

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5262 OF 2024

Popat Uma Sandbhor,
Age: 80 years, Occ.: Agriculturist
Residing at Rakshewadi, Taluka Khed,
District Pune

..Petitioner

Versus

1. Sadashiv Bhau Chavhan (deceased)
Through his Legal Representatives:

A) Chandrakant Sadashiv Chavhan,
Age: 66 years Occ.: Agriculture

B) Dnyaneshwar Sadashiv Chavhan,
Age: 63 years, Occ: Agriculture
Residing at Chavhan Mala, Taluka Khed
District Pune.

C) Nivrutti Sadashiv Chavhan
Age: 60 years, Occ: Agriculture
Residing at Chavhan Mala,
Taluka Khed, District Pune.

D) Kisan Sadashiv Chavhan
Age: 56 years, Occ: Agriculture
Residing at Chavhan Mala,
Taluka Khed, District Pune.

E) Gangubai Sadashiv Chavhan
Age: 80 years, Occ.: Agriculture
All residing at Chavhan Mala
Taluka Khed, District Pune.

F) Ujwala Fakkad Dhumal
Age: 52 years, Occ.: Agriculture

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN RAMCHANDRA
SANKPAL
Date: 2025.11.14
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~~Residing at Morachi Chincholi
Taluka Shirur, District Pune.~~

R/at: Chandan Nagar, Bhaji Market,
Near Sai Mandir, Taluka Haveli,
District Pune.

2. Hausabai Bhagwant Malghe
Age: 70 years, Occ.: Agriculture

3. Shankar Dagadu Chavhan
Age: 54 years, Occ.: Agriculturist

4. Vijay Dagadu Chavhan
Age: 46 years, Occ.: Agriculturist

5. Kamal Sonba Jaid
Age: 60 years, Occ.: Agriculturist

6. Vimal Dagadu Chavhan
Age: 58 years, Occ.: Agriculturist

7. Sanjivani Pandit Shete
Age: 55 years, Occ.: Agriculturist

8. Sunita Shantaram Arude
Age: 50 years, Occ.: Agriculturist

All R/at – Raksheewadi, Taluka Khed,
District Pune.

...Respondents

Mr. N. V. Walawalkar, Senior Advocate, with Vikram N. Walawalkar,
for the Petitioners.
Mr. Vaibhav V Ugle, for the Respondents.

CORAM: N. J. JAMADAR, J.
DATE : 11th NOVEMBER 2025

JUDGMENT:

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

2. This Petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of a judgment and order dated 17th February 2024 passed by the learned District Judge, Rajgurunagar-Khed, Pune in MCA No. 46 of 2023, whereby the Appeal preferred by the Petitioners against an order dated 28th July 2023 passed by the learned Civil judge, thereby rejecting the Application preferred by the Petitioner for grant of injunction to restrain the Defendants from causing obstruction to the possession and cultivation of the suit land bearing Gat No. 68/2 and the House Property situated at Mauje Rakshewadi, Taluka Khed, District Pune (“the suit property”), came to be dismissed.

3. Shorn of unnecessary details, the background facts can be stated as under :

3.1 The Petitioner-Plaintiff instituted a Suit with the assertion that late Bhau Haibati Chavhan , the predecessor-in-title of Defendant Nos. 1 to 8, was the owner of the land bearing Survey No. 68/2 (Old Survey No. 1480/2). During the lifetime of the Bhau Chavhan, since 1956-57 late Uma Khandu Sandbhor, the predecessor-in-title of the Plaintiff, had been in the possession and enjoyment of the suit property as a owner

thereof. The predecessor-in-title of the Plaintiff and the Plaintiff have thus been in uninterrupted possession and enjoyment of the suit property since 1956 without any obstruction from the Defendants and their predecessor-in-title.

3.2 After the demise of Bhau Chavhan, the Defendant Nos. 1 to 8 made an effort to get their names mutated to the Record of Rights of the suit property and also cause obstruction to possession and cultivation of the Plaintiff over the suit land. Hence the Suit for a declaration that the Plaintiff is the owner and in possession of the suit property and the consequential relief of injunction to restrain the Defendants from causing obstruction to the peaceful possession and enjoyment of the Plaintiff.

3.3 In the said suit, the Plaintiff preferred an application for temporary injunction (Exh.45). By an order 28 July 2023, the Trial Court rejected the application observing, inter alia, that the Plaintiff failed to establish prima facie possession over the suit property and the alleged acts of obstruction on the part of the Defendants. Nor the element of balance of convenience and irreparable loss lay in favour of the Plaintiff.

3.4 Being aggrieved, the Petitioner preferred an appeal before the learned District Judge, Khed-Rajgurunagar. By the impugned order,

learned District Judge dismissed the appeal finding no reason to interfere with the discretion exercised by the trial Court.

4. Mr. Walawalkar, learned Senior Advocate for the Petitioner, canvassed two fold submissions. Firstly, both the Courts committed a grave error in law in not appreciating the evidentiary value of the entries in the record of rights of the suit land since the year 1956-57. The fact that the courts below sustained the claim of ownership of the predecessor-in-title of the Defendant Nos.1 to 8 on the basis of the entries in the record of rights, and, at the same time, discarded the entry in the cultivator's column of the record of rights, which indicated that the predecessor-in-title of the Plaintiff has been in possession and cultivation of the suit land since 1956-57, rendered the orders perverse. An endeavour was also made by Mr. Walawalkar to urge that the material on record, prima facie, indicates that the predecessor-in-title of the Plaintiff was in the occupation of the suit land on the Tiller's day, and, thus, no other material was required to be produced to claim tenancy rights in the suit land.

