

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

WRIT PETITION NO. 16701 OF 2024

Bilal Papa @ Papamiya Pakhale (Inamdar) & Ors ... Petitioners

V/s.

Baburao Sampati Kamble & Anr. ... Respondents

Mr. Machhindra A. Patil for the Petitioners

Ms Babita Pandey a/w. Mr. Vikas B. Shivagan & Mr. Dinesh Sonawane for the Respondents.

CORAM : M. M. SATHAYE, J.
DATED : 14th FEBRUARY, 2025

P.C.:

1. Heard learned Counsel for the parties.
2. The Petition is filed challenging the order dated 22/10/2024 passed below Exhibit-5 in R.C.A No. 603 of 2024 by the District Judge-1, Vita, Sangali. By the said impugned order the earlier order granted by the Appellate Court dated 21/06/2024 is continued during the pendency of the Appeal. By order dated 21/06/2024 the execution of the judgment and decree passed by the Trial Court is stayed. In effect, the impugned stay order operates against the order of the partition as well as order of injunction granted against the present Respondents/Original Defendants.
3. Learned Counsel for the Petitioners has submitted that the injunction which was granted in favour of the Petitioners, under a final decree after hearing both the sides, is stayed by the Appellate Court at interim stage and the same is resulting in disturbance of the Petitioners' possession in respect

of 50 R portion from Gut No. 1250.

4. Learned Counsel for the Respondents seeks time to file reply. It be filed before next date with advance service upon Petitioners.

5. From perusal of impugned order paragraph 4 it appears that the purchase by the Respondents' predecessor from the Appellants' predecessors was only in respect of the 1H 60R. It is the case of the Petitioners that there was mistake committed during implementation of the consolidation scheme to the extent of excess 50 R portion and after consolidation scheme, the area standing in the name of the Respondents is 2H 10R. Impugned order has resulted in granting interim stay to final injunction order of Trial Court.

6. Having considered the above nature of dispute and effect of the impugned order, by way of ad-interim relief, it is directed that the impugned order dated 22/10/2024 will not operate *qua* Clause (3) of the Judgment and Decree dated 22/04/2024 of the Trial Court.

7. Stand over to 17/03/2025 for further consideration.

(M. M.SATHAYE, J.)