

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

WRIT PETITION NO. 4313 OF 2025

Ramchandra Chima Kokare and anr. ...Petitioners

Versus

Rupali Sudhir Daundkar ...Respondent

Mr. Venkatesh Shinde, a/w Isha Paradkar, for the
Petitioners.

Mr. Sudhir Sadavarte, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 28th MARCH, 2025

PC:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to a judgment and order dated 10th March, 2025 passed in MCA/315/2024, whereby an appeal preferred by the petitioners against an order passed by the learned Civil Judge in RCS/1724/2024 on 23rd December, 2024, came to be dismissed, affirming the said order of rejection of the prayer of the petitioners-plaintiffs for temporary injunction.
3. The petitioners claim to be the holder of the property admeasuring 3 Are out Gat No.626 (the suit property). The defendant is the holder of the larger property out of the said Gat

No. 626. The defendant had started construction on the said larger property.

4. The learned Civil Judge as well as the learned District Judge have recorded a *prima facie* finding that the plaintiffs have not been able to demonstrate that the construction is being carried out over the property of the plaintiffs.

5. The learned Counsel for the petitioners submitted that there is a dispute over the boundaries of the properties between the plaintiffs and defendant. The defendant is entitled to carry out construction over her property. However, the defendant has stated to carry out construction over the suit property.

6. To substantiate the aforesaid contention, at this stage, the only material which is sought to be pressed into service is the photographs of the construction being carried out. In the context of the dispute between the parties, there are orders passed by the Courts, which categorically record the defendant's ownership and possession over the property on which construction is being carried out. In that view of the matter, if the ownership and possession of the defendant over the subject property is *prima facie* indisputable, the plaintiffs cannot seek any injunctive relief, unless the plaintiffs are *prima facie* able to demonstrate that the defendant is carrying out construction

over the property of the plaintiffs. As that does not seem to be the case, the Courts below were justified in declining to grant temporary injunction.

7. There is no substance in the petition.

8. The petition stands dismissed.

[N. J. JAMADAR, J.]