

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17124 OF 2024

Rajendra Shivaji Saed and anr. ...Petitioners

Versus

Mahindra Nivrutti Dhoke and ors. ...Respondents

Mr. Pratik Rahade, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 13th JANUARY, 2025

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ORDER:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to the concurrent orders passed by the Civil Court and District Court declining to grant injunction in favour of the petitioners – plaintiffs, and instead restrain the petitioners from causing obstruction to the possession and enjoyment of the defendants over the suit agricultural lands.
3. The petitioners instituted the suit for declaration, cancellation of instruments and injunction asserting that, *inter alia*, the Sale Deed dated 16th April, 2014 executed by the petitioners was nominal and by way of security, and prior to the execution of the Sale Deed, the parties have executed an earnest note and an agreement to reconvey the suit land.

The agreement to reconvey the suit land dated 16th April, 2014 was executed before the Notary. On the very day of execution of the Sale Deed i.e. 16th April, 2014, the defendant No.1 committed breach of the said contract and executed a Gift Deed in favour of defendant No.2 on 11th March, 2020. Hence, the suit.

4. The Courts below were of the view that the documents relied upon by the plaintiffs do not prevail over the registered Sale Deed. *Prima facie* title and possession of the suit land vests with the defendants.

5. Mr. Rahade made an endeavour to urge that the plaintiffs are in actual physical possession of the suit land. Thus, the trial court and the Appellate Court should have protected the possession of the plaintiffs. Reliance was sought to be placed on the decision of the Supreme Court in the case of *Rame Gowda (dead) by Lrs. vs. M. Varadappa Naidu (dead) by LRs. and anr.*¹

6. I am unable to agree with the submissions of Mr. Rahade. Both the Courts below have correctly held that the documents propounded by the plaintiffs do not prevail over registered Sale Deed. Moreover, the material on record, *prima*

1 (2004) 1 Supreme Court Cases 769.

facie indicates that the defendants put in possession of the suit land under the Sale Deed. The defendants were shown to be in possession of the suit land and their names were mutated to the holders and cultivators column.

7. Thus on all parameters, the defendants deserved protection of their possession and enjoyment over the suit land. Resultantly, no interference is warranted with the concurrent discretionary orders in exercise of writ jurisdiction.

8. Petition stands dismissed.

[N. J. JAMADAR, J.]