

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 9202 OF 2015

Babarao s/o Parasram Kandhare and ors. Petitioners
versus
Gram Panchayat, Wai (Bazar) and ors. Respondents

Mr. Madhukar M. Parghane, Advocate for petitioners

CORAM : SUNIL P. DESHMUKH, J.
9th September, 2015

ORDER:

1. After hearing learned counsel for petitioners for sometime, though it appears to be his submission that issue of jurisdiction, if at all arises in the matter, ought to have been framed and decided having regard to the scheme and intendment under Section 9A of the Code of Civil Procedure, 1908, learned counsel also fairly refers to the two reported decisions, particularly the one reported in *2014 (4) ALL MR 717, Village Panchayat, Antora vs. Wasudeo Ramchandraji Mohod and another*, observing that in the face of special law, application of general law stands excluded and as such civil court may not have jurisdiction to deal with the contingency involved in the matter.

2. Having regard to that both the courts have concurrently refrained from interfering with the order challenged in the suit at this stage and also having regard to the reported judgment referred

to above, I deem it appropriate that the petitioners shall invoke alternate remedy as has been suggested and is said to be available. As such, writ petition is not being entertained, however, with liberty to petitioners to prosecute alternate remedy suggested.

3. Writ petition as such stands rejected. However, as apprehension has been expressed that before appropriate approach can be made under alternate remedy stated to be available, there is likelihood of petitioners being dispossessed and their structures being demolished. In view of the same, structures and possession, if any, be not disturbed for a period of forty five days. This arrangement has been made in order to enable the petitioner to make proper approach to the appropriate authority.

4. Needless to refer to that the observations hereinabove are not at all on merits of the case and the restraint is imposed only for the period specified above and no further. The authorities concerned to decide the matter on merits without being influenced by observations aforesaid.

5. Since there is immediate danger stated to be posed, the parties to act upon authenticated copy of the order.

SUNIL P. DESHMUKH, J.

pnd