

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17489 OF 2025

Rakhamabai Laxman Katke and ors. ...Petitioners

Versus

Vishal Chugera and ors. ...Respondents

Mr. Sachin Khandagale, for the Petitioners.

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CORAM: N. J. JAMADAR, J.

DATED: 10th FEBRUARY, 2026

Order:-

1. Heard the learned Counsel for the petitioners.
2. This writ petition under Article 227 of the Constitution of India calls in question the legality, propriety and correctness of the refusal to exercise discretion to grant temporary injunction, in a suit instituted by the petitioners – plaintiffs.
3. The petitioners claimed to be the daughters of Malhari. Suit properties are the ancestral properties of Malhari. The suit property bearing Gat No.16 had come to the share of Malhari. Gat No.19 was jointly allotted to Malhari and the predecessor-in-title of defendant Nos.13 to17. There was no partition by metes and bounds. Yet, certain instruments were executed by the plaintiffs father and others in the year 1994 and the ancestral properties, in which the petitioners also have coparcenary

interest, were alienated. On the basis of those instruments executed in the year 1994, there have been further transfers and alienation. Those transfers do not bind the share of the plaintiffs in the suit property.

4. The plaintiffs, thus, instituted the suit for partition and separate possession of their share in land bearing Gat Nos.16 and 19 and for a declaration that the instruments executed by Malhari, the father of the plaintiffs, and late Sadashiv and defendant No.12 in the year 1994, and the subsequent transfers, in the year 2021, were not binding on the plaintiffs and their share in the suit properties.

5. By an order dated 18th April, 2024, the learned Civil Judge rejected the application for temporary injunction observing, *inter alia*, that the plaintiffs failed to make out a *prima facie* case. The father of the plaintiffs was the *karta* of the joint family. Whether the transfers effected in the year 1994, were for legal necessity or the benefit of estate, were the matters for trial. Moreover, the plaintiffs had not brought in the common hotchpot the entire joint family property, though partition was sought. Therefore, the plaintiffs were not entitled to temporary injunction.

6. In the appeal, the learned District Judge found no error in the exercise of discretion by the trial Court. The Appellate Court noted that the instruments were executed in the year 1994. Though the names of the plaintiffs and defendant Nos.9 to 12 were mutated to the record of rights of the suit property on 8th February, 2010, yet, the suit came to be instituted in the year 2014. In the intervening period, those alienations were assailed in RCS/45/1995 by the purported co-sharer and the said suit came to be dismissed. The Appellate Court concurred with the view of the trial Court that, whether the father of the plaintiffs, being the *karta* of the joint family, had alienated the property for legal necessity or benefit of estate would be matter for adjudication at the trial.

7. Mr. Khandagale, the learned Counsel for the petitioners, would urge that the courts below misdirected themselves in declining to grant temporary injunction to restrain the defendants from further alienating the suit property, though the right of the plaintiffs to seek partition could be hardly contested. The courts below were swayed by the factum of delay, though few of the documents were executed in the year 2021. A relief in the nature of restraining the defendants from further alienating the suit property was necessary to preserve the subject matter

of the suit, lest the plaintiffs would suffer irreparable loss even if the suit is eventually decreed, submitted Mr. Khandagale.

8. First and foremost, the limits of supervisory jurisdiction deserve to be kept in view. Undoubtedly, the power under Article 227 of the Constitution of India is of wide amplitude and, in a sense, plenary. However, in exercise of supervisory jurisdiction the High Court is not expected to re-weigh and re-appreciate the evidence. This Court can justifiably interfere if it could be demonstrated that the impugned order suffers from patent illegality or the perversity in the order is writ large.

9. In the case at hand, the Court cannot loose sight of the fact that the trial Court and the Appellate Court have declined to exercise the discretion to grant the interim relief by ascribing justifiable reasons. The element of delay of about 30 years in assailing the alienations by the father of the plaintiffs cannot be said to be immaterial or inconsequential. In addition, the courts below have also adverted to the fact that the father of the plaintiffs was the *karta*, and whether the alienation by the father of the plaintiffs was for legal necessity or benefit of estate would be a matter for adjudication at the trial.

10. Thus, having regard to the timelag, the structure of the suit, the non-inclusion of all the joint family properties in the

common hotchpot and successive transactions on the basis of the alienation made by the father of the plaintiffs, this Court is not inclined to interfere with the concurrent *prima facie* findings of facts resulting in denial of the discretionary relief to the petitioners. Consequently, the petition does not deserve to be entertained.

11. The petition, thus, stands dismissed.

[N. J. JAMADAR, J.]