

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 489 OF 2015

BHIMSING HARCHAND REKNOD AND ANOTHER
VERSUS
RAMRAO DEORAO SAKHALE AND ANOTHER

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Advocate for Petitioners : Shri Pawar P.S.
Advocate for Respondents : Shri Gore R.V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 23, 2015

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PER COURT :-

1. I have heard the learned Advocates for the respective parties. The petitioners are defendants and the respondents are plaintiffs in RCS No3.3 of 2010.

2. Grievance of the petitioners is that the application Exhibit 17 has been allowed by the trial Court vide the impugned order dated 18.12.2014. Consequentially, police aid is provided to the respondents on payment of necessary process and costs so as to enable the respondents to harvest the cotton crop.

3. Application Exhibit 17 was made on 16.4.2014. Same is allowed on 18.12.2014. Harvesting of the cotton crop, by now, must have been done by the respondents, in my view.

4. Record reveals that there are several complaints filed by the

respondents against the petitioners with the concerned Police Station. On a previous occasion, these very petitioners had questioned the grant of police aid to the respondents through Writ Petition No. 7215 of 2013. By the judgment of this Court, dated 13.2.2014 (Coram : S. V. Gangapurwala, J.), the impugned order was set aside on the ground that Section 151 could be invoked only in a grave and emergent situation so as to prevent violent action or physical harm. So also, the said order was interfered with as the alleged incidents were dating 2010 and the order for granting police aid was passed in 2013.

5. In the instant case, the respondents have invoked Order XXXIX Rule 2A and Order XXI Rule 32 read with Section 151 of the CPC. Application Exhibit 17 was filed in pending Civil Misc. Application No.5 of 2011. All this is in connection with injunctory orders granted by the Court on 7.7.2010 in favour of the respondents / plaintiffs under Order XXXIX Rule 1 of the CPC. The suit instituted in 2010 is still pending.

6. Certain fresh instances of alleged dis-obedience of injunctory orders by the petitioners are set out in application Exhibit 17. Nevertheless, the trial Court appears to have invoked its powers under Order XXXIX Rule 2A and has granted the police aid in relation to the cotton crop, which was likely to be wasted on account of the allegations that the petitioners are preventing the respondents from harvesting the crop.

7. In the light of the above, in my view, the impugned order has served

its purpose as regards enabling the respondents to harvest the cotton crop.

8. The learned Advocate for the petitioners submits that the petitioners have never taken the law in their hands and will continue to abide by law. The learned Advocate for the respondents submits that so far as the standing crop was concerned, for which the police aid was granted, has now been harvested. In the light of the same, the impugned order has, therefore, assisted the respondents and the same is not to continue in perpetuity. In the event, there is any fresh instance of violation of injunctory orders, the aggrieved party would be at liberty to prefer appropriate proceedings.

9. In the light of the above, this petition is disposed off with a direction that the litigating parties shall cooperate with the trial Court for the expeditious disposal of RCS No.33 of 2010.

(RAVINDRA V. GHUGE, J.)

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