



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12810 OF 2025**

Aaditya Ravindra Dorge and Ors. ... Petitioners
versus
Tushar Nishikant Dhamdhere and Anr. ... Respondents

Mr.Drupad S. Patil with Ms.Srushti S. Chalke, for Petitioners.
Mr. Vivek V. Salunke, for Respondent No.1.

CORAM: N.J.JAMADAR, J.

DATE : 8 OCTOBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The Petitioners / original Plaintiffs take exception to a judgment and order dated 2 September 2025, passed by the learned District Judge in Misc. Civil Appeal No.233 of 2025, whereby the appeal preferred by the Respondent No.1 / original Defendant No.2 and the Plaintiff to the Counter Claim in Special Civil Suit No.1885 of 2021, came to be allowed by setting aside the order dated 5 July 2025, passed by the learned Civil Judge.
3. By the said order dated 5 July 2025, the learned Civil Judge rejected the application filed by the Defendant No.2 (Exh.23) to restrain the Plaintiffs – Defendants in CC, from causing obstruction to the Defendant No.2's possession and cultivation of the suit land, till the final disposal of the CC. Learned Civil Judge was of the view that, though the Defendant No.2 appeared to be prima facie the owner of the suit land and the documents

indicated that he was in possession thereof, yet, the legality and validity of the sale deed executed by the Respondent No.2 / Defendant No.1, the father of Petitioner Nos.1 and 2 and husband of Petitioner No.3, in favour of Defendant No.2 was required to be adjudicated. Therefore, Defendant No.2 was not entitled to the relief of interim injunction.

4. Being aggrieved, Defendant No.2 preferred an appeal before the District Court. By the impugned order, learned District Judge was persuaded to allow the appeal as the averments in the application for temporary injunction (Exh.23) went untraversed. Secondly, in the suit, the Plaintiffs – Petitioners, had not sought the relief of temporary injunction to protect their possession over the suit land. The application for temporary injunction filed by the Petitioners – Plaintiffs to restrain Defendant No.2 from creating third party rights was not pursued and came to be dismissed. There was prima facie material to show that, the registered agreement for sale and the sale deed were executed by the Defendant No.1 in favour of Defendant No.2 and thereunder the possession of the suit land was delivered to the Defendant No.2.

5. Mr. Patil, the learned Counsel for the Petitioners, submitted that, apart from the recitals in the sale deed, which was executed by the Defendant No.2 in the capacity of the power of attorney of Defendant No.1 in the former's own favour, there was no material to show that the Defendant No.2 was in

possession of the suit land. As the sale deed was purportedly executed in the year 2016, had the Defendant No.2 been in possession and cultivation of the suit land, the said fact must have been evidenced by documents other than the mutation entries and the recitals in the sale deed. In the absence thereof, learned District Judge ought not to have interfered with the exercise of discretion by the trial Court. At the most, the matter could have been remitted back to the trial Court for afresh decision.

6. Mr. Patil sought to place reliance on the documents in the nature of sugarcane supply receipts, which were not produced before the Courts below, to buttress his case that the Petitioners continued to be in possession of the suit land.

7. In opposition to this, Mr. Salunke, learned Counsel for Respondent No.1 – Defendant No.2, laid emphasis on the collusive nature of the suit. It was controverted that the factum of delivery of possession to the Defendant No.2 by the Defendant No.1 was not evidenced by the documents which preceded the sale deed.

8. Having heard the learned Counsel for the parties and perused the material on record, I am inclined to hold that, the learned District Judge correctly interfered with the exercise of discretion by the trial Court. Perversity in the order of the learned Civil Judge arose from the fact that, despite existence of adequate material, learned Civil Judge refused to grant

injunction, though, a prima facie case was found in favour of Defendant No.2. Learned Civil Judge lost sight of the fact that, the application for temporary injunction filed by Defendant No.2 went virtually untraversed. No material was placed before the trial Court to controvert the claim of the Defendant No.2 that, he was in possession of the suit land. The time lag between the execution of the sale deed and the institution of the suit was also not kept in view. As the entries in record of rights, prima facie, indicated that the name of Defendant No.2 was mutated to the holder's column on the basis of the registered instrument, learned District Judge correctly exercised the discretion to grant injunction against the Petitioners.

9. This Court in exercise of supervisory jurisdiction does not find any justifiable reason to interfere with the impugned order.

10. The Writ Petition stands dismissed.

(N.J.JAMADAR, J.)