



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7953 OF 2024

- 1] Rafiyoddin S/o Nisaroddin Siddiqui,
Age: 40 years, Occu: Agril.,
R/o Kazi Galli, Jintur, Tq. Jintur,
Dist. Parbhani.
- 2] Tahezeeboddin S/o Nisaroddin Siddiqui,
Age: 38 years, Occu: Agril.,
R/o Kazi Galli, Jintur, Tq. Jintur,
Dist. Parbhani.
- 3] Sameeroddin S/o Nazeroddin Siddiqui,
Age: 25 years, Occu: Agril.,
R/o Balsa Road, Jintur, Tq. Jintur,
Dist. Parbhani.
- 4] Nazeroddin S/o Nazeroddin Siddiqui,
Age: 23 years, Occu: Agril.,
R/o Balsa Road, Jintur, Tq. Jintur,
Dist. Parbhani.
- 5] Nuroddin S/o Nazeroddin Siddiqui,
Age: 21 years, Occu: Agril.,
R/o Balsa Road, Jintur, Tq. Jintur,
Dist. Parbhani.
- 6] Kazi Naderoddin S/o Niseroddin Siddiqui,
Age: 30 years, Occu: Agril.,
R/o Balsa Road, Jintur, Tq. Jintur,
Dist. Parbhani.
Through its -Power of Attorney Holder
Nizamoddin S/o Naseroddin Siddiqui,
Age: 53 years, Occu: Agril., & Business,
R/o Santoshi Mata Mandir Parisar, Jintur,
Tq. Jintur, Dist. Parbhani.

...PETITIONERS

...VERSUS...

- 1] The State of Maharashtra
Through Collector, Parbhani,
Tahsildar,
- 2] Tahsil Office, Jintur,
Tq. Jintur, Dist. Parbhani.

- 3] Prashant S/o Sundarlal Sawaji Kalamkar
Age: 59 years, Occu: Agril.,
R/o Shivaji Nagar, Parbhani,
Tq. & Dist. Parbhani.
- 4] Mujeeboddin S/o Naheroddion Siddiqui,
Age: 51 years, Occu: Agril.,
R/o Kazi Galli, Jintur, Tq. Jintur,
Dist. Parbhani.
- 5] Syed Nuroddin S/o Syed Amiroddin,
Age: 42 years, Occu: Labour,
R/o Iqbal Nagar, Parbhani,
Tq. & Dist. Parbhani.
- 6] Syed Jainoddin S/o Syed Nuroddin,
Age: 40 years, Occu: Labour,
R/o Iqbal Nagar, Parbhani,
Tq. & Dist. Parbhani.
- 7] Syed Elyas S/o Syed Nuroddin,
Age: 38 years, Occu: Labour,
R/o Iqbal Nagar, Parbhani,
Tq. & Dist. Parbhani.

...RESPONDENTS

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- Mr. M. D. Narwadkar, Advocate for the Petitioners
 - Mr. V. S. Badakh, AGP for Respondent Nos. 1 and 2
 - Mr. P. N. Kalani, Advocate for Respondent No. 3
 - Mr. S. M. Gunjkar, Advocate for Respondent Nos. 5 to 7

CORAM : ROHIT W. JOSHI, J.

DATE : JULY 29, 2025

ORAL JUDGMENT:

1. The petitioners, who are original defendant nos.3, 4 and 6 to 9 respectively in Regular Civil Suit No. 206/2023, have filed the present petition being aggrieved by the order dated 02.04.2024 passed by the learned Trial Court allowing the application for grant of temporary injunction filed by respondent no.3/plaintiff, thereby restraining the

petitioners/defendants from creating third party interest over the suit property and also from disturbing possession of the respondent no.3/plaintiff over the same and also the judgment and order dated 14.06.2024 passed by the learned ad-hoc District Judge – 2, Parbhani, dismissing Miscellaneous Civil Appeal No.25 of 2024 arising out of the said order.

2. Respondent No.3 has filed Suit, being Regular Civil Suit No.206/2023 with respect to the suit property, which is a piece of land admeasuring 45 hands x 250 hands situated at village Jintur, Tq. Jintur, Dist. Parbhani claiming reliefs of declaration of ownership over the suit property and decree for perpetual injunction restraining the petitioners and respondent nos.4 to 7 (defendant nos.3 to 12) from disturbing his possession over the suit property. It is the case of the plaintiff that the suit property is purchased by him from Nasiruddin Siddiqui, vide unregistered sale deed dated 14.09.1966 for a consideration of Rs.95/-. Apart from the suit property, respondent no.3/plaintiff has purchased another property bearing survey no 216/C from said Nasiruddin, vide registered sale deed dated 20.06.1966. The petitioners, who are defendants in the said suit, have filed written statement admitting registered sale deed dated 20.06.1966 with respect to survey no.216/C. However, the alleged unregistered sale deed with respect to the suit property is disputed. They claim to be in possession of the suit property

