



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

WRIT PETITION NO. 6417 OF 2024

(Shakuntala Shivaji Dhandar (dead) through legal heirs vs. Bhaskar Tryambak Jeughale (dead)
through legal heirs)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Ms. Deepali Sapkal, Advocate for petitioners.
Mr. M.P.Kariya, Advocate for respondents.

CORAM : SIDDHESHWAR S. THOMBRE, J.
OCTOBER 06, 2025

1) Heard Ms. Deepali Sapkal, learned counsel for the petitioners and Mr. Kariya, learned counsel for respondents.

2) Present petition is filed against the order dated 06/11/2023 passed by the learned District Judge-1, Buldhana in Misc.Civil Appeal No.19/2022, whereby the appeal was allowed and temporary injunction was granted in favour of the plaintiff by allowing the application below Exh.5 in R.C.S. No.25/2020.

3) Learned counsel for the petitioner submitted that order passed by the learned District Judge-1 Buldhana in Misc.Civil Appeal No.19/2022, is illegal and same is liable to be set aside.

4) Learned counsel for the petitioner further submitted that learned District Judge-1, failed to consider the admitted position that the respondent/plaintiff failed to produce any documentary or oral evidence to justify that he is in possession of the suit property. On the contrary, the defendant's name in the cultivation column appeared till 2001 only and further submitted that the learned 3rd Jt.C.J.J.D. has rightly considered the matter and rejected the application below Exh.5 by observing that the

plaintiff failed to produce, on record, any document showing that respondent or his Predecessor was having possession over the suit property after 2001.

5) Per contra, learned counsel for the respondents supported the order passed by the learned District Judge in MCA No.19/2022.

6) I have gone through the judgment and order passed by the learned District Judge-1, Buldhana and it reveals that as per agreement of sale dated 07/04/1982, the father of the plaintiff Tryambak Jeughale was put in possession of the suit property and its execution has been admitted by defendants. It is further observed that the learned trial Court has not considered the recitals of agreement of sale about handing over the possession of the suit property by the husband of the defendant No.1 to the father of the plaintiff.

7) Learned Appellate Court further considered the fact that the trial Court rejected the temporary injunction only on the basis that the plaintiff did not produce 7/12 extract after a period of 2001. It further considered that as per the recitals of the agreement of sale dated 07/04/1982, it was not the case of the defendant that they had taken a re-possession of the suit property from the father of the plaintiffs and therefore, once the defendants have admitted execution of the agreement of sale dated 07/04/1982, the plaintiffs are entitled to protect their possession till decision of the suit. Therefore, findings recorded by the learned Appellate Court are on the basis of agreement of sale and the fact that since 1982, pursuant to recital in agreement of sale, the father of the plaintiff is in possession. All these facts were not considered by the trial Court while considering the application Exh.5 and therefore, the Appellate Court has consider the fact of

possession and rightly allowed the Misc.Civil Appeal No.19/2022. Therefore, I do not find any reason to interfere in the order passed by the learned Appellate Court. Hence, the writ petition is dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE, J.)