



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

74 WRIT PETITION NO. 5445 OF 2024

Rugved Milind Golhait
Age : 33 years, Occ. Agri.,
R/o Nandurkbar, Tq. & Dist.

...Petitioner

VERSUS

1. Anna s/o Gulab Kamble,
Age : 51 years, Occu : Agri.,
2. Suresh s/o Gulab Kamble,
Age: 65 years, Occu : Agri.

Both R/o Borkheda (Bk),
Tq. Chalisgaon, Dist. Jalgaon

3. Balu s/o Vitthal Kotkar,
Age : 51 years, Occu : Agri.
R/o At Sonwadi, Post Nagad,
Tq. Kannad, Dist. Aurangabad
4. Vasant s/o Vitthal Kotkar,
Age :- 51 years, Occu : Agri.
R/o At Sonwadi, Post Nagad,
Tq. Kannad, Dist. Aurangabad
5. Om Sainath Baba @ Om Shri Sainath,
Age .----- years, Occ. Nil,
R/o Kahupat, Post. Ambe,
Tq. Shirpur, Dist. Dhule

(As per order dated 25.03.2025,
petition stands dismissed again R-5)

6. Deepak s/o Kailas Patil,
Age 39 years, Occu : Agri.,
R/o Borkheda (Bk), Tq. Chalisgaon,
Dist. Jalgaon

...Respondents

...
Mr. D. S. Patil, Advocate for the Petitioner
Mr. Yogesh A. Jadhav, Advocate for Respondent No.1.
...

CORAM : ROHIT W. JOSHI, J.
DATED : 4th AUGUST 2025

ORAL JUDGMENT :-

1. The present petition arises out of order dated 23.01.2024 passed by the learned Civil Judge, Senior Division, Chalisgaon on an application at 'Exhibit-6' in special Civil Suit No.13 of 2023 thereby granting order of temporary injunction in favour of respondent no.1/plaintiff and against the petitioner/defendant no.4 restraining him from alienating the suit property and also from disturbing possession of respondent no.1/plaintiff over the same.

2. Perusal of order passed by the learned Trial Court will demonstrate that the learned Trial Court has only dealt with the transaction between the deceased-father of respondent no.1 and respondent no.6 and the subsequent transaction between respondent nos.6 and 5 with respect to another property which was sold by father of respondent no.1. There is no discussion in the order passed by the learned Trial Court with respect to sale transaction by the father of respondent no.1 in favour of the petitioner.

3. The petitioner preferred an appeal being Miscellaneous Civil Appeal No.06 of 2024 which is dismissed vide order dated 08.05.2024. The learned Trial Court has observed that entry in revenue record will create presumption of possession in favour of the petitioner. Perusal of judgment delivered by the learned Appellate Court will also demonstrate that controversy is not properly appreciated. In that view of the matter, it will be expedient in the interest of justice that both orders are quashed and set aside and the learned Trial Court is directed to decide the application for grant of temporary injunction afresh without being influenced by the earlier orders. The petition is accordingly **partly allowed** as under :-

O R D E R

i. Order dated 23.01.2024 passed by the learned Civil Judge, Senior Division, Chalisgaon on application at 'Exhibit-6' against the present petitioner (defendant no.4) and judgment and order dated 08.05.2024 passed by the District Judge-4, Jalgaon in Miscellaneous Civil Appeal No.06 of 2024 are quashed and set aside.

ii. The learned Civil Judge, Senior Division, Chalisgaon to

decide the application at 'Exhibit-6' with respect to prayers made against the petitioner/defendant no.4 in Special Civil Suit No. 13 of 2023 afresh.

iii. The learned Trial Court is directed to decide the application at the earliest and in any case within a period of one month from the next date fixed in the said Civil Suit.

[ROHIT W. JOSHI, J.]