



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO. 12330 OF 2024

SAHEBRAO DHARMA CHAVAN
VERSUS
LATABAI GAJANAN CHAVAN

...
Mr. Siddhesh A. Deshmukh, Advocate for the Petitioner
...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 12.03.2026

PER COURT :-

- . Heard Mr. S. A. Deshmukh, learned counsel for the petitioner.
2. The petitioner instituted Regular Civil Suit No. 69 of 2023 in the Court of the learned Civil Judge, Junior Division, Jintur against the respondents seeking a decree of perpetual injunction.
3. The facts of the case are peculiar in nature. The plaintiff and the defendants own agricultural lands adjacent to each other. According to the plaintiff, the defendants were obstructing his peaceful possession over the suit property and, therefore, he was constrained to institute the present suit seeking protection during the pendency of the suit.
4. The plaintiff also filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure seeking temporary injunction.
5. It is pertinent to note that the defendants appeared in the suit and candidly accepted the ownership and possession of the petitioner over the suit property. However, the defendants denied that they were obstructing the

peaceful possession of the plaintiff over the suit property.

6. While deciding the application for temporary injunction, the learned Trial Court observed that both parties were occupying their respective portions of agricultural land. The learned Trial Court further observed that the plaintiff could not place any material on record to show that the defendants had caused any obstruction to his peaceful possession over the suit property. Terming this observation as *prima facie*, the application filed by the petitioner came to be turned down by the learned Trial Court.

7. The said findings were concurred by the learned District Court in Miscellaneous Civil Appeal No.79 of 2023 vide order dated 20.07.2024.

8. Mr. S. A. Deshmukh, learned counsel for the petitioner, would invite my attention to the pleadings of the parties as well as the observations recorded by the learned Trial Court. He submitted that the defendants have not disputed the ownership and possession of the petitioner over the suit property. According to him, the averments made in the plaint and the affidavit filed in support of the application were sufficient to demonstrate that the possession of the petitioner was under threat at the instance of the defendants and, therefore, the learned Trial Court ought to have allowed the application for temporary injunction.

9. Mr. S. A. Deshmukh, learned counsel was at pains to submit that the observations made by the learned Trial Court that there were no indications that the defendants would cause obstruction to the petitioner's possession in the near future may cause serious prejudice to the petitioner. He would submit that the said observations would hamper the merits of the suit. With this submission, Mr. Deshmukh, learned counsel submits that the petition be allowed.

10. Notice was issued in this matter, however, none appears on behalf of the respondents.

11. Having considered the findings recorded by the learned Trial Court and affirmed by the learned District Court, it appears that the defendants have not disputed the ownership and possession of the petitioner over the suit property. The application for temporary injunction came to be rejected only on the ground that the plaintiff failed to demonstrate that the defendants had in fact obstructed his peaceful possession over the suit property.

12. In view of the above, the present writ petition can be disposed of by granting liberty to the petitioner.

13. Hence, the following order :

ORDER

a. The writ petition is disposed of with a liberty to the plaintiff/petitioner to file a fresh application for temporary injunction before the Trial Court, in the event the petitioner is able to demonstrate that the defendants have caused or are attempting to cause obstruction to his peaceful possession over the suit property.

b. If such an application is filed, the learned Trial Court shall consider and decide the same on its own merits.

[AJIT B. KADETHANKAR, J.]