



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

WRIT PETITION NO. 5015 OF 2025

Kishor Ramrao Deshmukh And Others

.. Petitioners

Versus

Alka Sanjaykumamr Bhandari
Through Its GPA holder
Sanjaykumar Chandanmal Bhandari

.. Respondent

Mr. H. D. Deshmukh, Advocate for the Petitioners.
Mr. Z. M. Pathan, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 24th APRIL, 2025.

P C. :-

. Heard the parties for some time.

2. The plaintiff in counter claim has approached this Court challenging the order passed by the learned District Judge – 2, Newasa in Misc. Civil Appeal No. 39/2023 rejecting the appeal of the petitioners. It is the case that, the respondent filed suits in the year 2016 and 2022 for the reliefs of injunction against the present petitioners. In the suits, the petitioners appeared and filed counter claim. Both the parties filed applications. The application of the respondent is under Exh. 5. The application of the petitioners is under Exh. 25 seeking temporary injunction against each other. The learned Trial Judge mainly considered the sale deeds issued in favour of the

respondent both of the same date i.e. 13.08.2001 in respect of both the lands. There is specific clause in the sale deed stating that, the possession is handed over to the respondent. Mainly considering this, the learned Court allowed the application below Exh. 5 and rejected the application below Exh. 25. The appeal therefore, came to be filed before the District Court. The learned District Judge confirmed the prima facie findings recorded by the learned Trial Court. The petitioners are thus before this Court.

3. The learned advocate Mr. Deshmukh for the petitioners argued that, though the sale deed is executed and though there is clause of handing over of possession, in fact, the possession was never handed over to the respondent. The sale deed was only for the purpose of security. He further submits that, now the Naib Tahsildar, Newasa has also passed an order on 08.02.2025 showing possession of the petitioners. The said order is passed based on crop inspection basis. He thus submits that, it is clear that, it is the petitioners who are in possession of the suit land.

4. The learned advocate Mr. Pathan for the caveator/respondent vehemently opposes the petition. He submits that, both the Courts below have rightly considered that, there are registered sale deeds in favour of the respondent. On the basis of the sale deeds now, even

revenue entries are taken. The document i.e. order dated 08.02.2025 was not before the Courts since the orders are passed before the order dated 08.02.2025. He, therefore, prays for rejection of the writ petition.

5. During the course of argument, the learned advocate Mr. Deshmukh for the petitioners has also relied upon the judgment in the case of Karthik Jagdish Manek Vs. Prashant Prabhakar Mishra reported in 2024 DGLS (Bom.) 4613. However, the said judgment is delivered on 04.12.2024. Presently, the Court has considered only prima facie case. This Court does not find any illegality or perversity in the order passed by the learned Court. When there is concurrent finding of fact, prima facie, this Court does not find any reason to interfere with the said finding of fact.

6. Consequently, this Court finds that, there is no merit in the writ petition. The writ petition stands disposed of. No order as to costs.

7. In the facts of the case, the learned Trial Court is requested to dispose of the suit as early as possible and preferably within one (01) year from today. Parties to co-operate in speedy disposal of the suit.

(KISHORE C. SANT, J.)

P.S.B.