

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2443 OF 2025

Madhukar Shripati Shendge ...Petitioner
vs.
Radhabai Bajirao Shendge and Ors. ...Respondents
Mr. P.B. Gujar, for the Petitioner.

VISHAL
SUBHASH
PAREKAR

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CORAM : N. J. JAMADAR, J.
DATE : FEBRUARY 24, 2025

P.C:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 29th January, 2025 passed by the learned District Judge, Satara whereby the learned District Judge allowed the appeal preferred by the respondent No. 2/ defendant No. 2 by setting aside the order dated 23rd April, 2024 passed by the learned Civil Judge Junior Division, Satara in RCS No. 70 of 2024 restraining the defendant No. 2 from disturbing the plaintiff's possession and carrying construction over the suit property bearing Gat No. 1/10.
3. The learned Civil Judge was of the view that prima facie the properties appeared to be joint and there was no partition.
4. On the basis of the same material, the learned District Judge took a view that prima facie there appeared to be partition of the suit properties, notwithstanding the mutation of the names of the

plaintiff and the defendants, including defendant No. 2, to the record of rights of the suit property.

5. A question as to whether the District Judge could have interfered with the discretionary order passed by the Civil Judge, warrants consideration.

6. Issue notice for final disposal to respondent No. 2 returnable 24th March, 2025.

7. In addition to notice through Court, the petitioner is at liberty to serve respondent No. 2 by private service and file affidavit of service.

8. In the meanwhile, the parties shall maintain the status-quo.

(N. J. JAMADAR, J.)