



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4435 OF 2025

Sudhakar Aasmanrao Mhaske

.. Petitioner

Versus

Tirthraj Rambhau Jaykar And Others

.. Respondents

Mr. Yuvraj V. Kakde, Advocate for the Petitioner.

Mr. Amarsinha S. Kakade, Advocate for Respondent Nos. 1 to 8.

CORAM : KISHORE C. SANT, J.

DATED : 08th MAY, 2025.

P C. :-

. Heard the parties for long time.

2. The petition is filed by the original plaintiff. The application below Exh. 5 of the petitioner came to be rejected by the learned Trial Court. The Misc. Civil Appeal filed against the order of learned Trial Court also came to be dismissed.

3. It is the case of the petitioner that, the respondents are trying to encroach upon their land and are interfering with the possession of their land where there are sweet lime trees standing. The learned Trial Court observed that, there is no record found of sweet lime trees on the land till 2024. For the first time the entry is taken of the sweet lime

trees in the year 2025 and disbelieved the theory of the plaintiff. The learned Trial Court also observed that, the petitioner has executed agreement to sale in favour of the respondents and on that basis the respondents are in possession of the land to the extent of eight acres. He submits that, in fact, the entry as regards lime trees on the land is found since 2012, 2013 onwards. Only for the year 2024 such entry is not there. Both the Courts have thus failed to appreciate this aspect. He prays for allowing the petition.

4. The learned advocate for the defendants vehemently opposes the petition. He submits that, when both the Courts below have concurrently held, prima facie, against the petitioner, no case is made out calling for interference at the hands of this Court. He points out that, already there is agreement to sale between the parties wherein, the petitioner has agreed to sale eight acres of land to the respondents on which the Jawar crop is sown by the petitioner. He also points out the FIR lodged by the petitioner against the respondents. In the bail application also, he points out that, the learned Session Judge has observed that the case of the plaintiff/complainant therein cannot be believed.

5. Be that as it may, it is clear that, there is agreement between the parties and that fact is not denied. The defendants are thus found to be

in possession, at least prima facie on the strength of agreement to sale dated 08.01.2018 wherein, there is recital that already oral agreement had taken place on 14.02.2002.

6. Considering the above, this Court finds that, no case is made out to interfere with the impugned order.

7. The learned advocate for the defendants during the course of argument has submitted that, his clients are only in possession of the land which is agreed to be sold and in respect of which already suit is filed by the defendants bearing R.C.S. No. 329/2024 which is pending.

8. Considering this, this Court does not find any reason to cause interference. The writ petition thus stands disposed of.

9. Needless to say that, the observations are prima facie. The learned Trial Court to decide the suit on its own merits. The learned Trial Court is requested to decide the suit as early as possible and preferably within eighteen (18) months from today.

(KISHORE C. SANT, J.)

PS.B.