



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

WRIT PETITION NO. 3035 OF 2024

TEJRAM S/o RAJIRAM BARDE

VERSUS

LALITA W/o NATTHU BHAVE AND ANOTHER

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. Nishchay R. Raut, Advocate for the petitioner.
Mr. Kaustubh Deogade, Advocate for the respondent no.1

CORAM : M. W. CHANDWANI, J.

DATE : JANUARY 19, 2026.

1. Heard Mr. Nishchay Raut, learned counsel appearing for the petitioner and Mr. Kaustubh Deogade, learned counsel appearing for respondent no.1. Nobody appears on behalf of respondent no.2.
2. By this petition, the petitioner challenges the order dated 22.03.2024 passed by the learned District Judge-2, Bhandara in Misc. Civil Appeal No. 47/2023, thereby overturning the order dated 24.04.2023 passed by Civil Judge, Junior Division, Lakhandur in R.C.S. No. 42/2022 allowing the application (Exh.5) of the petitioner (original plaintiff) for grant of temporary injunction.
3. The petitioner is the original plaintiff. The petitioner claims that the suit land is the ancestral property of the petitioner and other relatives, which fell in the share of his brother. After the death of his brother, his son i.e nephew of the petitioner (respondent no.2 herein) sold the suit property to respondent no.1. Therefore, the

civil suit came to be filed for enforcement of the right of pre-emption under Section 22 of the Hindu Succession Act, 1956.

4. In the said suit, an application (Exh.5) for temporary injunction was moved by the petitioner for restraining respondent no.1 from making any construction over the suit property. The trial Court allowed the said application. Being aggrieved with the said order, respondent no.1 preferred an appeal. The learned District Judge-2, Bhandara allowed the appeal and overturned the order passed by the trial Court. Therefore, the petitioner/plaintiff is before this Court.

5. Having heard the learned counsel for the petitioner as well as the learned counsel for respondent no.1 and having gone through the impugned order, it appears that the suit for right of pre-emption has been filed. As of today, respondent no.1 is the owner of the suit property by way of registered sale deed executed by respondent no.2 in her favour. Whether the petitioner will succeed in the suit or not is a matter of trial.

6. The learned District Judge-2 has opined that *prima facie* the property does not appear to be joint property. Therefore, the right of pre-emption does not accrue in favour of the petitioner. That apart, respondent no.1 being the owner of the suit property has every right to carry out construction on the suit property and therefore, the trial Court should not have granted injunction.

7. Since, as per the case of the petitioner himself, there

is no other right accrued in his favour except the right of pre-emption in the suit property, the finding recorded by the learned District Judge-2 appears to be justified.

8. No interference is required in the impugned order. The petition deserves to be dismissed and accordingly, it is dismissed.

(M.W.Chandwani, J.)

Diwale