

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3953 OF 2025

Aniket Pandurang Mali

..Petitioner

Versus

Jagannath Bandu Mali

...Respondent

Mr. Prathamesh Bhargude, with Sumit Sonare & Abhishek Devkar, i/b
Aditya S. Raktade, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 26th MARCH 2025

P.C.:

1. This Petition under Article 227 of the Constitution of India 1950 assails the legality, propriety and correctness of a judgment and order dated 2nd January 2025 passed by the learned District Judge, Islampur, District Sangli in Misc Civil Appeal No. 39 of 2024, whereby the Appeal preferred by the petitioner-defendant came to be dismissed affirming the order dated 22nd October 2024 passed by the Civil Judge, Junior Division, Islampur, in RCS No. 127 of 2024, restraining the defendant from causing obstruction to the plaintiff's possession over and the cultivation of the agricultural land bearing Gat No. 2404 (the suit property) till the final disposal of the Suit.

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2. The respondent-plaintiff instituted the suit with the assertion that, the suit property is the ancestral property of the plaintiff and he is in possession and cultivation thereof. The defendant has purchased a portion of the adjacent land bearing Gat No. 2403. The said transactions and instruments executed in favour of the defendant are assailed in SCS Nos. 52 of 2022 and 14 of 2023. The defendant has started causing obstruction to the possession and cultivation of the plaintiff. Hence, the Suit for injunction.

3. By an order dated 22nd October 2024, the learned Civil Judge was persuaded to allow the Application for temporary injunction and restrain the defendant from causing obstruction to the plaintiff's possession over and cultivation of the suit property.

4. Aggrieved, the defendant preferred an Application before the District Court. By the impugned order, the learned District Judge dismissed the Appeal finding no merit therein.

5. Being aggrieved, the defendant has invoked the writ jurisdiction of this Court.

6. Mr. Bhargude, the learned Counsel for the petitioner, would urge that both the Courts below have not properly appreciated the factum of possession. It was submitted that, though the Deed of Mortgage and the Sale Deed under which the defendant claims to have acquired propriety and possessory title over 9R land, out of the suit property, do not

expressly refer to Gat No. 2404, yet, the Sanad prepared by the DILR, if properly considered, indicates that the plaintiff is not in possession of suit property in respect of which injunction has been granted.

7. The aforesaid submission simply does not merit countenance. The plaintiff has categorically asserted that, the suit property is his ancestral property. The suit property bearing Gat No. 2404 has been mutated in the name of the plaintiff. The defendant appears to have acquired a portion of the properties from the persons, who were the co-sharers of the predecessor-in-title of the plaintiff. The status of the defendant is that of a stranger purchaser. As the defendant's claim for possession of 9R land out of the Gat No. 2404 is not referable to the instruments under which the defendant claimed to have acquired proprietary title, the learned Civil Judge as well as the learned District Judge cannot be said to have committed any error in recording a finding that there was no material to show that the defendant was in possession of 9 R land out of the suit property.

8. Such *prima facie* findings of facts are not open for interference in exercise of supervisory jurisdiction.

9. Petition dismissed.

[N. J. JAMADAR, J.]