



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

WRIT PETITION NO. 14872 OF 2023

BRIJLATA ARUNKUMAR SIKCHI AND OTHERS
VERSUS
MURLIDHAR PANDHARINATH TAMBE

...
Mr. Anand P. Bhandari, Advocate for the Petitioners.
Mr. M. R. Jadhav, Mr. V. D. Kakde and Mr. Dhananjay S. Patil,
Advocates for Respondent No.1.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 17th JULY, 2025.**

P.C.:-

1. Heard Mr. Bhandari, learned Advocate appearing for petitioners.
2. The petitioners impugn order dated 24.02.2023 passed by 7th Joint Civil Judge, Senior Division, Aurangabad below Exhibit-5 in Special Civil Suit No.202/2021, which has been confirmed by learned District Judge-7, Aurangabad vide order dated 31.10.2023 in Miscellaneous Civil Appeal No.52/2023.
3. The petitioners before this Court are plaintiffs in Special Civil Suit No.202/2021 pending before Civil Judge Senior Division, Aurangabad. The petitioner no.1 is wife of Mr. Arunkumar Sikchi, who is defendant no.2 and petitioner nos.2 and 3 are his son and daughter. It is their contention that defendant no.2 was mentally sick. Therefore, public notice dated 02.10.2020 was issued. Thereafter, on 05.11.2020, defendant no.2 executed sale deed of 10

R land in the name of defendant no.1 out of land bearing Gut No.59 situated at Golwadi, Taluka and District Aurangabad. According to petitioners, aforesaid sale deed is null and void. Therefore, they sought declaration to that effect in the suit. The plaintiffs have also filed application below Exhibit-5 seeking temporary injunction against defendants claiming relief that they shall not transfer or create third party rights in respect of suit property during pendency of suit.

4. The learned Trial Court after considering rival submissions observed that defendant no.2 has executed many sale deeds under his signature, apart from the impugned sale deed. Further plaintiffs are relying upon certificate dated 25.05.2021 issued by private doctor regarding ill mental health of defendant no.2, which itself would not be sufficient to draw inference at this stage. The Trial Court has further observed that defendant no.2 was mentally ill since 2012 onwards, some evidence as regards to his medical treatment for nine years till date of execution of impugned sale deed could have been placed on record. Accordingly, learned Trial Court refused to grant temporary injunction against defendants, who holds title over suit property.

5. Aggrieved petitioners filed Miscellaneous Civil Appeal No.52/2023 before learned District Judge at Aurangabad, who pleased to uphold order passed by Trial Court.

6. Mr. Bhandari, learned Advocate appearing for petitioners endeavours to take this Court through the contents of sale deed and submits that although valuation of suit property was much higher, consideration amount was inadequate and unfair and possibility that defendant no.2's ill mental health has been exploited cannot be ruled out. He would further contend that limited relief of protection of the property from further alienation would have been granted considering reliefs claimed in the suit.

7. Having considered submissions advanced, it can be observed that impugned sale deed is a registered document. The basic contention of petitioners is that defendant no.2 was mentally ill and, therefore, transaction made by him under sale deed dated 05.11.2020 is null and void. However, *prima facie*, there is no evidence to draw impeccable conclusion regarding mental illness of defendant no.2. The Doctor's certificate itself is not sufficient to accept plaintiffs' case of ill mental health of defendant no.2 on the day of execution of sale deed. As rightly observed by Trial Court, multiple transactions have been effected by defendant no.2 under his own signature, so also there is no material indicating his illness from 2012 onwards as claimed.

8. In that view of the matter, this Court do not find any jurisdictional error on the part of learned Trial Court as well as First Appellate Court in refusing prayers for injunction. In result,

Writ Petition stands rejected. Needless to state here that, observations in this order are *prima facie* in nature and Trial Court shall not be influenced by the same at the time of taking final decision in suit.

9. At this stage, Mr. Bhandari, learned Advocate appearing for petitioners urges to expedite suit.

10. If parties, co-operates, learned Trial Court Shall endeavour to decide suit within period of one year from today.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2025