5. Secondly, learned Judge unjustifiably discarded the affidavits in lieu of examination-in-chief of the adjoining land holders on technical and flimsy ground. Even if the claim of ownership of the Plaintiff is disputed, yet, the fact remains that the Plaintiff has been in settled possession of the suit land and, therefore, the Defendants ought to have

been restrained, in the least, from causing obstruction to the possession and enjoyment of the Plaintiff over the suit land.

6. In opposition to this, Mr Vaibhav Ugle, learned Counsel for the Respondents, would submit that the Courts below have recorded concurrent findings of fact that the Defendants are in prima facie possession of the suit property. These concurrent prima facie findings are not open for interference in exercise of the writ jurisdiction. Attention of the Court was invited to the documents on record, which indicate that Defendant Nos.1 to 8 have been in possession of the suit land. Thus, the Defendants who are the owner and in lawful possession of the suit land cannot be deprived of the right of enjoyment, submitted Mr. Ugle.

7. At the outset, it is necessary to note that the material averments in the plaint are materially distinct from the case sought to be canvassed by Mr. Walawalkar. The thrust of the submission of Mr. Walawalkar was that the predecessor-in-title of the Plaintiff was a protected tenant of the suit land. The fact that a proceeding under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 was not initiated by the predecessor-in-title of the Plaintiff and the Plaintiff, does not detract materially from the claim of the Plaintiff.

8. Suffice to note that, the case that was sought to be canvassed before this Court was not at all pleaded in the suit. As noted above, the

suit proceeds on the premise that the predecessor-in-title of the Plaintiff had been in the occupation and cultivation of the suit land in the capacity of its owner. The plaint is, however, conspicuously silent about the mode through which the Plaintiff claimed to have acquired ownership over the suit property. There is no reference, much less positive assertion, as regards the tenancy rights of the predecessor-in-title of the Plaintiff in the suit property.

9. Mr. Walawalkar was at pains to clarify that the Plaintiff was not setting up a case for acquisition of title over the suit property by way of adverse possession. An endeavour was made to draw home the point that the aspect of the ownership can be adjudicated at the trial. However, the possession of the Plaintiff ought to have been protected.

10. As the claim of the petitioner-Plaintiff revolves around the possessory title over the suit property, it would be necessary to note that both the Courts have recorded concurrent findings of fact that, prima facie, the Defendants appeared to be in possession and enjoyment of the suit land. Incontrovertibly, the record of rights of the suit land bearing No.62/2 indicates that Bhau Chavhan, predecessor-in-title of the Defendant Nos.1 to 8, was the holder of the suit land. The name of Uma Khandu Sandbhor is recorded in the cultivator's column. However, since the year 1999-2000, the cultivation of the suit land is shown by the holder himself.

11. In this view of the matter, learned Civil Judge as well as the learned District Judge were not inclined to bank upon the affidavits of witnesses tendered on behalf of the Plaintiffs. Apart from the entries in the revenue records, the fact that there was material to show that the Defendants were in possession and enjoyment of the suit property and the notices under the National Highways Act, 1956, in the wake of acquisition of the portion of the suit land were issued to the original holders, were taken into account to draw a prima facie inference that the Plaintiff failed to establish his possession over the suit land. The aforesaid findings of fact cannot be said to be based on no material.

12. At this juncture, the nature of the supervisory jurisdiction exercised by the High Court, assumes importance. Though the powers of the High Court under Articles 226 and 227 are wide and extensive, yet the High Court in exercise of its supervisory jurisdiction is not expected to act as the Court of Appeal. The High Court can neither review, nor re-appreciate, nor reweigh the evidence. The High Court cannot correct the errors of fact or even of law and substitute its own decision for the one arrived at by the Court below. The avowed object of conferring the supervisory jurisdiction on the High Court is to keep the courts and tribunals within the limits of law.

13. In the case of **Krishnanand V/s. State of U.P.**¹, the Supreme Court enunciated that, it is well settled that the writ jurisdiction cannot be

¹ (2015) 1 SCC 553

exercised for re-appreciating the evidence and arrival of finding of facts unless the authority which passed the impugned order does not have jurisdiction to render the finding or has acted in excess of its jurisdiction or the finding is patently perverse.

14. In the case of **Shamshad Ahmad V/s. Tilak Raj Bajaj**², the limit of the exercise of supervisory jurisdiction was expounded in the following words :

“38. Though powers of a High Court under Articles 226 and 226 are very wide and extensive over all courts and tribunals through out the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law.”

(emphasis supplied)

15. In a recent pronouncement in the case of **Ajay Singh Vs Khacheru & Ors**³ the Supreme Court enunciated that:

² (2008) 9 SCC 1

³ (2025) 3 SCC 266.

“16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.”

16. Reverting to the facts of the case, evidently the Plaintiff has not spelled out the source of acquisition of ownership over the suit land in the plaint. Instead, it was pleaded that since the lifetime of late Bhau Haibati Chavhan, the predecessor-in-title of the Plaintiff has been in possession and enjoyment of the suit land as a owner thereof. Neither a case of the predecessor-in-title of the Plaintiff having become a deemed purchaser, nor acquisition of title over the suit land by way of prescription has been specifically pleaded.

17. Conversely, the name of the predecessor-in-title of Defendant Nos.1 to 8 has been shown as the holder of the suit land continuously. This fact coupled with other material on record to show that the Defendants had exercised possessory rights over the suit land, render the prima facie findings recorded by the learned Civil Judge unassailable.

18. In exercise of the supervisory jurisdiction, this Court does not find any justifiable reason to interfere with the prima facie concurrent

findings of fact. Resultantly, no interference is warranted in the impugned order. The Writ Petition, therefore, deserves to be dismissed.

19. Hence, the following order :

ORDER

- (i) The Writ Petition stands dismissed.
- (ii) Rule discharged.
- (iii) No costs.

[N. J. JAMADAR, J.]