



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

WRIT PETITION NO. 117 OF 2025

(Ajitkumar Panjabrao Deshmukh & Ors. Vs. Prakash Pralhad Joshi & Anr.)

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

Court's or Judge's orders.

Mr. A.D. Girdkar, Counsel for the petitioners.

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CORAM : ANIL L. PANSARE, J.
JANUARY 8, 2025

The respondents – original plaintiffs filed suit for declaration, possession, recovery of amount and permanent injunction against the petitioners – original defendants. The respondents filed application seeking injunction against the petitioners to not disturb their peaceful possession over the suit property. The trial Court rejected the application. The respondents challenged the order before the First Appellate Court in Miscellaneous Civil Appeal No. 6/2024. The First Appellate Court protected the possession of the respondents by assigning following reasons :

“18] Further it appears that all the sale-deeds are the registered sale-deeds executed for consideration and as per the sale-deeds possession was handed over to the appellant no. 1. It reveals that mutation entries in respect of the sale transactions were accordingly recorded with revenue department and Ferfar came to be recorded and entries in 7/12 extracts were recorded in the name of appellant no. 1. The entries in revenue record have presumptive value, which prima facie shows the possession of the appellants over the suit property. Though the respondents claim themselves to be in possession of the suit property, they have not produced on record any

documentary evidence to show their possession over the suit property. It is submitted on behalf of the respondents that there is report of Tahsildar regarding possession of respondents over the suit property. However, as submitted on behalf of the appellants it can be gathered that the DDR office had called the report of Tahsildar regarding possession in respect of 0.81 R. of land regarding which the appellant had executed the sale-deed in favour of respondent on 10/08/2022. It is admitted by the appellants that in view of compromise they had executed the sale-deed dated 10/08/2022 and also handed over the possession of suit field 1 H. 40 R. to respondent no.3. But they are still in possession of remaining western portion of 1 H. 31 R. The mutation entries and 7/12 extracts supports the claim of appellants that they are in possession and cultivation of the said area. The respondents failed to adduce any evidence to prima facie show that they are in possession and cultivation of said portion of 1 H. 31 R.”

2] As could be seen, the parties have entered into compromise, and pursuant thereto, possession of part of land (0.81 R) was given to the petitioners by executing sale-deed on 10/8/2022. Rest of the land, i.e., land admeasuring 1.31 H.R. was found to be in possession of the respondents. The mutation entries and 7/12 extracts supported the respondents' claim as regards their possession and cultivation of land.

3] In context with above, the petitioners' Counsel was called upon to show a single document that would indicate that the petitioners are in possession of land admeasuring 1.31 H.R., however, the learned Counsel failed to show any.

4] In the circumstances, the finding rendered by the First Appellate Court appears to be in tune with the facts pleaded before the Court below.

5] No interference is called for in the supervisory jurisdiction under Article 227 of the Constitution of India.

6] The petition is dismissed. No costs.

(ANIL L. PANSARE, J.)

Sumit