

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14870 OF 2024

Tajoddin Makhdoom Ali Mujahid ... Petitioners
and Ors.

V/s.

Dattatray Sakharam Surwase and ... Respondents
Ors.

Mr. Ajit Alange, for the petitioners.

CORAM : N.J. JAMADAR, J.

DATE : 11TH MARCH 2025.

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PC:

1. Heard learned counsel for the parties.
2. The challenge in this petition is to an order dated 21st March 2024 passed by the learned Jt. Civil Judge Senior Division, Solapur, whereby an application preferred by the Petitioner to frame an additional issue came to be rejected.
3. The Respondent No. 1 has instituted the suit for declaration of ownership and possession of the suit property, on the premise that the predecessor in title of the Petitioners/ Defendant Nos. 3 to 6 had executed a mortgage by conditional sale, on 20th November 1980, and after the expiry of the period of one year, which was stipulated for repayment to the mortgage money, the sale became absolute and the

Respondent No.1 became the absolute owner of the property. Subsequently, the predecessor in title of the Defendant Nos. 3 to 6 sold the very suit property to one Rizwan Maniyar and Nilofer Mahammad Rizwan Maniyar, from whom the Defendant Nos. 3 to 6 have purchased the suit property on 19th September 2003.

4. Mr. Alange, the learned counsel for the petitioner, submitted that out of the proposed issues, the issue as to whether the Respondent No. 1 had obtained possession of the suit property under the deed of mortgage by conditional sale ought to have been framed.

5. I am not inclined to accede to aforesaid submission. The Respondent No. 1 has sought the relief of delivery of possession also. Thus, whether the Plaintiff was put in possession of the mortgaged property does not arise for determination. The impugned order, therefore, does not warrant interference by this Court in exercise of supervisory jurisdiction.

6. The petition stands dismissed.

(N.J. JAMADAR, J.)