

Jvs.

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

WRIT PETITION NO. 19162 OF 2024

JAYANT
VISHWANATH
SALUNKE

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Ramchandra Jijaba Patil, since deceased, through Lrs. 1(1) Mangal Ramchandra Patil & Ors.	}	
	}	
	}	Petitioners
versus		
Bhaskar Dadu Patil & Ors.	}	Respondents

Mr. Abhijeet Kandarkar for petitioners.

Mr. Nikhil N. Wadikar with Mr. Kastuv P.
Patil i/b. Mr. Nandu Pawar for
respondents 1 to 8.

CORAM: ALOK ARADHE, C. J.

DATE: JULY 8, 2025

ORAL ORDER

1. In this writ petition filed under Article 227 of the Constitution of India, the petitioners have assailed the validity of the order dated 6th September 2024 passed by the District Judge-1, Karad in Miscellaneous Appeal No. 90 of 2022, by which, the appeal preferred by the respondents under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 has been allowed and the order passed by the Trial Court rejecting the application for injunction has been set aside. The petitioners have been restrained from interfering with the possession of the respondents with regard to the subject property.

2. Facts giving rise to filing of the writ petition, in nutshell, are that the respondents have filed a suit seeking relief of declaration and injunction. The respondents/plaintiffs claim to

be in exclusive possession of the subject property. Along with the suit, an application for temporary injunction was filed by the respondents seeking an injunction restraining the petitioners from causing obstruction with the peaceful possession of the respondents over the subject property.

3. The Trial Court, by an order dated 3rd October 2022 rejected the application for temporary injunction. Being aggrieved, the respondents filed an appeal. The appellate court, by the impugned order dated 6th September 2024 found that the respondents are in exclusive possession of the subject property and refrained from interfering with the possession of the respondents. Hence this petition.

4. Learned counsel for the petitioners submitted that the appellate court ought to have appreciated that the petitioners were co-sharers and no injunction could be granted against them. In support of the aforesaid submission, reference has been to a decision of the Supreme Court in the case of ***T. Ramalingeswara Rao (Dead), through Legal Representatives & Anr. vs. N. Madhava Rao and Ors.***¹.

5. I have heard learned counsel for the parties at length and perused the record.

6. The lower appellate court has, on the basis of material on record, has recorded a finding that the respondents/plaintiffs are in exclusive possession of the subject property. It is trite law that a co-sharer in exclusive possession of the suit property can always maintain a suit for injunction against any co-sharer. Law does not permit any person to take possession of the property forcibly.

¹ (2019) 4 SCC 608

7. The Trial Court has exercised the discretion to deal with the issue on some principles of law. The order passed by the appellate court does not suffer from any jurisdictional error or infirmity warranting interference of this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

8. In the result, the writ petition fails. The same is dismissed.

(CHIEF JUSTICE)