protected till the disposal of the Suit. However, he failed to demonstrate from the record that the petitioner was and is in possession of the suit property.

5) He also tried to canvass that two police complaints were lodged against the respondents; however, he failed to produce those complaints before the Court to show that in the said complaints, the petitioner claimed that he was in possession of the suit property. Moreover, it appears that he has claimed that partition took place between his father and uncle, but no document or mutation entry in that regard has been produced before the Court to show that based on the said alleged Partition Deed or Will, the petitioner got the possession over the suit property. Thus, it seems that *prima facie*, the petitioner failed to show that he was and is in possession of the suit property to claim the relief as prayed.

6) Perused the orders passed by the trial Court and the District Court. I do not find any illegality or perversity in the impugned orders to interfere. Rather, it seems that the trial Court, after considering the material before it, has rightly held that the petitioner *prima facie* failed to prove a case for grant injunction as prayed. Therefore, I do not find any substance to cause interference in the impugned order in writ jurisdiction.

Hence, the petition is bereft of merit. Consequently, the petition stands dismissed.

7) At this stage, the learned Counsel for the petitioner requested that the trial Court be directed to expedite the suit.

8) The matter appears to be more than ten years old, pending since 2013. Therefore, the trial Court shall dispose of the matter as expeditiously as possible.

(ABHAY J. MANTRI, J.)

KOLHE