IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 WRIT PETITION NO. 12617 OF 2024

LAXMAN DHONDIBA GHULE AND ANOTHER
VERSUS
PARVATI PRALHAD GHULE
...
Mr. P. N. Kalani, Advocate for the Petitioners
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 26th October 2026

P.C. :-

. None present for the respondent.

2. Mr. P. N. Kalani, learned Advocate for the petitioners submits that the suit is filed by the other side seeking a decree of perpetual injunction. The plaintiff suffered rejection of her application filed under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure.

3. He would submit that the application was rejected obviously, because the petitioners could demonstrate that they were in possession of a part of the suit land. Subsequently, the plaintiff approached the First Appellate Court vide Miscellaneous Appeal No.37 of 2024. After hearing the parties, learned Ad-hoc District Judge-1, Parbhani vide order

dated 03.10.2014 was pleased to allow the application filed by the plaintiff thereby granting temporary injunction against the petitioners/original defendants. Feeling aggrieved thereby, the petitioners/original defendants are before this Court.

4. Mr. Kalani, learned Advocate for the petitioners/original defendants would strenuously submit that in fact, the petitioners are in possession of the suit land. The case of the petitioners was not considered by the First Appellate Court. The First Appellate Court merely observed that the sale deed on the basis of which the litigation was triggered was not a registered instrument.

5. He further submits that it is trite law that while disposing of an application for temporary injunction, the Courts must not be impressed merely by the fact that the sale deed in the peculiar facts of the case is not a registered instrument.

6. Mr. Kalani submits that by taking undue advantage of the injunction granted by the First Appellate Court, the respondent/original plaintiff is attempting to dispossess the petitioners from the suit land.

7. Notice was issued by this Court to the respondents on 21.11.2024. Suffice to note this Court did not grant any stay to the execution and operation of the order passed by the First Appellate Court.

8. The proceedings for temporary injunction in a pending suit are governed by the principles of *prima facie* case, balance of convenience and irreparable loss. From the recitals of the order passed by the First Appellate Court, it appears that the First Appellate Court recorded that a *prima facie* case in fact, appeared to be in favour of the plaintiff. Obviously, the balance of convenience was also found to be in their favour. The First Appellate Court found it appropriate to observe that if the plaintiff was not granted temporary injunction, she would suffer irreparable loss.

9. The First Appellate Court is a fact-finding Court. Suffice to note since October 2014, the injunction is operating against the petitioners. Considering the long-standing injunction operating against the petitioners, I do not find this to be a fit case to disturb the findings of the First Appellate Court at this juncture.

10. However, I deem it appropriate to request the Trial Court to proceed with the suit and conclude the same in a time-bound manner.

11. Hence, I pass the following order :

O R D E R

I. The writ petition stands dismissed.

II. The Trial Court is requested to conclude the trial proceedings within a period of six months from today.

III. All contentions of the parties are kept open.

IV. It is clarified that the findings recorded by the First Appellate Court shall not come in the way of the Trial Court while deciding the suit finally.

(AJIT B. KADETHANKAR, J.)

PRW