

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11853 OF 2013
WITH
CIVIL APPLICATION NO.3086 OF 2013**

Shakuntala Arjun Roman

..Petitioner

Vs.

Ashok Hari Roman & Anr.

..Respondents

Mr. Ganesh S. Koli for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 24th December 2013

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 25-11-2013 passed by the Learned Joint Civil Judge Junior Division, Koregaon, by which order, the application Exhibit 44 filed by the Defendant No.1 for being permitted to take electrical connection for the pump to be installed on the Well and for police aid to carry out the said work, came to be allowed.

2 The Petitioner is the original Plaintiff who has filed the Suit in question being Regular Civil Suit No.3 of 2012, for a declaration that the Plaintiff is the owner of the suit property. In the said Suit the Plaintiff had filed an application for injunction restraining the Defendant No.1 from installing electric motor and taking an electrical connection in the suit property. The parties are related in as much as the Plaintiff is the sister-in-law of the Defendant No.1. The Trial Court heard the said application Exhibit 5 and by its order dated 5-5-2012 has rejected the same. It is after the rejection of the application for temporary

injunction filed by the Plaintiff that the Defendant No.1 filed the instant application Exhibit 44 as it is his case that the Well in question is a common Well and that the Plaintiff is not allowing him to draw water from it. The Defendant No.1 also relied upon the sanction granted by the MSEB for the electric connection. The Trial Court considered the fact that the application for injunction filed by the Plaintiff was rejected against which the Plaintiff has filed an Appeal, however there is no stay granted to the Plaintiff by the Lower Appellate Court, as also considering the fact that the Well in question was a common Well, allowed the application Exhibit 44 filed by the Defendant No.1 for electric connection, and in view of the opposition to the installment of the electric connection by the Plaintiff, directed that police aid be given for installation of the electric connection.

3 In my view, no fault can be found with the impugned order in the facts and circumstances of the present case. However, needless to state that the said order would operate subject to the result of the Appeal that is filed by the Petitioner against the rejection of the Exhibit 5 application. The Writ Petition is accordingly dismissed.

4 In view of the dismissal of the above Writ Petition, the Civil Application No.3086 of 2013, does not survive and to stand disposed of as such.

[R.M.SAVANT, J]