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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8046 OF 2023

Tayappa Dnyanu Nikam and Anr.

... Petitioners

V/s.

Tanubai Sakharam Dharamale and Ors.

... Respondents

Mr. Aditya Sadashiv Raktade with Aarti P. Shah for the Petitioner

CORAM : ALOK ARADHE, CJ.

DATE : 08 JULY 2025

P.C. :

1. In this Petition under article 227 of the Constitution of India, the Petitioners have assailed the validity of the order dated 15.07.2022 passed in Misc Civil Appeal No.16 of 2022, by which the Appeal preferred by the Petitioner has been dismissed and the order dated 30.11.2021 passed by the Trial Court in Regular Civil Suit No.90 of 2020, allowing the application for temporary injunction has been affirmed.

2. Facts giving rise to filing of the Petition in nut shell are that the Respondents/Plaintiffs filed a Regular Civil Suit No. 90 of 2020 seeking the

relief of perpetual injunction against the Defendant, *inter- alia*, on the ground that the obstructing the list causing interference with the possession of the Respondents over the suit property. Along with the plaint an application seeking temporary injunction was also filed. The Trial Court, by an order dated 30.11.2021, *inter-alia*, found that the Plaintiffs are in possession of the suit property and restrained the Petitioner/Defendant from interfering with the possession of the Plaintiffs during the pendency of the suit.

3. Being aggrieved, the Petitioners preferred an Appeal. The aforesaid Appeal has been disposed by impugned order dated 15.07.2022.

4. The learned Counsel for the Petitioners submitted that the Trial Court as well as the Appellate Court erred in not appreciating that the Plaintiffs had not sought the relief of declaration of title and has merely sought a relief of injunction. It is further submitted that grant of relief of temporary injunction amounts to decree in the Suit.

5. I have considered the submission made by the learned Counsel for the Petitioners and perused the record.

6. The jurisdiction to deal with the prayer for temporary injunction is discretionary in nature and the same is exercised on the touchstone of three well settled legal principles viz. : (i) prima facie case, (ii) balance of

convenience; and (3) irreparable injury. The Trial Court as well as the Appellate Court on the basis of material available on record has recorded a finding that the Respondents/Plaintiffs are in possession of the property and a *prima facie* case in their favour is made out. In case, injunction as prayed for is not granted, the Respondents shall suffer an irreparable injury. The aforesaid concurrent findings of fact by no stretch of imagination can be said to be either perverse or based on no material. The aforesaid concurrent findings of fact cannot be interfered in exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

7. For the aforementioned reasons, I do not find any merit in the Writ Petition. The same fails and is hereby dismissed.

(CHIEF JUSTICE)