



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

WRIT PETITION NO. 2068 OF 2025

Suryakant Mahadji Garude

.. Petitioner

Versus

Narayan Mahadu Ghanchakkar

.. Respondent

Mr. V. V. Bhavthankar, Advocate for the Petitioner.

CORAM : KISHORE C. SANT, J.

DATED : 17th FEBRUARY, 2025.

P. C. :-

1. Heard learned advocate for the petitioner – original defendant in the suit.

2. The respondent filed a suit bearing R.C.S. No. 70/2022. His application in a suit seeking temporary injunction against the petitioner from interfering with possession came to be rejected by the learned Trial Court on 06.10.2023. In the appeal, the learned District Judge-2, Nanded allowed the Misc. Civil Appeal and allowed the application below Exh. 5 by his order dated 21.10.2024. The learned Trial Court while considering the application considered that, there is no material on record to show that the respondent/plaintiff has become owner and has come in possession on the strength of any valid document. The

learned District Judge mainly considered that, the petitioner himself had filed a suit for possession showing that he is not in possession.

3. The learned advocate for the petitioner vehemently submits that, the ownership of the petitioner is not at all disputed. The respondent's suit is for specific performance of alleged oral agreement. There is nothing on record to show that any agreement has taken place between the parties except averment in the plaint. Though the petitioner filed suit for possession, it is because for temporary period the respondent was given permission to put his construction material on the suit plot. Now, by way of order the Court has restrained true owner of the property from interfering in the possession.

4. This Court finds some substance in the submission of the learned advocate for the petitioner. Hence, issue notice to respondent, returnable on 24.03.2025. Humdast allowed.

5. Status quo as on today shall be maintained.

(KISHORE C. SANT, J.)

P.S.B.