

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

WRIT PETITION NO. 3394/2025

**Vasanta Amrut Nagare and others Vs. Dattaprabhu Amruta Nagare
and others**

Office Memoranda of Appearances, directions and orders	Notes, of Court's orders and Registrar's	Court's or Judge's orders
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Mrs. S.V. Sirpurkar, Advocate for Petitioner

CORAM: ANIL L. PANSARE, J.

DATED : 1st JULY, 2025

1. The petitioners (original respondent Nos.2, 5 to 7) are aggrieved by the orders passed by both the Courts below restraining them from alienating the suit properties.

2. The counsel for the petitioner submits that the properties under question are self-acquired properties of the petitioners and, therefore, the injunction ought not to have been granted. My attention is invited to the order passed by the trial Court, who passed order of injunction, which is upheld by the first appellate Court. The trial Court has noted the contentions of the respondent No.1 / plaintiff that the properties are purchased from the joint family funds and, therefore, purchased properties are also joint family properties. According to the trial Court, the relationship has been admitted by the parties and, therefore, they are coparceners of the joint family properties.

3. This finding that since relationship is admitted, the parties shall become coparceners appears to be based on no

cogent material. Merely because the parties admit the relationship one cannot jump the conclusion that the next generation or generation thereafter will automatically become coparceners.

4. The trial Court has then noted that the joint family property has unity of title and unity of possession and, therefore, the plaintiff will acquire right by birth. The trial Court has then taken note of the fact that the revenue record stands in the name of the petitioners and therefore, they may alienate the suit property.

5. The counsel for the petitioner submits that merely because the relationships are admitted and merely because the plaintiff put-forth the contention that the properties are purchased from joint family income, the Courts ought not to have come to the conclusion that the properties under question are joint family properties, particularly in absence of any evidence on the point of the joint family income.

6. Issue notice, returnable on 28.07.2025.

7. In addition to usual mode, the petitioners shall serve the respondents by speed post and shall file affidavit of service.

(ANIL L. PANSARE, J.)