

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 6991 OF 2022**

Chintamani Shankar Yeram

..Petitioner

**Versus**

Baksharam Safarmal Durgya

...Respondent

ARUN  
RAMCHANDRA  
SANKPAL

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Ms. Minal Chandnani, with Annie Cardoz, for the Petitioner.  
Ms. Srushti Chalke, i/b Drupad Patil, for the Respondent.

**CORAM: N. J. JAMADAR, J.**

**DATED : 10<sup>th</sup> MARCH 2025**

**P.C.:**

1. This Petition under Article 227 of the Constitution of India calls in question the legality, propriety and correctness of Judgment and Order dated 2<sup>nd</sup> May 2022 passed by the learned District Judge, Kolhapur in MCA No. 80 of 2022 whereby an appel preferred by the respondent came to be allowed by setting aside an order of interim injunction dated 28<sup>th</sup> February 2022 passed by the learned Civil Judge, Junior Division, Kolhapur, directing the parties to maintain status-quo as it obtained on the date of filing of the application (Exhibit “92”).

2. The petitioner claimed that a piece of land admeasuring 2 Acres was allotted to the petitioner by the District Collector. The petitioner approached the Revenue Authorities to mutate his name to the property

card of Survey No 190/A more particularly described in paragraph 1 of the Plaint. The said property was registered as CTS No. 1737. Revenue proceedings were decided against the petitioner. As the defendant allegedly threatened to dispossess the petitioner claiming ownership over the suit property, the petitioner instituted suit for perpetual injunction. During the pendency of the suit, the third party rights were allegedly created by the defendants. The petitioner filed an application (Exhibit "93") for interim reliefs. By an order dated 28<sup>th</sup> February 2022, the learned Civil Judge partly allowed the said application and directed the parties to maintain status-quo.

**3.** In the appeal preferred by the defendant, the learned District Judge was persuaded to set aside the said order opining that the learned Civil Judge has granted interim relief though there was nothing to indicate that the plaintiff was in possession of the property in respect of which injunction was sought, solely on the strength of an Affidavit of a witness. In fact, the suit property appeared to be different from the property which was sold under the Sale Deed dated 3<sup>rd</sup> December 2021.

**4.** Ms. Chandnani, learned Counsel for the petitioner, endeavoured to urge that the learned District Judge could not have interfered with the order of status-quo passed by the learned Civil Judge. In the circumstances of the case, according to Ms. Chandnani, the petitioner

had produced adequate material on the record of the Court to show his proprietary title and possession over the suit property..

5. I am unable to persuade myself to agree with the submissions of Ms. Chandnani. Evidently there is a disconnect between the suit property and the property which was the subject matter of the Sale Deed dated 3<sup>rd</sup> December 2021. *Prima facie* the learned District Judge was wholly justified in returning a tentative finding that suit property and the said property are distinct. Moreover, a perusal of the property card of Survey No. 1737 indicates that the plaintiff has *prima facie* no nexus with the said property. In contrast in the Plaint, it is asserted that the suit property bears the very same CTS No. 1737.

6. Mr. Patil, learned Counsel for the respondent, invited the attention of the Court to an order passed by Additional Commissioner, Pune in Revision Application No. 252 of 2015 which *inter alia* records that the petitioner had allegedly committed interpolation in the order passed by the SDO in order to get his name mutated to the Record of Rights of CTS No .1737.

7. In the aforesaid view of the matter, the learned District Judge was justified in interfering with the order passed by the Trial Court which appeared to be in utter disregard to the material on record. Neither the plaintiff had a *prima facie* case nor the balance of convenience tilted in favour of the plaintiff.

8. Thus, no interference is warranted with the impugned order.
9. Petition stands dismissed.
10. No costs.

[N. J. JAMADAR, J.]