

CHANDRASHEKHAR GAJANAN BHOGAONKAR

A

v.

YESHWANT DHONDI POTDAR AND ORS.

AUGUST 28, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

B

Constitution of India, 1950 : Article 136.

Appeal—Possession of land—Grant of interim injunction—Findings of Courts below—Interference with by Supreme Court—Held not called for.

C

On the question whether the appellant was in possession of the disputed land and whether ad interim injunction should be granted, the Trial Court gave its findings in favour of the appellant but the first appellate court held that he was not in possession of the land. The High Court declined to interfere.

D

Dismissing the appeal, this Court

HELD : At this stage, it is not desirable to go into the merits of the case and the findings of the courts below, which would have adverse effect on the respective interests of the parties. [118-C-D]

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8032 of 1995.

From the Judgment and Order dated 30.1.95 of the Bombay High Court in W.P. No. 3965 of 1994.

F

A.S. Bhasme for the Appellant.

S.B. Upadhyaya for the Respondents.

The following Order of the Court was delivered :

G

Leave granted.

Notice was issued with a view to impress upon the parties to settle the dispute amicably and learned counsel for the respondents in fairness submitted that he is not informed about the settlement and, therefore, he

H

- A is unable to impress upon them to enter into any compromise.

- B Mr. A.S. Bhasme, learned counsel for the appellant, contended on merits that the trial Court was wrong in its conclusion that the appellant is not in possession of the land. We do not want to go into the controversy as to who is in possession of the land. It is true that the trial court on *prima facie* evidence found that the appellant was in possession of the land. It was further found that irreparable injury would be caused to him if *ad interim* injunction is granted. On appeal, the District Judge re-appreciated the evidence and came to the conclusion that the appellant is not in possession of the land. High Court did not interfere on being approached under Article 227.
- C

At this stage, it is not desirable to go into the merits of the case and the findings of the courts below, which would have adverse effect on the respective interests of the parties. The issue was of *prima facie* case and of balance of convenience to grant or to refuse *ad interim* injunction.

- D The appeal is accordingly dismissed.

T.N.A.

Appeal dismissed.