

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4489 OF 2015

Ravindra Murlidhar Sutar & Anr. .. Petitioners
vs.
Grampanchayat, Alsand .. Respondents

Ms R. Pawar i/b. Mr. S. S. Patwardhan for Petitioners.
Mr. Surel Shah i/b. Mr. Umesh Mankapure for Respondents.

CORAM : M. S. SONAK, J.
DATE: 05 MAY 2015

P.C. :-

1] This petition is directed against the order dated 25 March 2015 by which the Ad-hoc District Judge-3, Sangli, has dismissed the application for temporary injunction in so far as the petitioner no. 2 i.e. the plaintiff no. 2 is concerned.

2] The learned counsel for the petitioners submitted that the learned District Judge, in making the impugned order, has basically gone by the entries in revenue records. Relying upon the decision of the Hon'ble Apex Court in the case of *Durga Das vs. Collector & Ors.*¹, the learned counsel submitted that entries in revenue records do not confer any title to the property. The learned counsel for the petitioners also submitted that the material on record clearly

1 (1996) 5 SCC 618

establishes that both the petitioners are in possession of the suit property and further the Panchayat which claims to have purchased the suit property has not been able to produce on record any document to that effect. In these circumstances, interim relief was rightly granted by the trial Court and incorrectly vacated by the appeal Court.

3] Having heard the learned counsels for the parties and perused the record, in my judgment, there is no case made out to interfere with the impugned order. The impugned order, incidentally, grants interim relief in favour of the petitioner no. 1 by directing that the possession of the petitioner no. 1 is not to be interfered with by the Panchayat till he is evicted by following the due process of law or until the final decision in the suit. The suit as instituted by the petitioner no. 1 is for injunction simplicitor. In such a suit, the petitioner no. 1, having obtained interim relief to the aforesaid extent, cannot really be said to be aggrieved by the impugned order.

4] Incidentally, the petitioner no. 1 has also instituted a separate substantive suit on basis of title. Therein, the Joint Civil Judge, Senior Division at Sangli, by order dated 23 April 2015, has declined the petitioner no. 1 interim relief. However, the said order is not the subject matter of the present petition. Further, the

petitioner no. 1, intends to take out proceedings against the order dated 23 April 2015. Accordingly, no observations are made with regard to the said order. In the event, the petitioner no. 1 institutes an appeal against the said order dated 23 April 2015, then the same will be decided on its own merits and in accordance with law.

5] In so far as the petitioner no. 2 is concerned, the appeal Court has observed that the said petitioner, at the highest, was occupying portion of the suit property, in his capacity as a licensee. In so far as the petitioner no. 2 is concerned, the appeal Court has accepted that due process of law has been followed by the Panchayat. In such circumstances, it cannot be said that there is any jurisdictional error in the impugned order in so far it declines any interim relief in favour of the petitioner no. 2.

6] There is no doubt that the entries in revenue record are not documents of title. However, the petitioners have instituted the present suit relying mainly upon their possession of the suit property. In such a suit, the circumstance that from the year 1980, the revenue records indicate name of the Panchayat, is certainly not an irrelevant factor. That apart, the appeal Court, has made reference to certain orders made under the Consolidation Act and also the circumstance that the Panchayat has erected a huge water

tank in the suit property. Based upon all this material, the impugned order has been made. In making the impugned order, it cannot be said that the appeal Court has exceeded its jurisdiction or exercised discretion in an arbitrary manner.

7] For the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

8] At this stage, the learned counsel for the petitioners applies for extension of *status quo*. As noted earlier, in so far as the petitioner no. 1 is concerned, there is already interim relief granted by the appeal Court. In so far as the petitioner no. 2 is concerned, there is no interim relief. However, the Panchayat requires the suit property for the purposes of setting up water supply scheme. In such circumstances, there is no reason to extend the *status quo* order any further.

(M. S. SONAK, J.)