



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

Writ Petition No.4329/2024
(Madhukar V Mrs. Surekha and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.G. Karmarkar, Advocate for petitioner.
Mr. J.K. Matala, Advocate for respondent nos.1 and 4.
Ms P. Joshi, AGP for respondent nos.7 and 8.

CORAM : N.R. Borkar, J.
DATE : 14-11-2024.

This petition takes exception to the order dated 02-05-2024 passed by the District Judge, Bhandara in Misc. Civil Appeal No.17/2023.

ii. The petitioner herein has filed a suit for declaration and injunction. According to the petitioner, one Mahesh Randive had filed a suit for specific performance of contract against the predecessor of present respondent Nos.1 to 6 namely Keshav Kadukar who died during the pendency of the said suit and respondent Nos.1 to 6 were brought on record of the said suit. According to the petitioner, during the pendency of the said suit respondent Nos.2 and 3 executed the sale-deed in his favour dated 25-03-2015. It is stated that since then he is in possession of the suit property.

iii. The petitioner has stated that after execution of sale-deed in his favour, he was made party to the said suit. It is stated that respondent No.1 was party to the said suit and was aware about the execution of sale-deed in favour of the petitioner. It is alleged that by suppressing the said facts and without making the petitioner party, respondent No.1 thereafter filed a suit for partition and separate possession of the suit property and obtained the decree. The petitioner has thus filed the suit in question and sought declaration that the respondent No.1 has obtained the decree by playing fraud and sought temporary injunction to restrain the respondents from dispossessing him from the suit property on the basis of said decree. The learned trial Court rejected the application for temporary injunction and by the order impugned the learned District Court has dismissed the appeal filed by the petitioner against the order of learned trial Court.

iv. I have perused the impugned orders. The learned trial Court has rejected the application by very unreasoned order. The learned trial Court has not all dealt with the contentions of the petitioner. The orders impugned are therefore set aside. The

matter is remanded back to the learned trial Court for deciding the application filed by the present petitioner for temporary injunction afresh.

v. The petition is disposed of.

(N.R. Borkar, J.)