



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 CIVIL APPLICATION NO. 7101 OF 2023
IN SA/299/2023

Maroti Sampat Lohar Died

VERSUS

Laxman Pralhad Lohar

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Advocate for Applicant : Mr. Yawalkar Siddhartha B.

Advocate for Respondent : Mr. Deshmukh A.I.

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 20, 2025

PER COURT :-

1. Heard Mr. Yawalkar, learned advocate appearing for the applicant and Mr. Dehmukh, learned advocate appearing for respondent.

2. By this application, applicant is seeking injunction against the respondents from obstructing his peaceful possession over the suit land bearing gat no.897/1A and 897/1B/2 situated at Pahur, Tq. Jamner, District Jalgaon. The applicant is further seeking injunction against the respondents from creating third party interest in whatsoever manner in respect of the suit property till disposal of the Second Appeal and also seeks stay to further proceeding of Special Civil Suit no.244 of 2024 pending before the Civil Judge S.D. Jalgon (as amended).

3. The contentions of the applicants are refuted by respondents by filing an affidavit-in-reply.

4. Second appeal has been admitted by this Court vide order dated 29.1.2025 by framing substantial questions of law. It appears that, Trial Court had decreed suit of the applicant and granted decree of perpetual injunction against the respondents. Respondents had assailed the decree before the District Judge, Jalgaon, who reversed the same. However, it is not in dispute that decree passed by the Trial Court was in operation till disposal of the appeal. No stay was granted to the decree of perpetual injunction restraining the respondents from interfering in possession of the plaintiff over the suit property. It is submitted that during pendency of the suit, status-quo was directed. The aforesaid circumstances prima facie shows that applicants are in possession of the property.

5. Mr. Deshmukh, learned counsel submits that, after passing of decree by the appellate court, name of respondents have been mutated in record of rights. Therefore, they are in possession of the property. Apparently, mutation is consequent to the decree passed by the Appellate Court and it does not decide the issue as to possession. Since, the Trial Court had granted decree of perpetual injunction in favour of the applicants and it was in operation till disposal of the appeal, it would be proper to grant prayer clause **'B and B-1'**.

6. So far as prayer clause 'B-2' is concerned, it is for the applicants to move the concerned Court under section 10 of the Civil Procedure Code. Such prayer cannot be considered by this Court. Therefore, keeping liberty open to move the Trial Court in pursuance to prayer clause B-2, Civil

Applications stands **allowed** in terms of prayer clause 'B and B-1' and **disposed of**.

(S. G. CHAPALGAONKAR, J.)

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