



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

WRIT PETITION NO.1846 OF 2025

Santoshgaud Veeranandam Ramannagari and Anr. ... Petitioners

versus

Narsinh Dhaklo Vernekar and Ors. ... Respondents

Mr. Namit Pansare i/by Mr. Drupad S. Patil, for Petitioners.

Mr. Ashutosh Kulkarni with Ms. Shaheen Kapadia, Ms. Simran Raut i/by Ms. Vrushali Maindad, for Respondent Nos.1 to 5.

CORAM: N.J.JAMADAR, J.

DATE : 27 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to a judgment and order dated 14 October 2024 passed by the learned District Judge, Solapur in Misc. Civil Appeal No.38 of 2024, whereby the appeal preferred by the Petitioners came to be dismissed affirming the order dated 4 November 2023 passed by the learned Civil Judge, Solapur, allowing the application for temporary injunction filed by the Respondents herein, and, thereby restraining the Petitioners from alienating the suit property and causing obstruction to the possession of the Plaintiffs.
3. The principal ground of challenge in the Petition is that the Plaintiffs

have instituted a suit in respect of the property which is described as Gat No.533/2 admeasuring 2 H 77.80 R, though the Plaintiffs claimed proprietary title over the plots out of the said property which they claimed to have purchased under the registered instruments described in paragraph No.3 of the plaint. Total area of the said plots is approximately 50R. Thus, the Courts below could not have granted injunction restraining the Respondents from alienating the entire suit property bearing Gat No.533/2 admeasuring 2H 77.80 R.

4. Mr. Kulkarni, learned Counsel for the Respondents submitted that Defendant No.1 had divested complete ownership in the entire suit property bearing Gat No.533/2 admeasuring 77.80 R, and, thus, the Petitioners – Defendant Nos.2 and 3 could not have acquired any title over the entire land. Therefore, the Courts below were justified in granting injunction in respect of the entire suit property.

5. Prima facie, it appears that the Plaintiffs' claim of proprietary title is restricted to the plots which they claimed to have acquired under the registered instruments, more particularly described in paragraph No.3 of the plaint. In that view of the matter, on first principles, the courts below could not have granted injunction in respect of the entire suit property i.e. Gat No.533/2 admeasuring 2 H and 77.80 R. The matter is, therefore, required to be remitted back to the learned Civil Judge, for afresh decision.

6. Learned Counsel for the Respondents-Plaintiffs submits that the Respondents-Plaintiffs may be given liberty to amend the plaint and seek appropriate reliefs in respect of the property purchased by them and, in the meanwhile, the Petitioners be restrained from alienating or otherwise creating third party rights in the suit property.

7. Having regard to the nature of the dispute and the facts which emerge from the record, restraint on alienation of the suit property till the matter is afresh heard by the trial Court, appears necessary.

8. Hence, the following order :

ORDER

(i) The Writ Petition stands partly allowed.

(ii) The order dated 14 October 2024 passed by the learned District Judge as well as the order 4 November 2023 passed by the learned Civil Judge, Sr. Division, Solapur, stand quashed and set aside.

(iii) The application for temporary injunction (Exhibit 5) is remitted back to the trial Court for afresh decision.

(iv) The Plaintiffs are at liberty to file appropriate application for amendment in the plaint and the application for temporary injunction.

(v) In the event, such an application is filed, the learned Civil Judge shall decide the same on its own merits and in accordance with law.

(vi) In the meanwhile, the Petitioners shall not create any third party

rights in respect of the suit property for a period of three months or till an order is passed by the learned Civil Judge on the application for temporary injunction, whichever is earlier.

(N.J.JAMADAR, J.)