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

WRIT PETITION NO. 886/2024

Venkanna Durgayya Komre
...VERSUS...

Mondi Mutyalu Pottala & others

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

Shri V.S. Kukday, Advocate for the Petitioner(s)
Shri S.D. Borkute, Advocate for the Respondent Nos. 1 & 2

CORAM :- M.S. JAWALKAR, J.
JANUARY 28, 2025

- (1) Heard learned Counsel for the respective parties.
- (2) It appears that the Application filed by the Petitioner for grant of temporary injunction below Exhibit 5 came to be rejected by the learned Civil Judge Junior Division, Sironcha by the order dated 30/09/2020 on the ground that the name of the Plaintiff in possession column is shown along with the co-sharers in 7/12 Extract. It is also held that though the document i.e. agreement dated 25/07/2009 is placed on record as Agreement to Sell, however, considering its contents, it appears to be a Sale-Deed and the same is un-registered document. One of the conditions in the said agreement is that the original owners will procure the signatures of co-owners on the document, if any, for deleting their names in 7/12 Extract. If the vendor failed to do so, it is their responsibility to pay double the

amount of consideration. It is held that neither the Plaintiff filed any document to show that the suit property was exclusively owned by the Deceased Pocham and Kistayya at the time of execution of the aforesaid agreement, nor *prima-facie* he proves that the suit property was inherited by the Deceased brother exclusively in partition. In view of these *prima-facie* findings, along with the other findings and the documents on record, the Application (Exhibit 5) came to be rejected. The said order came to be challenged in Misc. Civil Appeal No. 07/2023. The learned District Judge-1, Aheri, by the order dated 07/10/2023, dismissed the Appeal preferred by the Petitioner below Exhibit 32 by endorsing the findings recorded by the learned Civil Judge Junior Division, Sironcha.

(3) In my considered opinion, there is no error or illegality in the orders passed by the learned Trial Court as well as the learned Appellate Court. The concurrent finding on *prima-facie* case need not be interfered. Admittedly, the Plaintiff has not shown on 7/12 Extract as exclusive possessor.

(4) As such, the Writ Petition stands **dismissed**. Considering the fact that the name of the Plaintiff is also there along with the co-sharers in the 7/12 Extract, in order to avoid multiplicity of litigations, learned Civil Judge Junior Division is directed to decide the Regular

Civil Suit No. 12/2020 as expeditiously as possible, preferably within a period of six months from the date fixed by the learned Civil Judge Junior Division. The parties are directed to co-operate with the learned Trial Court. Petition stands **dismissed**.

(M.S. JAWALKAR, J.)