as owners. Respondent no.3/plaintiff had filed an application for grant of temporary injunction, which is allowed by the learned Trial Court, vide order dated 02.04.2024. This order dated 02.04.2024 is challenged by the petitioners by filing Appeal under Order XLIII Rule 1(r) of the Civil Procedure Code, being Misc. Civil Appeal No.25/2024, which is dismissed, vide judgment and order dated 14.06.2024. The present petition is filed against the aforesaid concurrent orders allowing the application for grant of temporary injunction.

3. Although, the sale deed with respect to suit property is an unregistered document, the learned Trial Court has observed that the document, *prima facie*, appears to be a reliable document. It is observed that mutation entry with respect to suit property is taken in favour of the plaintiff on the basis of said document along with mutation of survey no.216/C. The learned Trial Court has held that the defendants had also not challenged the sale deed of the year 1966 executed in favour of the plaintiff/respondent no.3. In view of such observations, the learned Trial Court has held that the plaintiff/respondent no.3 has made out a *prima facie* case. The other two ingredients of Order XXXIX Rule 1 and 2 are also answered in favour of plaintiff/respondent no.3 since the injunction is pertaining to immovable property, which according to the Trial Court is *prima facie* in possession of respondent no.3/plaintiff on the basis of the said sale deed.

4. Aggrieved by the said order dated 02.04.2024, the petitioners filed appeal, being Miscellaneous Civil Appeal No.25/2024, which is also dismissed vide judgment and order dated 14.06.2024. The learned Appellate Court has observed that mutation with respect to the undisputed sale deed pertaining to survey no.216/C and the suit property is recorded simultaneously under the same mutation entry. It is held that the document was not to be registered since the sale consideration was less than Rs.100/-. The learned Appellate Court has also generally concurred with the findings of the learned Trial Court.

5. The learned counsel for the petitioners contends that the sale deed dated 14.09.1966 is an unregistered document and therefore, the learned Court ought not to have placed reliance on the same. He further contends that although, the Register of Mutation records the mutation entry with respect to the suit property in favour of respondent no.3/plaintiff, the 7/12 extract does not reflect the name of respondent no.3/plaintiff. This according to him is sufficient to disbelieve the alleged sale deed dated 14.09.1966.

6. The learned counsel for respondent no.3/plaintiff supports the order contending that sale consideration under sale deed dated 14.09.1966 is only Rs.95/- therefore, registration was not required. He contends that the sale deed is acted upon by the parties and that the

respondent no.3/plaintiff is in possession of the suit property on the basis of said sale deed.

7. It is apparent from reading of the document that the total area of land bearing survey no. 216/C was purchased by respondent no.3 by registered sale deed dated 20.06.1966 and thereafter vide unregistered sale deed dated 14.09.1966, the suit property, which is a part of survey no. 223 is claimed to be purchased. Since the sale consideration is Rs.95/- is less than Rs.100/-, registration of the sale deed is not compulsory.

8. As regards possession, the sale deed contains a recital about delivery of possession of the suit property to respondent no. 3 (plaintiff). This document is of the year 1966. Mutation entry is also recorded on the basis of this document. Perusal of mutation entry will demonstrate that under the same mutation entry name of respondent no.3/plaintiff is recorded with respect to survey no. 216/C, which is purchased by registered sale deed dated 20.06.1966 also with respect to the suit property. It appears that the unregistered sale deed is *prima facie* acted upon.

9. As regards the contention of the petitioners that although, the Register of mutation shows that an order is passed for effecting the mutation with respect to the suit property in favour of respondent

no.3/plaintiff, the name of respondent no.3/plaintiff is not reflected in the 7/12 extract, it needs to be mentioned that prima facie case does not mean an iron cast case. The term prima facie case only implies that an arguable case should be made out by the plaintiff in order to seek order of temporary injunction. It is also well settled that if view taken in the impugned order/s is a possible view, this Court in exercise of its jurisdiction under Article 227 of the Constitution of India should not interfere with the order impugned. This rule applies with a greater rigor to orders of temporary injunction, which involves an element of discretion as well.

10. The material on record is considered by both the Courts to grant temporary injunction in favour of respondent no. 3. Re-appreciation of material in exercise of writ jurisdiction is not permissible. The view taken by both the learned Courts is a possible view. The learned Courts have applied the principles and parameters for grant of temporary injunction in a just and proper manner. In view of the above, the impugned orders do not warrant any interference.

11. Writ petition is **dismissed**. Pending civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]