

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1570 OF 2025

Maya Umesh Tiwar and ors. ...Petitioners

Versus

Nilesh Shamsundar Tiwar and ors. ...Respondents

Mr. Rahul Motkari, a/w Manasi Pawar, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 6th FEBRUARY, 2025

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KULKARNI

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ORDER:-

1. Heard the learned Counsel for the petitioners.
2. The petitioners – defendants have invoked the writ jurisdiction of this Court aggrieved by the judgment and order dated 4th March, 2024 passed by the learned District Judge, Nashik, in Misc. Civil Appeal No.122 of 2023, whereby the appeal preferred by the petitioners was partly allowed and the injunction granted against the petitioners was modified to the effect that they shall not evict the plaintiffs till the decision of the suit from part of the ground floor of the suit property otherwise than by procedure established by law.
3. Late Umesh Tiwar, the husband of petitioner No.1 and father of petitioner Nos.2 and 3, passed away on 12th April,

2016. Respondent No.1 is the brother of late Umesh. Respondent Nos.2 and 3 are his parents.

4. The respondents instituted the suit seeking injunctive reliefs against the petitioners in respect of the properties described in paragraph 1 of the plaint, asserting that those properties are joint family properties. In the said suit, the respondents preferred an application for temporary injunction (Exhibit-5).

5. By an order dated 1st December, 2023, the learned Civil Judge restrained the petitioners from causing obstruction to the possession of the plaintiff over the portions of the suit property, till the final decision of the suit.

6. The petitioners preferred appeal before the learned District Judge. By the impugned judgment, the learned District Judge was persuaded to modify the order impugned before him and restrain the petitioners from evicting the plaintiffs – respondents from part of the ground floor of the suit property without following due process of law.

7. Mr. Motkari, the learned Counsel for the petitioners, submitted that the respondents had no proprietary title to the suit property. They had subjected the petitioner No.1 to domestic violence. Proceedings have been instituted under

Protection of Women from Domestic Violation Act, 2005 and orders have been passed therein. At best, the respondents have unlawfully forced themselves into the portions of the suit property. Therefore, they are not entitled to any relief.

8. I have carefully perused the material on record. The learned District Judge has taken a correct view of the matter. There is material to show *prima facie* that the respondents are in possession of the portions of the suit property. The documents and photographs placed on record *prima facie* substantiate the claim of the respondents that they are running business from the portions of the suit property. The respondents claimed that the suit property is a joint family property and they have undivided interest therein.

9. Having regard to the nature of the relationship between the parties and the *prima facie* material to show that the respondents are in possession of the portions of the suit property, the learned District Judge was justified in balancing the equities by directing that the respondents shall not be evicted from the suit property without following due process of law. This Court does not find any infirmity in the impugned order.

10. As the discretion has been exercised by the learned District Judge, on the basis of the objective material, no interference is warranted in exercise of supervisory writ jurisdiction.

11. The petition stands dismissed.

12. It is, however, clarified that these *prima facie* observations are confined to determine as to whether a case for interference in exercise of supervisory jurisdiction is made out and the trial court shall not be influenced by any of the observations made hereinabove at the time of final adjudication of the suit.

13. Since it is a family dispute, the trial court is requested to hear and decide the suit as expeditiously as possible.

[N. J. JAMADAR, J.]