

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3012 OF 2015

Sayaji Maruti Shinde.] ... Appellant

Versus

State of Maharashtra, Through the Collector,]
Satara, and Ors.] ... Respondents

Mr. R. C. Barge for Appellant/Petitioner.
Ms. Gauri Rao, A.G.P. for State.

CORAM :- M. S. SONAK, J.
DATE :- MARCH 25, 2015

P. C. :-

1. This petition questions Orders dated 21/02/2015 made by the Civil Judge, Senior Division, Satara and Order dated 07/03/2015 made by the Ad-Hoc District Judge-1, Satara, dismissing the Petitioner's application for temporary injunction restraining the Respondent-State from taking any action against the suit structure without compliance with the provisions contained in Section 53 of the Maharashtra Land Revenue Code, 1966 (for short, 'the Code').

2. With regard to the suit structure, the Petitioner had instituted a suit, which was finally disposed of by this Court vide Judgment and Order dated 08/10/2014, the operative part of which reads thus :-

- “i) Second Appeal No.543 of 2014 is disposed of.*
- ii) Respondents are given liberty to follow the procedure under Section 53 of the Maharashtra Land Revenue Code for taking any action of removal of the hotel on the suit site.*
- iii) The Hotel run by the appellant shall not be removed till completion of the procedure under section 53 of the Maharashtra Land Revenue Code. The proceeding shall be completed within one year from today.”*

3. As indicated hereinabove, the time limit granted by this Court to complete the action under Section 53 of the Code will expire on 08/10/2015. In this view of the matter, it cannot be said that the Petitioner had any real apprehension that the suit structure was to be demolished without compliance with the procedure prescribed under Section 53 of the Code. The learned trial Court as well as the Appeal Court, were consequently right in declining the relief of injunction to the Petitioner after observing that the Petitioner was substantially protected by the order of this Court dated 08/10/2014 in Second Appeal No.543 of 2014. There is accordingly, merit in the contention raised by Ms. Rao, the learned A.G.P for State, that the entire objective of instituting the civil suit was to create some circumstances in which the summary inquiry under Section 53 of the Code is not complete and on the said basis, to postpone action under Section 53 of the Code.

4. Be that as it may, considering that the Respondents have time up to 08/10/2015 to complete the action under Section 53 of the Code, it is made clear that the Respondents shall continue with proceedings under Section 53 of the Code so that the same are completed as expeditiously as possible and in any case, prior to 08/10/2015. Such a direction is necessary, in view of the findings recorded by the Appeal Court in paras 22 and 23 of the impugned order dated 07/03/2015.

5. With the aforesaid observations, this petition is disposed of. The impugned orders are not interfered with. There shall be no order as to costs.

(M. S. SONAK, J.)