



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.5933/2025
Shantanu V Jayvantrao and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V.K. Paliwal, Advocate for petitioner.
Mr. Amol Jaltare, Advocate for respondent nos.1 to 3.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 02-12-2025.

Heard learned Counsel for the petitioner as well as learned
Counsel for the respondents.

2. By this petition, the petitioner has challenged order dated
16-08-2023 passed by the trial Court, rejecting the temporary injunction
application and also judgment and order dated 03-05-2025 passed by the
appellate Court, dismissing the Misc. Civil Appeal.

3. Learned Counsel for the petitioner submits that the
petitioner is the original plaintiff who is the owner of property bearing
No.446 situated in Gram Panchayat Netansa, Taluka Risod, District
Washim. The plaintiff has filed suit for permanent injunction with respect
to this property and has also filed a separate application under Order 39
Rules 1 and 2 of the Code of Civil Procedure, claiming temporary
injunction to restrain the defendants from disturbing the peaceful
possession of the plaintiff over the suit property. This application was
opposed by the defendants and by order dated 16-08-2023, it came to be
rejected. Feeling aggrieved, the petitioner filed Misc. Civil Appeal before
the District Court, which came to be dismissed by judgment and order

dated 03-05-2025. The petitioner has challenged both these orders by way of instant petition.

4. Petitioner's primary contention is that the petitioner/plaintiff is the owner of the suit property and is having possession since the date of his sale deed i.e. since 17-06-2022. He submits that nobody has challenged the plaintiff's sale deed and since the plaintiff apprehended threats to his possession, the application for temporary injunction was filed. It is also submitted that the plaintiff had purchased the suit property from Mr. Arjuna Ashruji Bajad and his wife Mrs. Ramkor Arjuna Bajad and is therefore entitled to protect his possession. He submits that the trial Court has failed to consider the ownership and possession of the plaintiff and wrongly exercised the discretionary powers. In support of his submissions he placed reliance on the judgment of the Hon'ble Supreme Court in the matter of Raja Ram vs Jai Prakash Singh and others, reported in 2019 SAR (Civil) 1026 and submitted that the registered document in favour of the plaintiff has to be presumed to be genuine and it cannot be discarded.

5. *Per contra*, Mr. Jaltare, learned Counsel for the respondents submitted that there are concurrent findings against the petitioner and the trial Court has exercised the discretionary powers to refuse the temporary injunction by a reasoned order. He submitted that the appellate Court has also concurred with the findings and rightly refused to interfere with the discretionary order passed by the trial Court. He submitted that the sale deed of plaintiff's vendor Mr. Arjuna and Mrs. Ramkor Bajad cannot be the sole basis particularly in absence of any

prior sale deeds of their vendors. He submitted that the names of the plaintiff's vendors were straightway recorded in the mutation entry from the year 2010 and onwards and there is no record to show any prior ownership or chain of sale deeds giving title to the plaintiff's vendor. He also invited attention to the observations of the trial Court in the impugned order recording therein that the entry of the names of plaintiff's vendors on the Form 8-A was also without any basis. He thus submitted that in view of the disputed nature of claim, the plaintiff was not entitled for any discretionary relief and the impugned orders need no interference.

6. While considering the controversy it has to be seen that the petitioner has claimed to be owner of the property on the basis of sale deed. However, doubts are raised with respect to the ownership of petitioner's vendors since there is no record to show their ownership prior to 2010 although straightway their names appear to have been mutated on the revenue record. A perusal of the impugned order shows that the trial Court as well as appellate Court has given due consideration to these aspects while considering the application for temporary injunction. After considering the contentions, the discretionary relief is refused by the trial Court as well as appellate Court.

7. It is pertinent to note, the suit filed by the petitioner/plaintiff is for permanent injunction simplicitor. In the wake of dispute about the title of plaintiff's vendors and challenge to the mutation of their names, the trial Court has observed that there is no *prima facie* case or balance of convenience in favour of the plaintiff. The plaintiff has failed to dispel the doubt about title of his vendors and thus the trial Court refused any

discretionary orders in his favour. I do not find any perversity with the impugned orders.

8. In view of this, no indulgence is warranted under Article 227 of the Constitution of India. Writ petition is dismissed.

(Prafulla S. Khubalkar, J.)