

Dr. Abhinav Chandrachud with Mr. Darshan i/by Mr. Kishor Ajetroa, for
Petitioners.

DATE : 6 MAY 2025

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to a judgment and order dated 13 March 2024 passed by the learned District Judge in Civil Appeal No.270 of 2022, whereby the appeal preferred by the Petitioners came to be dismissed affirming the order dated 8 December 2022, passed by the learned Civil Judge in RCS No.212 of 2022, thereby restraining the Petitioners – Defendant Nos.1 to 6 from causing obstruction to the possession of the Plaintiffs in the suit property and from changing the nature of the suit property till the final disposal of the suit.
3. The Plaintiffs-Respondents claimed to be successors in interest of Tai Santu Shinde, who was a tenant of the suit land since 1933. After the demise of Tai Shinde, the name of Parubai came to be mutated as a tenant of the suit land vide Mutation Entry No.11436. Since then the predecessor in title of the

Plaintiffs and the Petitioners have been in possession and cultivation of the suit land. Defendant Nos.7 to 17, by taking the undue advantage of the mutation of their names to the holder's column of the suit property, executed a Sale Deed in favour of Defendant Nos.1 to 6 – Petitioners herein. On the strength of the said instrument, Defendant Nos.1 to 6 started to cause obstruction to the possession and cultivation of the suit land by the Plaintiffs. Hence, the suit for perpetual injunction to restrain Defendants from causing obstruction to the possession, enjoyment, cultivation of the Plaintiff over the suit land and qua Defendant Nos.1 to 6 from also changing the nature of the suit land till the final disposal of the suit.

4. Learned Civil Judge was persuaded to allow the application observing, inter alia, that the Plaintiffs had succeeded in establishing prima facie possession and cultivation over the suit land.

5. Being aggrieved, the Petitioners preferred an appeal. By the impugned order, the appeal came to be dismissed opining that there was no reason to interfere with the exercise of discretion by the Trial Court.

6. Dr. Chandrachud, the learned Counsel for the Petitioners submitted that, the entire case of the Plaintiffs was based on the tenancy of the predecessor in title of the Plaintiffs over the suit land. There is a mutation entry No.11687 dated 30 March 1957, which indicates that the name of Parubai was deleted from the cultivator's column of the suit land. At any rate,

the question as to whether the predecessor in title of the Plaintiffs was the tenant of the suit land on the Tiller's day can only be decided by the Tribunal under the Maharashtra Tenancy and Agricultural Lands Act, 1948, and the jurisdiction of the Civil Court is expressly barred.

7. Moreover, after the passing of the impugned order, by an order dated 3 April 2025, the Agricultural Land Tribunal has allowed the application preferred by the Petitioners and declared that the Plaintiffs are not the tenants of the suit land bearing Gat No.479/1 vide Mutation Entry No.11687. In these circumstances, the Courts below have committed an error in granting the injunction.

8. I have perused the material on record. The Courts below have proceeded on the premise that the Plaintiffs have succeeded in establishing that they are prima facie in possession and cultivation of the suit land. The record of rights of the suit land consistently shows that the names of the Plaintiffs and their predecessor in title were mutated to the cultivators column of the suit land.

9. In these circumstances, in exercise of supervisory jurisdiction, it is not open for this Court to interfere with prima facie findings as to possession. The question as to whether the Civil Court has jurisdiction to entertain, try and decide the suit has already been raised by the Petitioners before the Trial Court and, in that event, the Civil Court would be required to pass appropriate

orders for Reference of the dispute to the Agricultural Land Tribunal for determination, if it comes to the conclusion that the questions which are required to be determined by the Tribunal arise for determination in the suit.

10. Thus, the Court does not find any justifiable reason to interfere with the discretionary order passed by the Courts below.

11. The Writ Petition stands dismissed.

(N.J.JAMADAR, J.)