

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7186 OF 2025

Kailas Sadashiv Ransing

VERSUS

Dattatray Shivram Ransing And Others

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Advocate for the Petitioner : Mr. Jadhavar Santosh Sampatrao

Advocate for Respondent No.1 : Mr. G. J. Pahilwan

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JUNE 23, 2025

PER COURT :-

1. Heard Mr. Jadhavar, learned advocate appearing for petitioner.

2. The petitioner impugns order dated 08.05.2025 passed by learned District Judge-3, Ahmednagar in Misc. Civil Appeal No.43 of 2021 by which order of temporary injunction dated 17.08.2021 passed by learned Civil Judge, Junior Division, Rahuri in Regular Civil Suit No.420 of 2019 has been set aside.

3. Mr. Jadhavar would submit that the petitioner, who is original plaintiff in Regular Civil Suit No.420 of 2019 has claimed relief of partition, separate possession and perpetual injunction in respect of suit property against the defendants. In that suit, application below Exhibit-5 was moved for grant of temporary injunction. It was allowed by Trial Court. Accordingly, defendant was restrained from raising construction over the suit property. Mr.

Jadhavar would submit that when the suit for partition and separate possession is filed, it is always advisable to maintain *status quo* as to the property and nature thereof. Accordingly, the Trial Court had passed injunction order which has been set aside by the learned District Judge in Miscellaneous Civil Appeal No.43 of 2021. According to him, the learned District Judge has exceeded its jurisdiction while interfering in the well reasoned order passed by the Trial Court.

4. Mr. Pahilwan, learned advocate appearing for respondent however justifies the order passed by the learned District Judge. He invites attention of this Court to the observations in impugned order, wherein it has been mentioned that in previous litigation between the parties, already the decree has been passed affirming the rights of defendant and plaintiff is restrained from obstructing defendant's possession.

5. Having considered the submissions advanced and particularly the reasoning as adopted by the learned District Judge wherein reference is given to previous litigation between the parties, *prima facie*, it can be observed that the plaintiff could not demonstrate right in suit property and seek the relief of partition as claimed in the suit. However, all those issues are required to be decided on trial. On *prima facie* consideration, there is no error in the impugned order passed by the learned District Judge particularly

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looking to decree passed in previous litigation. There is no merit in writ petition. The writ petition stands dismissed.

(S.G. CHAPALGAONKAR, J.)