

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6047 OF 2014

Mr.Vivek Salunke i/b Prashant Bhavake for the petitioner
Ms M.P.Thakur, AGP for the respondent Nos.1 to 3.

P.C.:

2 The case of the petitioner is that he is the owner of the land more particularly described in paragraph 2 of the petition. The petitioner has set up a saw mill on the said land. The grievance in the petition is that an application made by the petitioner for renewal of the licence to run the saw mill has been ordered to be kept pending till the final disposal of the Regular Civil Suit No.41 of 2013 filed by the petitioner himself in the Court of Civil Judge (J.D.), Kagal. The impugned communication dated 23rd July 2013 addressed to the petitioner by the respondent No.3 records that in

view of pendency of the aforesaid suit and in view of the opinion of the District Government Pleader, the application made by the petitioner for transfer and/or renewal of licence shall be kept pending till the disposal of the suit.

3 We have perused the plaint in Regular Civil Suit No.41 of 2013. It is true that the plaint relates to the property on which saw mill in question is situated. The dispute raised in the plaint is as regards the legality and validity of the agreement of sale dated 24th December 2003 allegedly executed by and between the petitioner and the defendant in the said suit.

4 It is not the case of the respondents that there is any prohibitory order passed by any Competent Court which prevents the Competent Authority from deciding the pending application of the petitioner. Suffice it to say that the application could not have been kept pending only on the ground of the pendency of the aforesaid suit.

5 Therefore, the application which is kept pending will have to be decided in accordance with law. However, we make it clear that the application will have to be decided on its own merits and no adjudication has been made by this Court on the question whether the petitioner is entitled to the reliefs sought in the pending application.

6 Accordingly, we dispose of the petition by

passing the following order:

- (I) We set aside the communication dated 23rd July 2013 (Exhibit-J to the petition);
- (II) We direct the concerned Authority before whom the application made by the petitioner is kept pending to decide the same in accordance with law;
- (III) We make it clear that we have made no adjudication on the merits of the said application;
- (IV) The application which is pending contained a prayer for renewal of licence up to 31st December 2014. We make it clear that even if a fresh application is made by the petitioner, the same shall be decided in accordance with law notwithstanding pendency of the Regular Civil Suit No.41 of 2013;
- (V) Writ Petition is disposed of on above terms.

(A.K.MENON, J.)

(A.S.OKA, J.)